



Northern Ontario
School of Medicine
École de médecine
du Nord de l'Ontario
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Policy and Procedure

Human Rights, Anti-Discrimination and Harassment					Class: A
Approved By:	Board of Directors				
Approval Date:	2019 09 18	Effective Date:	2019 09 01	Review Date:	2023 09 01
Responsible Portfolio/Unit/Committee:	Administration and Operational Support – Human Resources				
Responsible Officer(s):	Chief Operating Officer				

1.0 Purpose

The purpose of this Policy is:

- to confirm the right of every Northern Ontario School of Medicine (NOSM) Community Member has to a learning and working environment free from discrimination, harassment, sexual harassment and reprisal, in accordance with the *Ontario Human Rights Code (the Code)* and the *Occupational Health and Safety Act (OHSA)*;
- to provide information to ensure that all NOSM Community Members are aware of their rights and obligations under the *Code*;
- to communicate to NOSM Community Members the expectation to contribute to the development and maintenance of an environment free of discrimination, harassment, sexual harassment and reprisal by promoting and engaging in respectful behaviour and by preventing and discouraging inappropriate behaviour within the NOSM community; and
- to establish procedures to ensure that complaints are dealt with in a fair and timely manner and to confirm that every NOSM Community Member has the right and responsibility to communicate concerns and to cooperate in efforts to resolve them.

2.0 Policy

NOSM is committed to excellence in teaching, learning, and research and to the maintenance of a learning and work environment which promotes the understanding and respect for dignity of all persons

who are part of the NOSM community and one that is free from discrimination, harassment and reprisal while protecting academic freedom, including the rights of freedom of expression, inquiry and research.

The goal of this Policy is to create a climate of understanding and mutual respect where each person feels part of the NOSM community and can contribute fully to the development and well-being of NOSM. NOSM does not tolerate discrimination and/or harassment which includes any behaviours related to intimidation, bullying or other offensive conduct. In the event that a breach of this Policy is alleged, NOSM will respond promptly and will strive to achieve a fair and timely resolution.

In seeking to prevent discrimination, harassment and reprisal, this Policy is guided by the Code, the OHSA, and the Canadian Standard on Psychological Health & Safety as well as by other legislation, policies, and collective agreements.

3.0 Scope

This Policy applies to all members of the NOSM community. Members of the NOSM community include, but are not limited to staff, faculty, professional staff, Board Members, institutional administrators and officials, stipendiary faculty, visiting scholars, medical residents, students, all NOSM registered and visiting learners: (dietetic interns, postgraduate residents, undergraduate students) volunteers, visitors, observers, and third-party contractors while they are acting in a capacity defined by their relationship with the School and/or engaging in NOSM-related activities. .

NOSM-related activities include both authorized and non-authorized interactions that occur on NOSM premises or on non-NOSM premises but arise out of the Community Member's NOSM related role, including social events and social media communications where there is a connection between the individual's actions to the NOSM work or learning environment.

In certain circumstances, more than one policy or code may apply, or may be relevant to the process outlined herein. In the case of conflict in the provisions of this Policy with a binding contract, Collective Agreement or applicable legislation, the binding contract, Collective Agreement or applicable legislation, will prevail. Further, policies or codes of other partner institutions/agencies may also apply in tandem with this Policy as set out in section 7 (Jurisdiction) of this Policy. In those circumstances, consultations may be undertaken by NOSM with the Administrator of the other policy or code at the partner institution/agency before formal proceedings under this Policy are initiated.

4.0 Definitions

Terms such as "discrimination", "harassment," "sexual and / or gender-based harassment," and "reprisal" have a legal meaning. In addition, these terms may already be defined in collective agreement provisions. If the terms are not already defined in a collective agreement, see the Glossary of Terms, which is incorporated in this Policy as an appendix and as a guide. The Glossary of Terms does not replace or supersede existing definitions contained in collective agreement provisions.

This Policy prohibits discrimination and/or harassment on the protected grounds articulated in the *Code*:

- a) age;
- b) ancestry, colour, race;
- c) citizenship;
- d) ethnic origin;
- e) place of origin;
- f) creed;
- g) disability;
- h) family status (parent and child relationship);
- i) marital status (including single, widowed, divorced or separated status);
- j) gender identity, gender expression;
- k) receipt of public assistance (in housing only);
- l) record of offenses (in employment only);
- m) sex (including pregnancy and breastfeeding); and
- n) sexual orientation.

4.1 Harassment

Harassment means engagement in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Although Harassment does not necessarily have to be tied to a prohibited ground, it may include Cyber Harassment, Sexual and/or Gender-Based Harassment, and Religious Based Harassment. Examples of harassing conduct include the following kinds of behaviour: racial epithets or slurs, disrespectful jokes or banter, sex comments about physical appearance or sexual attractiveness, negative stereotypes about a particular ethnic group, homophobic remarks, disparagement of religious devotions, the circulation of insulting or demeaning written material and pictures, and unwelcome physical contact. Fair, firm, legitimate, constructive, and/or direct criticism of an employee or student's performance does not constitute Harassment.

4.2 Sexual and/or Gender-Based Harassment

Sexual and/or Gender-Based Harassment, including Workplace Sexual Harassment, means engaging in a course of comment or conduct with respect to an individual because of their sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome. Sexual Harassment also includes making a sexual solicitation or advance to an individual where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome; or is inappropriate because of the nature of the relationship. This can also include retaliating when someone ends a relationship or refuses a sexual advance, making professional decisions about someone or offering them job related benefits based on their willingness to comply with sexual demands, or circulating intimate details of someone's life or private sexual behaviour.

NOSM upholds and respects is committed to provide a safe and inclusive environment where employees and learners can work and study free of sexual and gender-based violence.

4.3 Discrimination

Discrimination means an unjust or prejudicial form of unequal treatment, whether imposing extra burdens or denying benefits, based on any of the protected grounds articulated in the *Code*. Discrimination may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that are not visible and/or appear neutral, but disadvantage certain groups of people (systemic discrimination or adverse discrimination). Discrimination may take obvious forms, or it may happen in very subtle ways. Even if there are many factors affecting a decision or action, if Discrimination is one factor connected to the disadvantage, then the single discriminatory factor may constitute a violation of this Policy.

4.4 Intimidation

Intimidation is behaviour which instils fear and is used to denote conduct that is designed to force someone to do something they would ordinarily not do or alternatively, refrain from doing something they would ordinarily do. It may involve using one's authority to influence other people's behaviour and can reduce the extent to which people are willing to exercise their rights. Abuse of power can involve the exploitation of trust and authority to improper ends. Sometimes abuse of power takes the form of apparently positive conduct, such as unfair favouritism or flattery that is intended to persuade someone to co-operate.

Examples of Intimidation and abusive conduct include the following kinds of behaviour: shouting or unreasonably raising one's voice, constant interruptions, demeaning dismissive remarks, refusing to listen to public criticism, ridicule, targeting and singling someone out, unduly grilling or interrogation, unjust and excessive assignment of duties, threats of physical harm or actual physical punishment (e.g. hitting, slapping, kicking), and requirements to perform personal services (e.g. shopping, babysitting).

Intimidation does not include the good faith exercise of supervisory responsibilities, including without limitation, assessments and criticisms of the employee's performance or the learner's academic efforts, even where the employee or learner do not agree with such assessment(s) or criticism(s) or finds the process uncomfortable or difficult.

4.5 Personal (non-Code) Harassment

Personal (non-Code) Harassment is a course of vexatious behaviour that is not connected to a protected ground identified in the *Code*. Personal Harassment is improper comment and/or conduct, not related to legitimate work or learning purposes. It can include psychological harassment, bullying or intimidation directed at and offensive to another person or persons in the workplace or learning environment, which the individual knows or ought to reasonably know would offend, harm or causes humiliation and embarrassment.

Personal (non-Code) harassment often involves grouping of behaviours and can manifest as bullying. Bullying involves repeated incidents of aggression or persistent behaviour that belittles, insults, disparages or humiliates causing the individual to feel vulnerable and interferes with their ability to function in the environment. However, a single serious incident of such behaviour that has a lasting harmful effect on a member of the NOSM community and may also constitute Personal Harassment. Examples of Personal Harassment include:

- frequent angry shouting / yelling or blow-ups;
- regular use of profanity and abusive or violent language;
- physical, verbal or email threats or intimidation;
- hostile behaviours, slamming doors, throwing objects;
- targeting individual(s) in humiliating practical jokes;
- excluding, shunning, impeding work performance;
- spreading gossip, rumours, cyberbullying;
- retaliation, undermining, sabotaging;
- unsubstantiated criticism, unreasonable demands;
- insults, name calling;
- public humiliation; and
- communication that is demeaning, insulting, humiliating, mocking.

