

Human Rights, Anti-Discrimination and Harassment					Class: HR
<b>Approved By:</b>	Board of Directors				
<b>Approval Date:</b>	2019 09 18	<b>Revised Date:</b>	2019 09 01	<b>Review Date:</b>	2023 09 01
<b>Responsible Portfolio/Unit/Committee:</b>	Administration and Operational Support – Human Resources				
<b>Responsible Officer(s):</b>	Vice President Administration & Chief Operating Officer				

## 1.0 Purpose

The purpose of this policy is:

- to confirm the right of every NOSM University community member has to a learning and working environment free from discrimination, harassment and sexual harassment, 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 University community members are aware of their rights and obligations under the Code;
- to communicate to NOSM University community members the expectation to contribute to the development of an environment free of discrimination, harassment and sexual harassment by behaving in acceptable ways and by discouraging offensive behaviour towards others. Every person has the right and responsibility to communicate concerns and to cooperate in efforts to resolve them; and
- to establish procedures to ensure that complaints are dealt with in a fair and timely manner.

## 2.0 Policy

NOSM University 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 the persons as part of the NOSM University community and one that is free from harassment and/or discrimination 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 University community and can contribute fully to the development and well-being of NOSM University. NOSM University does not tolerate harassment and/or discrimination which includes any behaviours related to intimidation, mistreatment or other offensive conduct. In the event that a breach of this policy is alleged, NOSM University will respond promptly and will strive to achieve a fair and timely resolution.

In seeking to prevent harassment and/or discrimination, 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 University community. Members of the NOSM University community includes, but are not limited to staff, faculty, professional staff, Board Members, stipendiary faculty, medical residents, students, all NOSM University 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 as well as institutional administrators and officials representing NOSM University.

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.

### 4.0 Definitions

Terms such as “**harassment**,” “**sexual and / or gender-based harassment**,” and “**discrimination**” 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 relevant to harassment and discrimination.

This policy prohibits harassment and/or discrimination on the 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;
- i) marital status (including single 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 may not be tied to

a prohibited ground it may include Cyber Sexual Harassment, Sexual and/or Gender-Based Harassment, Religious Based Harassment and Workplace Sexual Harassment. Examples of harassing conduct include the following kinds of behaviour: racial epithets or slurs, disrespectful jokes or banter, sex comments about someone's physical appearance or sexual attractiveness, negative stereotypes about a particular ethnic group, homophobic remarks, disparagement of someone's religious devotions, the circulation of insulting or demeaning written material and pictures, and unwelcome physical contact.

#### **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 against an individual because of 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; or 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. Faculty & learner sexual relationships are not considered harassment if consensual.

#### **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 grounds articulated in the Code. It 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 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, then that is 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 flattery that is intended to persuade someone to co-operate, or favouritism. Intimidation does not include the good faith exercise of supervisory responsibilities, including without limitation, assessments and criticisms of the learner's performance or academic efforts, even where the learner does not agree with such assessment (s) or criticism (s) or finds the process uncomfortable or difficult.

Examples of Intimidation and abusive conduct include the following kinds of behaviour: shouting or raising one's voice constant interruption and refusing to listen to public criticism, ridicule, singling someone out, grilling or interrogation, unjust assignment of duties or overloading someone with work.

#### 4.5 Mistreatment

Mistreatment as defined by the Association of American Medical Colleges (AAMC) occurs when behavior shows disrespect for the dignity of others and unreasonably interferes with the learning process. The occurrence, either intentional or unintentional, of such incidents results in a disruption of the spirit of learning and a breach in the integrity and trust between teacher and learner.

Examples of Mistreatment include, but are not limited to:

Public belittlement or humiliation, requiring performance of tasks intended to belittle or humiliate, conduct intended to insult or stigmatize a learner, intentional neglect, verbally abusive language, inappropriate anger, offensive remarks based on gender, race/ethnicity or sexual orientation, threats of physical harm or actual physical punishment (e.g. hitting, slapping, kicking), requirements to perform personal services (e.g. shopping, babysitting), being denied training opportunities based on discrimination (gender, race/ethnicity, religion, sexual orientation, age, disability), unwanted sexual advances, use of professional position to engage in romantic or sexual relationships, asking for sexual favors in exchange for grades, giving lower grades based on discrimination (gender, race/ethnicity, religion, sexual orientation, age, disability).