Personal Harassment does not include:

- the normal exercise of management rights, including the rights to provide direction, to assign tasks, deny requests, set deadlines and supervise, provided these rights are not exercised in a discriminatory, humiliating or abusive manner;
- the normal exercise of management rights, including the right to evaluate, provide constructive feedback, performance manage, reprimand or impose disciplinary sanctions, provided these rights are not exercised in a discriminatory, humiliating or abusive manner;
- the normal exercise of academic freedom providing that academic freedom is not exercised in a discriminatory, humiliating or abusive manner that serves no legitimate or academic purpose;
- a disagreement, an expression of difference of opinion, misunderstanding or conflict between parties;
- work related change of location, co-workers, job assignment;
- rudeness unless it is extreme and repetitive.

4.6 Reprisal

NOSM specifically prohibits reprisal or threats of reprisal against any individual who sincerely and in good faith makes use of this Policy or participates in any process held under its jurisdiction. No person shall be subjected to negative treatment for raising anti-discrimination and harassment concerns or bringing forward a formal complaint, providing information related to a complaint, or participating in an Investigation under this Policy. All Parties, witnesses, advisors, Investigators, and Policy administrators are protected from reprisal. Interference with an Investigation under this Policy will constitute a violation of this Policy.

It is a contravention of this Policy for any individual to reprise or take adverse retaliatory action against others for participating in a process under this Policy. Any individual who believes they are subject of a reprisal or threat of reprisal shall report this to NOSM Human Resources. Any individual or entity found to be engaging in reprisal will be subject to sanctions under this Policy of the same consequences as complaints of discrimination and harassment.

5.0 Roles & Responsibilities

All NOSM Community Members share the responsibility of fostering a climate of mutual understanding, modelling respectful conduct within the School's community and maintaining confidentiality regarding complaints under this Policy. All NOSM members, and in particular Supervisors, Managers, Directors, Academic Leaders, and Human Resources personnel, are required to promptly address concerns of disrespectful behaviour and must not ignore, condone, or engage in conduct inconsistent this Policy.

Protecting confidentiality with respect to all matters related to this Policy is in the interests of Parties and the NOSM community. Confidentiality is critical to ensure a fair process, protect against reprisal, preserve a respectful environment, and to ensure the integrity of the Investigation's fact-finding process. All participants to a complaint under this Policy, including Parties, Supervisors, Witnesses and Administrators, must refrain from discussing the concerns, allegations and/or Investigation with others extraneous to the complaints process. All Parties and participants must keep the content of the complaint, response, evidence and Investigation Report, findings and outcome, in strict confidence. In case of any intentional or careless breach of confidentiality, the individual responsible for the disclosure will be subject to sanctions under this Policy.

5.1 Supervisory Staff

For the purposes of reporting incidents of discrimination, harassment and reprisal, the term "Supervisor" or "Supervisory Staff" has legal meaning. Supervisory Staff are considered persons with authority to receive and act upon a complaint and the term "Supervisor" includes, Academic Leaders, Supervisors, Clinical Supervisors, Workplace Supervisors (Managers, Directors, Chief Operating Officer) and Human Resources Personnel.

Under the Code, individuals with Supervisory responsibility can be held liable for failing to take appropriate action. All Supervisory Staff have the following general responsibilities with respect to the enforcement of human rights and in the prevention of discrimination and/or harassment:

- not engaging in behaviour that would constitute discrimination, harassment and reprisal under the Policy;
- setting and enforcing standards of appropriate workplace conduct and professionalism;
- having thorough knowledge of the Policy and contacting NOSM Human Resources for guidance and assistance;
- being able to clarify what constitutes discrimination and/or harassment;

- being able to inform employees and learners of their rights and responsibilities under the Policy; and
- taking all reasonable steps to promptly deal with and report alleged discrimination and/or harassment that they are aware of or reasonably should have been aware of (even if a direct complaint has not been made), while maintaining as much confidentiality as possible.

5.2 Academic Leaders

Academic Leaders are defined as any faculty or NOSM staff member acting in a leadership capacity which includes, but is not limited to, Dean, Associate/Vice-Deans, Division Heads, Section Chairs, Residency Program Directors, Site Directors, Clerkship Leads, Site Liaison Clinicians or other supervisors who are responsible for the work of clinical faculty and preceptors. In addition to the general responsibilities of Supervisory Staff, additional responsibilities include:

- providing leadership in creating and maintaining a harassment free, respectful learning and working environment;
- receiving complaints and contacting NOSM Human Resources for guidance and assistance;
- communicating final decisions about the disposition of a formal complaint in writing to the Parties;
- ensuring resource availability and effective implementation of complaint settlements; and
- ensuring that individuals who have responsibilities under the Policy are held accountable and have the appropriate knowledge and skills to meet Policy obligations.

5.3 Academic Supervisor

Academic Supervisors are defined as a faculty member overseeing a Post-Doctoral fellow / technician / undergraduate or graduate student performing research in the faculty member's laboratory. In addition to the general responsibilities of Supervisory Staff, additional responsibilities include:

- ensuring that the learning and working environment is free from discrimination and/or harassment; and
- being aware of what's happening in the learning environment and taking appropriate action upon becoming aware of discriminatory, harassing or retaliatory conduct contrary to this Policy, including informing the appropriate Supervisor and contacting NOSM Human Resources.

5.4 Directors, Managers, Clinical Supervisors, COO or Supervisory Staff

Directors, Managers, Clinical Supervisor, Workplace Supervisor is defined as a person who either has charge of a workplace or authority over a worker. In addition to the general responsibilities of Supervisory Staff, additional responsibilities include:

- ensuring that the learning and working environment is free from discrimination and/or harassment;
- being aware of what is happening in their work unit and taking appropriate action upon becoming aware of discriminatory, harassing or retaliatory conduct contrary to the Policy including informing their immediate Supervisor and NOSM Human Resources;
- educating employees to ensure that they know that discrimination and/or harassment will not be tolerated and that they know what their rights and responsibilities are under the Policy including ways in which complaints can be resolved;
- documenting details of human rights concerns, actions taken, outcomes or remedies implemented; and
- where discrimination and/or harassment occurred, monitoring the situation after a complaint to ensure the discrimination and/or harassment has stopped and implementing appropriate measures to prevent reoccurrence.

5.5 Human Resources Personnel

Human Resources Personnel is defined as employees working within the NOSM human resources department whose duties involve providing advice and guidance about this Policy. In addition to the general responsibilities of Supervisory Staff, additional responsibilities include:

- reviewing this Policy at least annually;
- taking a leadership role in providing advice on Policy provisions, addressing and providing assistance to resolve human rights concerns or complaints;
- working with Supervisory Staff to resolve complaints;
- facilitating mandatory training regarding this Policy for employees upon hiring and every three years thereafter, and educational awareness for NOSM Community Members annually;
- removing barriers in employment policies and practices that may have the effect of discriminating against *Code*-protected groups or individuals;
- integrating equity principles into all human resources activities;
- developing respectful workplace and learning environment education and communications strategies;
- providing independent, unbiased confidential advice;
- assessing the merits of a complaint and determining appropriate complaint Investigation and resolution options;
- supporting NOSM Supervisors in addressing *Code* and non-*Code* discrimination and/or harassment;
- facilitating mediation;
- retaining external consultants;
- providing training for management and employees on this Policy; and
- working with Legal Services to respond to internal or external human rights matters.

5.6 All other members of the NOSM Community

All NOSM Community Members are required to be aware of the following responsibilities:

- being familiar with their rights and responsibilities under this Policy;
- not engaging in behaviour that would constitute discrimination, harassment or reprisal under this Policy;
- raising concerns as soon as possible if you believe you have experienced discrimination, harassment, bullying and/or reprisal;
- are encouraged to document details of the concerning conduct or comment that you experienced or witnessed;
- co-operating in interventions and Investigations to resolve human rights issues; and
- maintaining confidentiality related to human rights Investigations

6.0 Complaint Procedures

(See Appendix 5 for Complaint Flow Chart)

6.1 The Parties

The Parties to a Complaint are:

- *The Complainant*: An individual who alleges that they have experienced comment or conduct in contravention of this Policy, and
- *The Respondent*: An individual named in a complaint made pursuant to this Policy as a person responsible for the alleged comment and conduct that is contrary to this Policy.

6.2 Accompaniment

The Parties and witnesses may, at any stage of any of the procedures outlined in this Policy, may be accompanied by an Advisor. The Advisor may be present during Investigation interviews, but may not participate as a representative. The costs of any accompaniment are to be borne by the individual who has brought the Advisor.

6.3 Stages of the Complaint Process

The following process applies to complaints made pursuant to this Policy. Nothing in this Policy is intended to preclude or bar a complainant from seeking other forms of internal or external recourse regarding their concerns, including initiating a grievance through the applicable collective agreement, filing a complaint with the Human Rights Tribunal of Ontario, or any other legal body.

The complainant may withdraw a complaint at any time. As a result of its duties under the *Code*, NOSM may need to continue to act on an issue arising in a complaint even when the complainant has formally withdrawn from the process.

Stage One – Individual Action – OPTIONAL

As an initial step, the complainant may advise the respondent(s) that the respondent(s) comment or conduct are unwelcome and ask the respondent(s) to stop engaging in such behaviour. There is no requirement that a complainant must first raise their concerns directly with the respondent(s); however, where there is opportunity for safe, respectful and collegial dialogue, the complainant is encouraged to share their concerns with the respondent(s). If the complainant chooses to raise the matter with the respondent(s), the complainant should clearly and directly describe either verbally or in writing the conduct that is unwelcome as well as its impact on the complainant and should ask the respondent(s) to stop engaging in such conduct. The complainant may also consider seeking the support of a NOSM representative to communicate with the respondent(s). A detailed record of any discussions with the respondent(s) or copy of any correspondence provided to the respondent(s) should be retained by the complainant.

If a complainant is unable to resolve the issue themselves or the discrimination and/or harassment continues after asking the respondent(s) to stop, the complainant may request assistance from their immediate supervisor or NOSM Human Resources to intervene to facilitate resolution.

Stage Two – Informal Resolution – DIRECT SUPERVISOR

If the complainant does not wish to approach the respondent(s), or if after speaking with the respondent(s), the offensive conduct continues, the complainant should contact the complainant's direct supervisor, and if applicable their union or professional association. If a complainant is unsure of whom to contact, the complainant can contact NOSM Human Resources who will assist the complainant with their complaint. Once contact is made, the complainant will receive a copy of this Policy and procedure. The complainant will be asked to promptly provide their Supervisor or NOSM Human Resources with the following information:

- the name of the respondent(s);
- the nature of the complaint;
- the time, date and details of the incident(s) giving rise to complaint, preferably in chronological order from the first to the last alleged interaction, comment and/or conduct;
- the names of any witnesses to the incident(s) giving rise to the complaint and details about what the witnesses may have observed;
- copies of any supporting documentation, emails, texts, notes and/or records relevant to the alleged concerns; and
- the resolution the complainant is seeking.

The Supervisor will contact NOSM Human Resources who can assist in determining, based on the information provided, if the complaint falls within the jurisdiction of this Policy. The Supervisor will then advise the complainant of the next steps such as if an informal resolution is appropriate. The Supervisor may recommend an appropriate informal dispute resolution mechanism, which, if successful, will

effectively resolve the complaint in a timely and fair manner. This dispute resolution mechanism may take the form of an informal mediation where the Supervisor meets with the parties, arranging for another individual to assist in the resolution of the complaint or suggesting other such actions as may be appropriate in the circumstances. If the complainant and respondent(s) are agreeable, such a mechanism will be pursued.

The Supervisor, in consultation with NOSM Human Resources and external advisor, may determine there is objective basis to conclude that the complaint was frivolous, vexatious or made in bad faith. In such circumstances, the complainant will be informed in writing the basis for this conclusion and the complaint will be dismissed, and no further steps will be taken.

If the Supervisor is the subject of the complaint, the complainant is to contact NOSM Human Resources to address the concerns. NOSM Human Resources will proceed with the steps as set out in this Policy. Where appropriate, NOSM Human Resources will consider interim measures, such as alternate reporting procedures, while the matter is in the Complaint Process.

Stage Three – Formal Written Complaint and Investigation

Failing informal resolution of the complaint, the complainant may submit a written and signed formal confidential Human Rights and Anti-Discrimination Complaint Form (See Appendix 1) to the Supervisor and/or NOSM Human Resources. In normal circumstances, it is expected that a complainant will file their complaint of discrimination or harassment within one (1) year of the date of the last alleged incident, subject to extenuating circumstances. A complaint outside this time period may be accepted for processing at the discretion of the Policy Administrator.

Any of the timeframes for the steps detailed below as part of the complaint process may be extended upon notice by NOSM Human Resources to the Parties. Extended timelines may be necessary due to accommodation needs, complexity of matter, number of Parties, retainer of external consultant and other mitigating conditions.

On receipt of a written complaint, the Supervisor will undertake the following step:

- ensure NOSM Human Resources is apprised of the complaint and consult NOSM Human Resources throughout the complaint process;
- within ten (10) business days of receipt of the complaint, if necessary, meet with the complainant to clarify the details of the complaint;
- within ten (10) business days of that meeting, advise the complainant if the complaint will be pursued under this Policy and if not, the reasons for not pursuing the complaint or suggesting a more appropriate forum;
- within ten (10) business days of the Supervisor advising the complainant that the formal written complaint will be pursued under this Policy, the Supervisor will inform the respondent(s) in writing of the complaint, provide a copy of the complaint and the Policy and

this procedure to the respondent(s), and direct the respondent(s) to provide a written response to the allegations within ten (10) business days;

- within ten (10) business days of the Supervisor receiving the response of the respondent(s), if necessary, the Supervisor will meet with the respondent(s) to clarify the details of the response;
- within ten (10) business days of the Supervisor having received all submissions and clarifications, the Supervisor will consult with NOSM Human Resource and identify the appropriate steps to be taken to resolve the matter; and
- all letters from NOSM to respondent(s) pertaining to the application of this Policy and its procedures shall be immediately copied and sent to the Union in the case of Union Members.

Steps to Resolve the Matter

If the Supervisor deems formal mediation appropriate, a confidentiality agreement will be signed between the Parties and a voluntary mediation will be offered to the Parties (See Appendix 4 – Mediation Guide). If all Parties consent, NOSM Human Resources will arrange for an experienced mediator. If a mediated resolution is reached, the terms of the settlement will be confirmed to writing and the agreement will be signed by the complainant, respondent(s) and the mediator. If the settlement requires any action on the part of the NOSM, the settlement requires the agreement of the Director, Human Resources or designate.

All discussions between the Parties at mediation is carried out with a view to promoting open communication and affecting a settlement. Therefore, all statements made during the mediation by the Parties and the mediator are treated as strictly confidential, without prejudice and privileged.

If mediation is not pursued or is unsuccessful, NOSM Human Resources will appoint an outside consultant as an Investigator and will notify the parties of the identity of the Investigator. In the case of respondents who are unionized, NOSM Human Resources shall communicate with the Union to endeavor to find a mutually agreeable Investigator. NOSM Human Resources will make all best efforts to seek an Investigator consistent with equity considerations, who has experience in human rights investigation, discrimination and harassment knowledge and will undertake a trauma-informed approach.

The parties have three (3) business days from notification of appointment of the Investigator to make objections to the Director, Human Resources. Only objections based on substantive issues, such as conflict of interest or bias against a party, will be considered in determining suitability of the selected Investigator.

The Investigator will commence the Investigation within ten (10) business days of the date of appointment. The Investigator will:

- interview the complainant and the respondent and obtains signed statements;

- interview witnesses suggested by the Parties who the Investigator determines to be relevant to the allegation and will attempt to obtain signed statements;
- interviews other witnesses who may provide relevant information for the Investigation and will attempt to obtain signed statements;
- gathers written, electronic or other evidence;
- assess the evidence employing the “balance of probabilities” standard of proof in making findings under this Policy in accordance with the standard used by the Human Rights Tribunal of Ontario;
- within forty-five (45) business days from appointment, submits to NOSM Human Resources a written Investigation Report containing a concise summary of the Parties’ positions, evidence, analysis and the findings of the Investigation. If required, the Investigator may request an extension of this time frame; and
- if additional time is granted, NOSM Human Resources will advise the Parties.

NOSM Human Resources will then contact the Supervisor to review the Investigation report, summary of findings and disposition.

Stage Four – Investigation Report, Summary of Findings and Disposition

Disposition Meeting

Within ten (10) business days of receiving the Investigator’s Report, NOSM Human Resources will forward a copy to the Supervisor and arrange a meeting. The purpose of the meeting is to determine what action, if any, NOSM will take to bring closure to the complaint. This may involve discussions with partner institutions or agencies if the employee or learner has a various roles or the allegations involved the other institution/agency.

Written Notification

Within five (5) business days following the meeting, the Supervisor will provide the Parties with a copy of the complete Investigator’s Report including its written summary of the Investigator’s findings.

The Parties will be provided with an opportunity to file Reply submissions in response to the Investigation Report. Within ten (10) business days after receipt of the Report, the Parties may file written submissions if there are new facts or evidence that subsequently came to light that could change the outcome of the Investigation findings which the decision-maker may take into consideration in determining conclusions/sanctions. The opportunity to file Reply submissions is intended to allow Parties to raise new information that was unavailable to the Party during the Investigation or that substantively impacts a finding of fact foundational to the outcome of the Investigation Report’s conclusions. Parties will be instructed to refrain from repeating evidence, arguments, and submissions, the Party previously tendered during the course of the Investigation. Parties must refrain from challenging any findings made by the Investigator regarding the credibility of the Parties or Witnesses.