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

#### 4.6 Personal (non-Code) Harassment

Personal (non-Code) harassment is harassment that is not related to a prohibited 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, mistreatment or intimidation directed at and offensive to another person or persons in the workplace or learning environment and that the individual knows or ought to reasonably know would offend, harm or is derogatory, demeaning or causes humiliation or embarrassment.

Personal (non-Code) harassment often involves grouping of behaviours. However, a single serious incident of such behaviour that has a lasting harmful effect on a member of the NOSM University 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, intimidation;
- violent behaviours, slamming doors, throwing objects;
- targeting individual(s) in humiliating practical jokes;
- excluding, shunning, impeding work performance;
- spreading gossip, rumours., Cyberbullying;
- retaliation, bullying, 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 and the right to 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, misunderstanding or conflict between learners or co-workers;
- work related change of location, co workers, job assignment;
- appropriate discipline;
- a single comment or action unless it is serious and has a lasting harmful effect; and
- rudeness unless it is extreme and repetitive.

## 5.0 Roles & Responsibilities

### 5.1 Supervisory Staff

For the purposes of reporting incidents of harassment and/or discrimination, the term “Supervisor” or “Supervisory Staff” has legal meaning. Supervisory Staff are considered persons with authority to act upon a complaint and the term “Supervisor” includes, Academic Leaders,

Supervisors, Clinical Supervisors, Workplace Supervisors (Managers, Directors, Chief Operating Officer) and Human Resources Staff.

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 harassment and/or discrimination:

- not engaging in behaviour that would constitute harassment and/or discrimination under the policy;
- setting and enforcing standards of appropriate workplace conduct;
- having thorough knowledge of the policy;
- being able to clarify what constitutes harassment and/or discrimination;
- being able to advise staff of their rights and responsibilities under the policy; and

- taking all reasonable steps to deal with alleged workplace harassment and/or discrimination that they are aware of or reasonably should have been aware of (even if a direct complaint has not been made), in a timely fashion while maintaining as much confidentiality as possible.

Supervisory Staff are encouraged to consult the guideline *Dealing with Complaints of Harassment and Discrimination* and / or contact NOSM University Human Resources to address complaints.

## 5.2 Academic Leaders

Academic Leaders are defined as any faculty or NOSM University 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 University 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 staff 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 harassment and/or discrimination; and
- being aware of what's happening in the learning environment and taking appropriate action upon becoming aware of discriminatory and / or harassing conduct contrary to this policy, including informing the appropriate Supervisor and contacting NOSM University 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 harassment and/or discrimination;
- being aware of what is happening in their work unit and taking appropriate action upon becoming aware of harassing and/or discriminating conduct contrary to the policy including informing their immediate Supervisor and NOSM University Human Resources;
- educating employees to ensure that they know that harassment and/or discrimination will not be tolerated and that they know what their rights and responsibilities are under the policy including ways in which violations can be resolved;
- documenting details of human rights concerns, actions taken, outcomes or remedies implemented; and
- where harassment and/or discrimination occurred, monitoring the situation after a complaint to ensure the harassment and/or discrimination has stopped and implementing appropriate measures to prevent reoccurrence.

### 5.5 Human Resources Staff

Human Resources Staff is defined as employees working within the NOSM University Human Resources department. 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 other NOSM University Community members annually;
- removing barriers in employment policies and practices that may have the effect of discriminating against groups or individuals;
- integrating equity principles into all human resources activities;
- developing 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 University Supervisors in addressing Code and non-Code harassment and/or discrimination;
- providing mediation;

- retaining external consultants;
- providing training for management and employees on this policy; and
- working with Legal Services on Ontario Human Rights Commission / Tribunal complaints.

## 5.6 All other members of the NOSM University Community

- being familiar with their rights and responsibilities under this policy;
- not engaging in behavior that would constitute harassment and/or discrimination under this policy;
- raising concerns as soon as possible if you have been discriminated against or harassed;
- are encouraged to document details of harassment and/or discrimination that are experienced or witnessed;
- co-operating in interventions and investigations to resolve human rights and harassment issues;
- maintaining confidentiality related to human rights investigations; and
- employees are strongly encouraged to report incidents of harassment and/or discrimination or retaliation that they witness.