Each Party is advised what action, if any, that relates directly to that Party, NOSM will be taking to bring closure to the complaint. If a Party is sanctioned, the fact of sanction may be communicated to the other Party, but not the details or outcome of the sanction.

6.4 NOSM-Initiated Inquiries/Investigation

Through case management data regarding previous incidents, compilation of informal complaints or credible information from various sources, NOSM Human Resources and/or Senior Administration may become aware of situations where an institution-initiated inquiry or investigation may be warranted including, but not limited to, circumstances where:

- a) frequent concerns or repeated allegations are made about the conduct of the same individual;
- b) none of those coming forward regarding issues or incidents are willing to be identified with a formal complaint because of power disparity and/or fear of retaliation;
- c) allegations are made about the conduct of a NOSM Community Member by an individual who is not, or no longer, a Community Member;
- d) the allegations suggest long-standing concerns, entrenched patterns, repeated discrimination and/or harassment, potential concealment and;
- e) NOSM has the duty to investigate pursuant to *OHSA*;
- f) available information indicates that there may be concerns of a poisoned environment;
- g) available information indicates that there may be concerns of systemic discrimination, lack of transparency of practices, neutral rules and procedures that potentially are disadvantaging certain individuals or groups of people; and
- h) available information indicates that there may be concerns of problematic climate or culture in an area of the NOSM community.

6.5 Interim Measures

In certain circumstances, it may be necessary for NOSM to institute interim measures in order to protect the Parties, promote a healthy environment, facilitate the Investigation and safeguard various interests. Interim steps that can be implemented during the complaint and Investigation process may include limiting contact between Parties and/or temporarily relocating or reassigning a Party pending the outcome of the process. Any steps taken should not penalize the Parties or put them at a disadvantage for participating in the process. In the event of safety concerns, the Policy Administrators will seek the appropriate advice and take all necessary action.

7.0 Complaint Guidelines

7.1 Jurisdiction

Normally Parties in a complaint procedure are Members of the NOSM community. It is recognized that due to the unique structure of NOSM and its affiliation with two host Universities and multiple academic and clinical locations, members of the NOSM community may be subject to overlapping jurisdiction regarding discrimination and/or harassment policies and procedures. NOSM will work to ensure that when other institutions are involved, NOSM employees and learners are dealt with according to this Policy and collective agreements that NOSM has with bargaining units.

When policies or codes of other partner institutions/agencies apply in tandem with this Policy, consultations may be undertaken by NOSM with the Administrator of the other policy or code at the partner institution/agency before formal proceedings under this Policy are initiated. When there are shared jurisdictions (i.e. Clinical faculty), NOSM will work with the off-site entity or other third party on a joint investigation and/or an agreement will be made to share the findings and other relevant outcomes to the partner institutions and agencies.

A complaint under this Policy and procedure is one of several complaint avenues available to pursue discrimination and/or harassment complaints. Other complaint avenues include an application to the Human Rights Tribunal of Ontario, a complaint to the Ministry of Labour, an application to the Ontario Labour Relations Board, a civil suit, a criminal complaint, and a grievance pursuant to the terms of an applicable collective agreement.

7.2 Confidentiality and Privacy

All persons involved with a discrimination and/or harassment complaint, including complainants, respondents, advisors and support persons, witnesses, management, union/professional association representatives and Investigators are expected to treat the matter as strictly confidential. In the event of a complaint between a shared jurisdiction, information may be communicated with the partner institution or agencies to support the Investigation. Persons involved with a discrimination and/or harassment complaint may be required to sign a confidentiality agreement.

During an Investigation, identifying information about any individuals should not be disclosed unless the disclosure is necessary for the purpose of investigating, taking corrective action or is otherwise required by law. Parties to a complaint must not advise anyone in the workplace, clinical setting, educational environment or otherwise connected to the workplace and/or service provision about the Investigation, any involvement in the Investigation and/or the contents of an Investigation interview and/or Report. Parties are not to ask individuals if they have participated in an Investigation process or discuss any details about any Investigation interviews.

Employees and learners may be disciplined if confidentiality is breached by communicating with any person other than their union representative, support person, health care practitioner or other legal authority at any time before, during or after an Investigation or resolution of a discrimination and/or

harassment complaint. Supervisors are required to keep information as confidential as possible when addressing human rights concerns and are also subject to discipline for breaches of confidentiality.

Where the complaint is a complainant-initiated complaint, respondent(s) have the right to know the name of the complainant. When the complaint is a NOSM-initiated complaint, NOSM will provide the respondent(s) with sufficient particulars of the allegations and details of the interactions to ensure procedural fairness while protecting the identity of the affected individuals.

Subject to the requirements of procedural fairness of the investigation/resolution process, the Investigator will preserve confidentiality as much as possible, or as legally required or permitted

As per section 6.2, discussions between the Parties at mediation are carried out with a view to affecting a settlement and is treated as confidential, without prejudice and privileged. Discussion between Union representatives and Employer representatives in this regard are also privileged.

Confidentiality Exceptions

NOSM Human Resources is committed to protecting the confidentiality of its consultations, investigations and related records. Where an individual/group who has consulted NOSM Human Resources or a Human Rights complaint engages another legal proceeding related to the subject matter of the Human Rights consultation/complaint, upon receipt of the legal proceeding documentation (e.g., grievance, WSIB report, etc.) and request to NOSM Human Resources, NOSM Human Resources will determine whether it is appropriate to:

- Confirm or deny whether it was consulted;
- Respond to specific questions regarding the consultation for the purpose of responding to the legal proceeding; and
- Provide a brief summary of the nature of the consultation.

In cases in which a Human Rights Tribunal of Ontario Application is filed by an individual/group who has consulted NOSM Human Resources on the same and/or related matter, NOSM Human Resources may be required, upon receipt of the Application, provide a copy of its file. Where the entire contents of a complaint file are required related to any legal proceeding, NOSM Human Resources may determine whether consent of the complainant involved, or an order of the court/tribunal/arbitrator or other adjudicative body is required prior to disclosing its file or providing any information beyond that outlined above.

7.3 Determination of Remedies

Remedies are determined in order to improve the working and learning environment for members of the NOSM community and to prevent any further re-occurrences.

Remedies are decided based on the merits of the case and shall be proportional to the severity of the offence. If there are mitigating and/or contextual factors in determining/implementing the sanction, the

reasons shall be clearly articulated by the Supervisor. The existence of any previous findings of discrimination and/or harassment or other disciplinary measures will be considered when remedies are determined, and the severity of a remedy may be greater as a result. Remedies may be used independently or in combination for any single violation and may be varied. Remedies may include, but are not limited to:

- verbal or written apology;
- mandatory referral to counselling;
- mandatory attendance at harassment and discrimination training;
- coaching (e.g. one-on-one remedial human rights coaching, conflict resolution coaching);
- rearrangement or modification of study or employment arrangements to address the effects of discrimination and/or harassment found, (e.g. permission to extend a program, leave or change in work responsibilities);
- ensuring individuals are referred to appropriate support resources, as necessary;
- group conflict resolution and mediation processes, focused on restoring productive and harmonious working and learning environments (with the consent of all parties);
- Restorative Justice processes, that are culturally relevant (with the consent of all parties);
- inclusion of the decision in a specified file(s) of the respondent(s), for a specified period of time;
- suspension with or without pay;
- a No Contact Order, which may include restrictions on registration for specific classes, other academic or non-academic activities, or attendance at specific meetings or events direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals;
- a Persona Non Grata (PNG) designation, which is given to an individual who is denied the privilege of entering designated portion(s) of NOSM's building or grounds; and
- reprimand up to and including termination of employment or other relationship within NOSM.

The Supervisor shall consider the impact of the violation on the complainant, any mitigating and/or contextual factors in determining/implementing appropriate remedies and/or sanctions, and the reasons shall be clearly articulated in writing to the respondent(s) and the complainant as follows:

- the respondent(s) will be informed of all remedies imposed and can challenge their necessity or reasonableness (as per their rights under the applicable Collective Agreement for Union Members);
- the complainant will receive information about any remedies taken by NOSM, to the extent NOSM considers appropriate and within the constraints of confidentiality and/or relevant legislation; and
- Where required by a professional licensing body, the results of the investigation may also be communicated to that professional licensing body pursuant to the criteria for reporting established by that professional body

For Unionized employees, discipline shall be consistent with the applicable collective agreement.

7.4 Authority and Duties of the External Consultant

The scope of the external consultant's authority is to Mediate and/or Investigate the complaint, to speak with anyone, to obtain and examine any documents and to enter any work location relevant to the complaint for the purposes of Investigation. The external consultant shall remind the Parties and witnesses of their right to be accompanied by a support person and representation rights, if any.

7.5 Investigation Report Not for OHSa Purposes

Under the OHSa, complaint details, investigations, and findings produced under this Policy and procedure are not considered to be occupational health and safety reports. The results of any Investigation and any report created in the course of, or for the purposes of, the Investigation, whether under this Policy or as a result of a written order for an investigation under the OHSa regarding workplace discrimination and/or harassment, are not considered to be occupational health and safety reports and will not be shared with joint health and safety committees. To protect confidentiality, all Investigation documents, the report and remedies will not be shared with joint health and safety committees, unless necessary for the committee's work and fully redacted.

7.6 Systemic and Preventative Interventions

Investigations may reveal broader issues to be addressed whether or not a finding of discrimination and/or harassment has been found. In such instances, appropriate educational and preventive intervention measures and/or changes to policies or practices may be recommended by Investigator, the Supervisor or NOSM Human Resources.

7.7 Redress and Sanctions

Where a complaint is substantiated or where it is determined that the complainant filed a complaint that was knowingly vexatious or made in bad faith, appropriate corrective or disciplinary action will be taken by NOSM. Such action may include but is not limited to requiring an apology, counselling, education, training, suspension, leave without pay, transfer, termination of employment or expulsion.

7.8 Time Limits

The time limit for the filing complaints under the Human Rights and Anti Harassment / Discrimination Policy / Procedure is one (1) year from the date of the last incident of alleged discrimination and/or harassment.

7.9 Complaint Records

Any record of a complaint and all related documentation will be handled confidentially and stored in a secure location separate from employee personnel files. Records of a complaint will only be placed on an employee's personnel file when they have been found to have engaged in conduct contrary to the Human Rights and Anti-Harassment Policy / Procedure and/or corrective action is taken. This record of discipline is subject to the provisions of any applicable collective agreement.

7.10 Consultation - Advice & Assistance

Complainants may benefit from having independent information and advice before deciding how to proceed with a discrimination and/or harassment concern, which can be obtained at their own cost. In addition to consulting Supervisory Staff as defined in this Policy or NOSM Human Resources, additional supports or areas of consultation include the Academic Affairs Office at an Academic Health Sciences Centre, Committee to Support Student Professionalism, Learner Affairs Officers, Postgraduate Wellness Lead Clinician, Learner Advocate and the applicable union or professional association. These staff all have a responsibility to take action to resolve and prevent discrimination and/or harassment and can provide advice, assistance, coaching, and referrals to assist Parties in addressing discrimination and/or harassment. See **Appendix 2** for a list of additional resources.

8.0 Review

Prior to any changes to this Policy and Procedure not required by legislation, the Chief Operating Officer shall appoint a working group, which will include representatives from bargaining units within the School, for the purpose of reviewing the Policy and procedures and its operation and submitting recommendations for change.

9.0 Related Documents

Collective Agreement Statement on Harassment & Discrimination

10.0 Getting Help

Queries regarding interpretations of this document should be directed to:
Director of Human Resources ext. 7270.

DO NOT REMOVE THIS VERSION RECORD FROM THIS DOCUMENT		
Version	Date	Authors/Comments
1.0	YYYY MM DD	

Appendix 1: Complaint Form

Instructions for completing this form: This form is intended for the use of NOSM community members only to report complaints and/or incidents they believe violate the Human Rights and Anti-Harassment/Discrimination Policy ("HRAP"). Please ensure that you fill out every section of the form accurately, attach any supporting documentation you may have and ensure that it has been signed and dated. Upon completion of the form, please provide it to your supervisor as outlined in the ("HRAP") Policy. If you are unsure of your supervisory authority, please submit to NOSM Human Resources who will guide you in the process.

Complainant Information

Complainant's Name	
Telephone Number	Alternative Telephone Number
Email	Work Location

Details of Person(s) Involved in the Complaint

Person 1		
First Name		Last Name
Telephone Number	Alternative Telephone Number	Work Email
<input type="checkbox"/> Respondent (alleged to have engaged in wrongdoing) <input type="checkbox"/> Witness <input type="checkbox"/> Other: _____		
Person 2		
First Name		Last Name
Telephone Number	Alternative Telephone Number	Work Email
<input type="checkbox"/> Respondent (alleged to have engaged in wrongdoing) <input type="checkbox"/> Witness <input type="checkbox"/> Other: _____		

Details of Person(s) Involved in the Complaint (Continued)

Person 3	
First Name	Last Name

Telephone Number	Alternative Telephone Number	Work Email
<input type="checkbox"/> Respondent (alleged to have engaged in wrongdoing) <input type="checkbox"/> Witness <input type="checkbox"/> Other: _____		
Person 4		
First Name		Last Name
Telephone Number	Alternative Telephone Number	Work Email
<input type="checkbox"/> Respondent (alleged to have engaged in wrongdoing) <input type="checkbox"/> Witness <input type="checkbox"/> Other: _____		

Complaint Details

Include dates, times, and details of specific behaviour and/or words used. Attach additional pages if necessary

Complaint Ground (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Age
<input type="checkbox"/> Ancestry
<input type="checkbox"/> Citizenship
<input type="checkbox"/> Colour
<input type="checkbox"/> Creed/Religion
<input type="checkbox"/> Disability
<input type="checkbox"/> Ethnic Origin
<input type="checkbox"/> Family Status
<input type="checkbox"/> Gender Expression
<input type="checkbox"/> Gender Identity
<input type="checkbox"/> Marital Status
<input type="checkbox"/> Place of Origin | <input type="checkbox"/>
<input type="checkbox"/> Record of Offence
<input type="checkbox"/> Reprisal
<input type="checkbox"/> Sex (including Pregnancy & Breastfeeding)
<input type="checkbox"/> Sexual Orientation
<input type="checkbox"/> Sexual harassment (Sex)
<input type="checkbox"/> Sexual harassment (Sexual orientation)
<input type="checkbox"/> Sexual harassment (Gender Identity)
<input type="checkbox"/> Sexual harassment (Gender Expression)
<input type="checkbox"/> Workplace Harassment
<input type="checkbox"/>
<input type="checkbox"/> Membership or activity or non-activity in a Union or Staff Association
<input type="checkbox"/> Other |
|---|---|

Employee (Complainant) Signature

Date (yyyy-mm-dd)

Appendix 2: – Related Polices, Legislation, Resources

Government

- *Freedom of Information and Protection of Privacy Act*
- *The Ontario Human Rights Code*
- *Occupational Health and Safety Act*
- *Personal Health Information Protection Act*

Northern Ontario School of Medicine

- [Employee and Family Assistance Program](#)
- UME – ume@nosm.ca for more information, PGE – postgrad@nosm.ca for more information, Employees hr@nosm.ca for more information
- Committee to Support Student Professionalism terms of reference (UME)
- Responding to Resident Concerns of Mistreatment Procedure
- Responding to Student Concerns of Mistreatment

Lakehead University

- [Harassment and Discrimination Policy and Procedures](#)
- Lakehead [Employee and Family Assistance Program](#) (NOTE: this is for employees of Lakehead only)
- [Office of Human Rights and Equity](#)

Laurentian University

- [Policy on a Respectful Workplace and Learning Environment](#)
- [Program on a Respectful Workplace and Learning Environment](#)
- Laurentian [Employee and Family Assistance Program](#) Policy (NOTE: this is for employees of Laurentian only)
- [Human Resources/Equity and Diversity](#)

OPSEU Local 677 (Unit 1 and 2 Members)

- Collective Agreements: <https://www.nosmfsa.ca/index.php/nosmfsa/collective-agreements>

College of Physicians and Surgeons of Ontario:

- Professional Responsibilities in Postgraduate Medical Education
- CPSO – Physician Behavior in the Professional Environment
<http://www.cpso.on.ca/policies/default.aspx?ID=1602>
- CPSO Guidebook for Handling Disruptive Physician Behavior, April 2008:
[http://www.cpso.on.ca/uploadedFiles/downloads/cpsodocuments/policies/positions/CPSO%20DPBI%20Guidebook\(1\).pdf](http://www.cpso.on.ca/uploadedFiles/downloads/cpsodocuments/policies/positions/CPSO%20DPBI%20Guidebook(1).pdf)

PARO-CAHO

- No Discrimination/ Harassment/ Intimidation (Section 10.1-10.3)

RCPSC/CFPC

- Accreditation and the issues of Intimidation and Harassment in Postgraduate Medical Education Guidelines for Surveyors and Programs

Hospitals and other institutes affiliated with NOSM

- Consult the policies on conduct of the appropriate affiliates Hospital or Institutes.

Appendix 3: GLOSSARY OF TERMS

Academic Freedom

Please refer to the Article on Academic Freedom (1.3) in the Unit 1 Collective Agreement as well as the Board of Directors' Policy on Academic Freedom and Integrity of Research.