## 6.0 Complaint Procedures

### 6.1 The Parties

The parties to a Complaint are:

- *The Complainant:* An individual who alleges that they have experienced 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 conduct that is contrary to this policy.

### 6.2 Stages of the Complaint Process

The following process applies to complaints made pursuant to this policy. The complainant may withdraw a complaint at any time. NOSM University may need to continue to act on an issue arising in a complaint even when it has been formally withdrawn.

#### Stage One – Individual Action – OPTIONAL

As an initial step, the complainant may advise the respondent(s) that their actions are unwelcome and ask the respondent(s) to stop engaging in such conduct. Confronting the respondent(s) is not required under the policy. If the complainant chooses to raise the matter with the respondent(s), the complainant should clearly and directly describe 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 writing a letter to the respondent(s) regarding the unwelcome conduct or have a trusted friend communicate with the respondent(s). A detailed record of any discussions with the respondent(s) or copy of any correspondence provided to the individual should be retained by the complainant.

If a complainant is unable to resolve the issue themselves or the harassment and/or discrimination continues after asking the person to stop, the complainant may request assistance from their immediate supervisor or NOSM University 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 representative. If a complainant is unsure of whom to contact, the complainant can contact NOSM University Human Resources who will assist the complainant with their complaint. Once contact is made, the complainant is provided with a copy of this policy and procedure and will provide the Supervisor with the following information:

- the name of the respondent(s);
- the nature of the complaint;
- the time and date of the incident(s) giving rise to complaint;
- the names of any witnesses to the incident (s) given rise to the complaint; and
- the resolution the complainant is seeking.

The Supervisor will contact NOSM University Human Resources who can assist in determining, based on the information provided, if the complaint falls within the jurisdiction of the 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 is pursued.

If the Supervisor is the subject of the complaint the complainant is to contact NOSM University Human Resources in order to be directed to another individual who will take on the role of the Supervisor in the Stages of 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 complaint Human Rights and Anti-Discrimination Complaint Form (See Appendix 1) to the Supervisor. On receipt of a written complaint, the Supervisor carries out the following activities:

- contacts NOSM University Human Resources;
- within ten (10) business days of receipt of the complaint, if necessary, meets with the complainant to clarify the details of the complaint;
- within ten (10) business days of that meeting, advises 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, informs the respondent(s) in writing of the complaint, provides a copy of the complaint and the policy and this procedure to the respondent(s), and advises 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 respondent's response, if necessary, meets with the respondent(s) to clarify the details of their response;
- within ten (10) business days of the Supervisor having received all submissions and clarifications, identifies the steps to be taken to resolve the matter;
- all letters from NOSM University 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, it is offered to the complainant and the respondent(s). If the complainant and respondent(s) both consent, NOSM University Human Resources will arrange for a mediator. If a mediated settlement is reached, the terms of the settlement is reduced to writing and is signed by the complainant, respondent(s) and the mediator. If the settlement requires any action on the part of the NOSM University, the settlement requires the agreement of the Director, Human Resources or designate.

Discussions between the parties at mediation is carried out with a view to affecting a settlement and is treated as privileged.

If mediation is not pursued or is unsuccessful, NOSM University 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 University Human Resources shall communicate with the Union to endeavor to find a mutually agreeable investigator.

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, are considered.

The investigator commences the investigation within ten (10) business days of the date of appointment. The Investigator:

- interviews the complainant and the respondent and obtains signed statements;
- interviews the witnesses suggested by the parties and obtains signed statements;
- interviews other witnesses who may provide relevant information for the

- investigation and obtains signed statements;
- gathers written, electronic or other evidence; and
- within forty-five (45) business days from appointment, submits to NOSM University Human Resources a written investigation report containing a concise summary of the findings of the investigation. If required, the investigator may request an extension of this time frame. If additional time is granted, NOSM University Human Resources advises the parties. NOSM University Human Resources will then contact the Supervisor to review the investigation report, summary of findings and disposition.
- character witnesses shall not be used as part of an investigation.