Advisor

A person of the individual's choice who acts in an advisory and representative role during the Complaint and Investigation process (e.g. friend, Learner Advocate, Faculty Member, Peer, Elder, family member, in the case of a union member their union, legal counsel). The Advisor or support person may be present during Investigation interviews but may not participate as a representative except in the case of Union representatives.

Assessment Team

Members of NOSM administration, a Subject Matter Expert, Faculty and / or Administration, outside legal representative.

Investigator

An impartial external individual hired by NOSM to investigate complaints of discrimination, harassment and/or reprisal. The Investigator will be selected based on their experience in human rights matters, ability to undertake a trauma-informed approach and other equity considerations.

Community Members (NOSM)

Includes staff, faculty, professional staff, stipendiary faculty, medical residents, students (learners), volunteers, visitors, observers, third party contractors while they are acting in a capacity defined by their relationship with the school as well as institutional administrators and officials representing NOSM.

Complainant

The individual who files a Complaint alleging a violation of this Policy and seeking NOSM's intervention.

Division Head

A senior faculty member who reports directly to the Associate Dean, Faculty Affairs and Continuing Education and Professional Development (CEPD) who is responsible for providing academic leadership to the Division and serves as its principal administrative officer and official spokesperson. The Division Head is expected to foster collegial relationships with and between division members and with members of other divisions.

Ethnic Origin

Statistics Canada states that "ethnic origin" refers to the cultural origins of a person's ancestors. In the Code, the ground of ethnic origin overlaps with a more commonly used term, "ethnicity," which refers to a shared cultural heritage or nationality. Ethnic groups might be distinguished on the basis of cultural traits such as language or shared customs around family, food, dance and music. People who share an ethnic origin, ethnicity or ancestry may or may not share the same racial identity.

Faculty, Professional Librarians and Professional Staff (Full-time)

Faculty. Professional Librarians and Professional Staff are defined as those individuals who are members of the OPSEU Local 677 Unit One Bargaining Unit or have the right of reversion to the same as per the Collective Agreement.

Faculty (Stipendiary)

Individuals who provide academic service to the school on a part-time basis.

Frivolous, Vexatious Complaints

A complaint may be considered frivolous if it does not have any serious purpose or value; is of little or no weight, worth, or importance. A complaint may be considered vexatious if instituted without sufficient grounds or to cause annoyance or harm to the respondent.

Informal Resolution

Informal resolution involves a series of actions that can be taken to resolve the situation prior to escalating to a formal process, or at any time thereafter. This can involve coaching, mediation, or other alternative means.

Interim Measures

Steps that are taken in order to safeguard the working and learning environment while a complaint is being dealt with.

Mediation

The act or process of mediating; especially intervention between conflicting parties to promote reconciliation, settlement, or compromise.

Need-to-know

Access to information must be necessary for the performance of official responsibilities or to defend NOSM in any form of litigation.

No Contact Order

Can include academic or non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals.

Human Rights Tribunal of Ontario

Is an administrative tribunal in Ontario that hears and determines Applications brought under the *Ontario Human Rights Code*, the provincial statute that sets out human or civil rights in Ontario prohibiting discrimination on the basis of a number of grounds (such as race, sex or disability) in certain social areas (such as services, housing or employment).

Persona Non Grata (PNG)

A designation which is given to an individual who is denied the privilege of entering designated portion(s) of NOSM's buildings or grounds. If PNG individuals are found or seen in the area they are denied, they will be asked to leave and additional measures may be invoked.

Procedural Fairness

Is concerned with the procedures used during the process and the procedure used by a decision-maker, rather than the actual outcome, reach the decision. It requires a fair and proper procedure be used when making a decision.

Professional Freedom

Please refer to the Article on Professional Freedom (1.21) in the Unit 1 Collective Agreement.

Reprisal

An act of retaliation; this may include, but is not limited to, adverse actions by a person who has the authority to punish an individual for filing a complaint or participating in an investigation under this Policy.

Respondent

Those about whom allegations have been made in a complaint process.

Restorative Justice

Restorative Justice is an outcome following the determination of finding and focuses on restoring the losses suffered, holding Respondents accountable for the harm they have caused, and building peace within communities, specifically in the context of the "NOSM Community".

Section Chair

Section Chairs exist in the Clinical Sciences Division and have overall responsibility for the teaching, research and academic contributions conducted by the members of their section. This includes assisting the School in identifying and assigning teaching resources for all NOSM programs. Section Chairs report to the Division Head of Clinical Science Division in the Faculty Affairs and CEPD Portfolio.

Staff

For the purposes of this Policy, staff is defined as NOSM (full- and part-time) office, clerical,

administrative, technical and service employees in the OPSEU Local 677 Unit 2 bargaining unit as well as non-union administrative and support staff not included in the same who are employed by NOSM.

Sexual and/or Gender-Based Harassment

Sexual and/or Gender-Based Harassment includes, but is not limited to: a) any reward/promise of reward, whether explicit or implicit, for complying with a sexual solicitation or advance; demands for dates or sexual favours; or propositions of physical intimacy; b) any reprisal or threat of reprisal, whether explicit or implicit, for refusing to comply with any sexual solicitation or advance; c) any form of sexual exploitation, or conduct that takes non-consensual sexual advantage of someone; d) unwelcome sex or gender-related comments about a person's physical characteristics, mannerisms, gender identity or expression; e) sex or gender-related verbal abuse, threats or taunting; f) Workplace Sexual Harassment; and g) any other comment or conduct associated with sex, sexual orientation or gender (including gender identity or expression) that is known or should be known to be inappropriate, offensive, embarrassing, humiliating, demeaning, intimidating, or isolating to an individual or group.

Supervisor

Within the NOSM Community there are various types of Supervisors,

- Academic Leader: any faculty or NOSM staff member acting in a leadership capacity which includes, but is not limited to, Dean, Associate/Vice-Deans, Division Heads, Section Chairs, Residency Program Directors, Site Directors, Clerkship Leads, Site Liaison Clinicians or other supervisors who are responsible for the work of clinical faculty and preceptors
- Academic Supervisor: a faculty member overseeing a Post-Doctoral fellow / technician / undergraduate or graduate student performing research in the faculty member's laboratory.
- Clinical Supervisor: a licensed health care practitioner supervising learners' clinical practice in a clinical setting
- A Workplace Supervisor is "a person who has charge of a workplace or authority over a Worker" (Occupational Health and Safety Act). Supervisors are responsible for knowing the Duties of Supervisors under the Act. Supervisors, both academic and staff, have a particular responsibility to ensure an environment free from sexual and workplace violence, harassment and discrimination in their area(s) of management. The supervisor's responsibility includes awareness of what constitutes discrimination, harassment, sexual and workplace violence, delivering proactive education, monitoring the environment in their area(s), knowledge of complaint procedures, and responding to prohibited behaviour immediately and effectively. In such cases, only the minimum amount of information needed to address the matter and / or meet requirements will be disclosed.

Systemic Discrimination

Policies, practices and institutional procedures which, deliberately or not, have the effect of creating or perpetuating disadvantage and discrimination against identifiable groups on grounds prohibited by the Code.

Appendix 4 – Mediation Guide



Northern Ontario
School of Medicine
École de médecine
du Nord de l'Ontario
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Mediation Guide

Introduction

NOSM encourages all Community Members (students, employees, residents, faculty, etc.) to consider Mediation as an opportunity to improve relationships and communications.

Alternate dispute resolution methods, such as informal and formal Mediations, are important tools to help promote healthy work and learning environments, achieve organizational objectives, and enhance productivity. Given the dynamic nature of NOSM, access to informal and formal Mediation is necessary to assist all levels of the organization to respond and resolve internal complaints quickly and effectively.

Mediation provides individuals with an opportunity to safely discuss their differences, engage in creative problem solving, and achieve a common solution. At NOSM, Mediation is available for all Community Members who request the assistance of a Mentor, Elder, or neutral third-party Mediator to facilitate resolution discussions.

This Guide will answer some frequently asked questions about Mediation at NOSM:

- 1) What is Mediation?
- 2) **What is the role of the Mediator?**
- 3) **Where does the Mediation session take place?**
- 4) **Is the Mediation process confidential?**
- 5) **How do I prepare for a Mediation session?**
- 6) **Who is involved in a Mediation session?**
- 7) **What happens if Mediation does not work?**
- 8) **What happens after Mediation?**
- 9) **When is Mediation not permissible?**

“Mediation supports NOSM’s culture of inclusiveness and core values of fairness, respect and equity”

1) What is Mediation?

Mediation is a process of discussions or meetings conducted by a third-party who acts as a facilitator to encourage co-operative dialogue to assist individuals (“Parties”) achieve resolution of their concerns or issues. Mediation gives Parties an opportunity to create solutions that best fit their circumstances.

The process of Mediation has certain key characteristics. First, Mediation is voluntary. Each Party to the Mediation must be willing to work together to participate in the Mediation process and to pursue solution oriented discussions. If both Parties do not agree to this method of resolution, an alternative mode of conflict resolution must be explored.

Second, the Mediation must be co-operative and respectful in nature. The Parties must participate in the process in good faith, speak politely and sincerely believe that a mutually satisfactory outcome is in everyone’s interests. In addition to being willing to speak and/or meet to discuss their issues, Parties must be willing to take responsibility for their part in the situation.

Lastly, the Mediation process is intended to be a creative, interest-based method for constructive and positive problem solving. There are no prescribed rules to how the Mediation will be structured. Based on the Parties’ input and information collected about the situation, the Mediator will determine the best approach to help identify each Parties’ needs and goals to achieve mutually beneficial solutions.



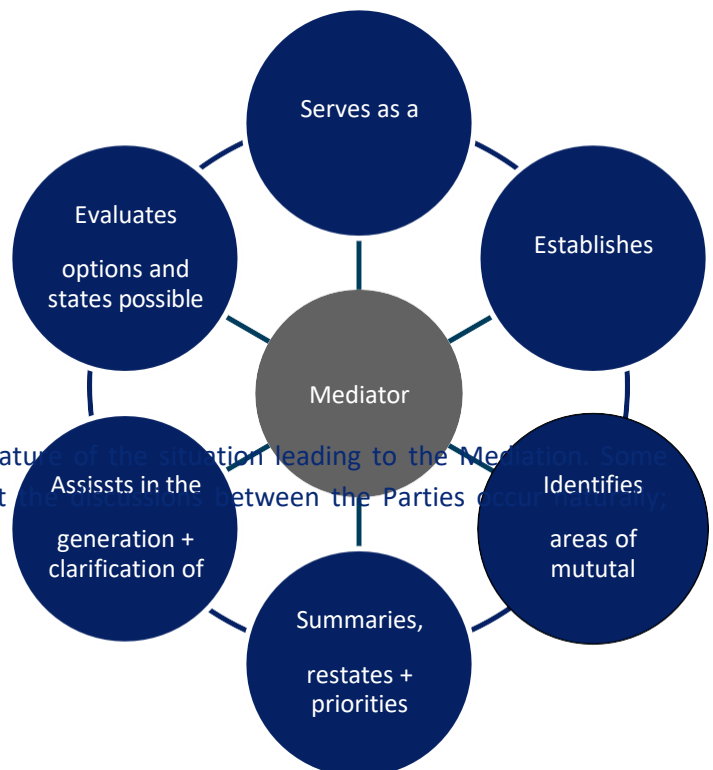
2) What is the role of the Mediator?

The role of the Mediator is to foster constructive communication to encourage the likelihood of a mutual agreement between the Parties. The Mediator could be a NOSM Community Member selected by the Parties, a NOSM Manager designated by Human Resources or an independent, neutral third-party consultant retained by NOSM to aid the Parties. NOSM will determine which type of Mediator is best suited for the Parties, the issues and the situation.

The role of the Mediator is to facilitate open, courteous discussions between the Parties. The Mediator will often have subject-matter expertise such that they are able to recommend appropriate options, help generate creative ideas to address the issues, and speak to best practices to guide the Parties to co-operative results. During the course of the Mediation, the Mediator may also provide some insight and perspective on the reasonableness of the needs of the other Party and the feasibility of proposed outcomes. The Mediator will encourage discussions to bring forth additional facts, ideas, interests, and proposals from which the Parties can create solutions to the issues in dispute.

The Mediator will establish ground rules for the discussions and the meeting, will explain how the process will proceed and will foster appropriate dialogue and exchange of ideas. The Mediator will rely on principles of fairness, conflict resolution techniques, draw the Parties' attention to expectations consistent with NOSM's rules and policies and highlight standards and/or benchmarks accepted as norms in the area involving the issues in dispute.

The Mediator's style may vary depending on the nature of the situation leading to the Mediation. Some Mediators take a casual, informal approach and let the Parties work out their own solutions. Alternatively, the Mediator might take an active



role in guiding the discussions. Unless the Parties have agreed to a binding Mediation (which is called a Mediation-Arbitration), usually a Mediator is not authorized to order or impose a decision on the Parties. While a Mediator may strongly encourage Parties to consider a solution or settlement, a Mediator may not coerce an outcome.

“NOSM’s faculty, staff, and learners seek to learn and listen to one another respectfully and communicate openly”

3) Where does a Mediation session take place?

The Mediation discussions and meetings may be conducted by any means or at any location selected by NOSM and the assigned Mediator. A Mediation may occur in stages or multiple sessions, over the telephone and/or in person. NOSM will endeavour to schedule the Mediation at a location that is convenient to all Parties. NOSM’s Human Resources will help arrange for the Parties to take time from their roles to participate in the Mediation.

At an in-person Mediation session, the Mediator may give the Parties the option to meet in the same room at the outset or share some time together in the same room during the discussions. Alternatively, the Mediator may decide that it is best for the Parties to hold separate meetings and describe their respective perspectives with the Mediator alone. Private discussions can often help one Party express feelings to the Mediator that they may not be able to express with the other Party.

The structure of the Mediation meeting and how discussions will unfold depends on the issue at hand, the interests of the Parties and the style of the Mediator. The Mediator will try to facilitate the session to meet the needs of the affected individuals.

4) Is Mediation process confidential?

Confidentiality is a fundamental principle of the complaints process at NOSM and, as an extension of this value, Mediation is confidential process. Prior to the commencement of the Mediation process, all participants, including the Parties, the

Mediator and any support persons, must sign a NOSM Confidentiality Agreement (Appendix A).

Any statements made, along with any information discussed or documents presented as part of process, are strictly limited to the NOSM Mediation and cannot be referenced, repeated or used as evidence in any future matters or complaints. A critical component of Mediation is the assurance that participants can speak privately and communications and offers to settle are “without prejudice”. As such, all matters disclosed during Mediation are confidential and may not be raised before another proceeding, except with the permission of the individual who provided the information, or unless the disclosure involves criminal activity or poses a significant safety risk. After the completion of a Mediation, no public record is maintained of the session. All materials are kept confidential and, as

such, the Mediator’s notes and any written submissions made by the Parties will not be subject to disclosure, except as required by law.

If the Parties achieve an understanding and/or resolution, the terms of their agreement will be

documented by the Mediator. This agreement document will be filed with NOSM’s Human Resources.



“Mediation helps advance a positive and collaborative environment for learners, faculty, and staff.”

5) How do I prepare for a Mediation session?

The purpose of a Mediation session is to reach a mutually agreeable decision without any need for further escalation in the complaints process. Since each Mediation session is tailored to the needs of the Parties involved, there is no set method for preparation prior to a session. In order to optimize the Mediation, Parties should turn their minds to clarifying the issues, putting themselves in the other side’s shoes, brainstorming solutions and assessing which solutions are most likely to achieve a consensus.

Helpful points that all Parties should consider prior to engaging in Mediation are:

- 1) What do I hope to accomplish by engaging with the other Party in conflict resolution discussions? Can Mediation help mitigate my concerns, or do I need to consider a more formal complaints process?
- 2) What is the best-case scenario that I hope to achieve as a result of the Mediation? What is the next best scenario that is possible and that I would be willing to accept as conciliation? Are there any aspects of my concerns that are non-negotiable?
- 3) What does the other Party hope to achieve by participating in discussions with me? What is the next best scenario that the other Party might consider? Are there any aspects of the other Party's concerns that may be non-negotiable?
- 4) What information do I need to bring to the Mediation to help the Mediator better understand my best and second-best scenarios?

After considering the above-noted four points, Parties are encouraged to write two simple paragraphs to take with them into the Mediation: i) a brief overview of your perspective and ii) your reasons for your best and second-best scenarios.

In addition to facilitating the conversation between the Parties, the role of the Mediator is to provide some guidance on whether the requests being made by the Parties are reasonable and appropriate. In order to benefit from the Mediator's "reality check", Parties need to be open to hearing from the Mediator about the benefits and risks of their position. To prepare, it may be helpful to review points #1- 4 with a support person on a confidential basis.



6) Who is involved in a Mediation session?

At NOSM, a Mediation session will consist of the affected Parties and the appointed Mediator. Although the Parties involved in a Mediation are allowed to invite an approved support person (for example, a union representative) to the Mediation, the support person does not generally communicate information on behalf of the affected individual.

The presence of a support person is only for the comfort of the Parties involved and not to argue any claims on behalf of a Party. A violation of this rule may result in the support person being asked to leave the Mediation session. It is important to note that the support person is also responsible for keeping the details of the Mediation session confidential. Support persons will be asked to sign the confidentiality agreement (Appendix A) as witnesses prior to the start of the Mediation session.

“NOSM recognizes that collaboration is both a process and outcome that engages different perspectives to better understand complex problems”

7) What happens if Mediation does not work?

It is possible that the Parties may fail to reach an agreeable solution regarding the overall situation. Yet, interim measures, temporary arrangements, pilot proposals and partial agreements may still be possible. As such, NOSM encourages Parties to consider both short-term and long-term solutions during their discussions with the Mediator. While a wholesale or fulsome resolution may not be achievable at that time, other limited options may be acceptable for the Parties to try on a provisional basis. Parties can alert the Mediator that they are open to exploring probationary or contingency arrangements.

If the Mediation session is deemed unsuccessful in facilitating constructive discussion, additional steps may be initiated based on the complaint procedure that is in place for the situation. For example, NOSM’s Human Resources may require that action be taken through the commencement of a formal investigation regarding the complaint.

NOSM Human Resources will provide both Parties with further instructions on the proceeding steps.

8) What happens after Mediation?

If the Mediation results in a resolution, the terms of the agreement will be confirmed in writing, and signed by both Parties and the Mediator. This agreement will be filed with NOSM's Human Resources to ensure any follow up action required of the Parties is completed. NOSM's Human Resources may be required to inform other NOSM entities about the resolution on a "needs to know basis" if the other entity's operations are affected or involved by the agreement.

At the point of writing up the terms of the agreement, Parties should ensure that they fully understand what is expected of them and that they can perform and satisfy those expectations. A failure to abide by the terms of the mediated agreement may give rise to a formal breach of settlement complaint. As such, it is vital that Parties entering into a Mediation have full authority to participate, accept and act on any conditions of an agreed resolution. At the end of the agreement, Parties should recall and remind their support persons that the Mediation and resolution are confidential. If a successful resolution is achieved, Parties are encouraged to thank the other Party, their support persons and the Mediator for everyone's time and effort in cooperating in the successful Mediation.

If the Mediation is unsuccessful, Parties should consult with NOSM's Human Resources to determine what further actions may need to be undertaken.



9) When is Mediation not permissible?

There are certain situations where Mediation is not allowed. For example, if the situation has already been determined or subject to a final ruling or decision according NOSM's rules or the procedures of an external body, such as a labour grievance or professional regulatory complaint. Purely academic concerns, such as an academic evaluation, are generally not an appropriate topic for Mediation. Disputes that involve criminal matters, risk to safety or serious harm to the operations of NOSM would not be subject to Mediation. Further, NOSM's Human Resources has the authority to deny a request for Mediation for trivial, frivolous or vexatious matters; if the request is made in bad faith; or for matters that do not involve the interests or operations of NOSM.

Key Elements of Mediation	
1	Private and Confidential
2	Informal and Creative
3	Future Oriented
4	Voluntary
5	Non-coercive decision making
6	Binding, if agreement reached

Confidentiality Agreement

MEDIATION - IMPORTANT INFORMATION

1. All matters disclosed during Mediation are strictly confidential and may not be raised in another proceeding, except with the permission of the person who gave the information.
2. All Parties who participate in the Mediation must sign a Confidentiality Agreement (see attached) at the start of the Mediation and before Mediation discussions commence. Support Representatives are also bound by the Confidentiality agreement.
3. Please review the Confidentiality Agreement and be prepared to sign the document before the Mediation starts. A copy of this Confidentiality Agreement will be provided to you after the Mediation.
4. Only an individual who is a Party, and one support representative, can participate in the Mediation.

**MEDIATION
BETWEEN**

-and-

1. The above-noted Parties have agreed to try to resolve some or all issues between them by participating in a Mediation facilitated by _____, on behalf of Northern Ontario School of Medicine (“NOSM”).
2. The Parties and the Mediator acknowledge that participation in this Mediation is voluntary and that the Mediation will only proceed if all Parties agree to participate in good faith and act respectfully, including listening to the others’ perspectives without interruptions.
3. The Parties agree that each person has the authority to make a binding agreement on their own behalf at the Mediation.
4. The Parties and the Mediator understand and agree that this is a confidential process. All documents provided and statements made in the Mediation are without prejudice (off the record) and cannot be used in any other matter or proceeding.
5. The Parties understand that, if the Mediation is unsuccessful, the Mediator will not disclose or communicate any information about the Mediation to the anyone outside the Mediation process without the Parties’ consent. The Parties also understand that the Mediator is not compellable as a witness in any other proceeding and that the Mediator’s notes or records are inadmissible any other proceeding.
6. The Parties understand that a copy of this Confidentiality Agreement and any terms of settlement, memorandum of resolution or agreement will be filed with NOSM’s Human Resources.
7. The Parties understand and agree to comply with all of the forgoing obligations and, in particular, agree to conduct themselves in accordance with courteous behaviour.

Dated in _____, this _____ day of _____.

Party Name

Party Signature

Witness Signature

Name:

Name:

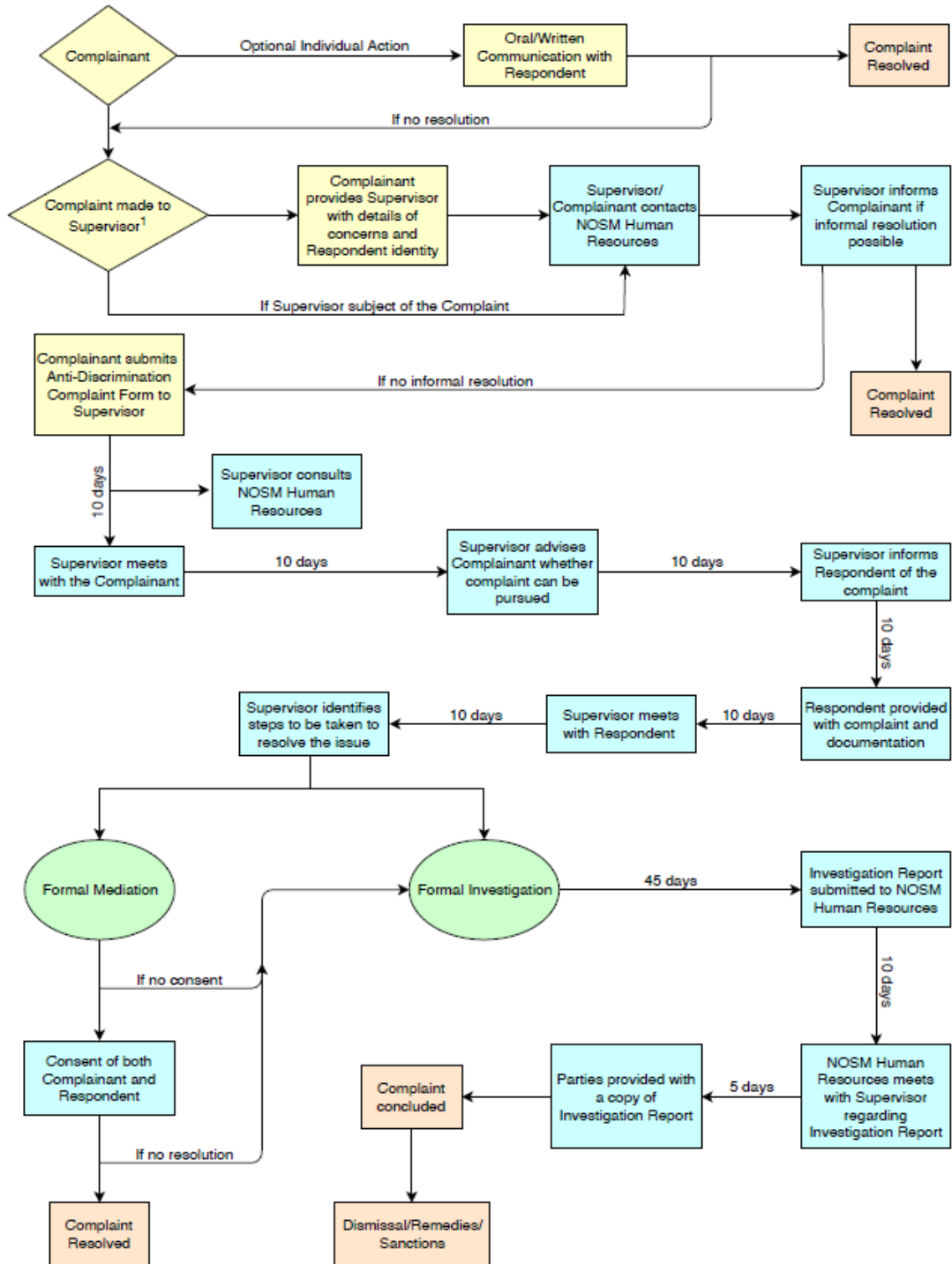
Mediator

Signature

Name:

Appendix 6 – Complaint Flow Chart

HUMAN RIGHTS, ANTI-DISCRIMINATION AND HARASSMENT POLICY



Where applicable, the Complainant can contact their Union Representative or NOSM Human Resources.