## **Stage Four – Investigation Report, Summary of Findings and Disposition**

### **Disposition Meeting**

Within ten (10) business days of receiving the investigator's report, NOSM University Human Resources forwards a copy to the Supervisor, and arranges a meeting. The purpose of the meeting is to determine what action, if any, NOSM University will take to bring closure to the complaint. This may involve discussions with academic teaching sites when the employee has a dual role.

### **Written Notification**

Within five (5) business days following the meeting, the Supervisor provides the complainant and the respondent(s) with a copy of the complete investigator's report including its written summary of the investigator's finding. Each party is advised what action, if any, that relates directly to that party, NOSM University will be taking to bring closure to the complaint. If a party is sanctioned, the fact of sanction is communicated to the complainant, but not the detail.

## **7.0 Complaint Guidelines**

### **7.1 Jurisdiction**

Normally respondents in a complaint procedure are Members of the NOSM University Community. It is recognized that due to the unique structure of NOSM University and its affiliation between two host Universities with different sets of policies and procedures (and multiple academic teaching hospital and other clinical locations), regarding harassment and/or discrimination that Members of the NOSM University Community may be subject to overlapping jurisdiction. NOSM University will work to ensure that when other Institutions are involved NOSM University Employees are dealt with according to this Policy and Collective Agreements that NOSM University has with bargaining units.

When there are shared jurisdictions (i.e. Clinical faculty), NOSM University 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 parties.

A complaint under this policy and procedure is one of several complaint avenues available to pursue harassment and/or discrimination 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 harassment and/or discrimination complaint, including complainants, respondents, support persons, witnesses, management, union/association representatives and investigators are expected to treat the matter as confidential. In the event of a complaint between a shared jurisdiction, the information may be shared with hospital supervisors to support the investigation. Persons involved with a harassment and/or discrimination 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 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 may be disciplined if confidentiality is breached by communicating with any person other than their union representative, health care practitioner or another legal authority at any time before, during or after an investigation or resolution of a harassment and/or discrimination 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.

Respondents have the right to know the name of the complainant, the allegations and the particulars to ensure procedural fairness.

Under the OHSA, complaint details, investigations, and results/reports produced under this policy and procedure are not considered to be occupational health and safety reports that are shared with joint health and safety committees. Therefore, to protect confidentiality, these documents are not to be shared with joint health and safety committees.

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 is carried out with a view to affecting a settlement and is treated as privileged. Discussion between Union representatives and Employer representatives are also privileged.

## Confidentiality Exceptions

NOSM University Human Resources is committed to protecting the confidentiality of its consultations, investigations and related records. Where an individual/group who has consulted NOSM University Human Resources or been involved in 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 from NOSM University Human Resources, NOSM University 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 application is filed by an individual/group who has consulted NOSM University Human Resources on the same and/or related matter, NOSM University Human Resources will, upon receipt of the application, provide a copy of its file. Where the entire contents of a complaint file are required related to any other legal proceeding, NOSM University Human Resources may determine whether consent of the employee 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 University 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 harassment and/or discrimination and / 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 coaching);
- rearrangement or modification of the complainant's study or employment arrangements to address the effects of harassment and/or discrimination 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;
- 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 University's building or grounds; and
- reprimand up to and including termination of employment or other relationship within NOSM University.

The Supervisor shall consider the complainant's impact statement, 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 University, to the extent NOSM University considers appropriate and within the constraints or relevant legislation;
- 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; and
- Remedial Measures.

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 investigate and/or attempt to settle the complaint, to speak with anyone, examine any documents and enter any work location relevant to the complaint for the purposes of investigation. The external consultant shall remind witnesses of their representation rights, if any.

#### **7.5 Investigation Report**

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 harassment and/or discrimination, are not considered to be occupational health and safety reports that are shared with joint health and safety committees.

### 7.6 Systemic and Preventative Interventions

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

### 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 expert information and advice before deciding how to proceed with a harassment and/or discrimination concern. In addition to consulting Supervisory Staff as defined in this policy or NOSM University 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 Union Representatives. These staff all have a responsibility to take action to resolve and prevent harassment and/or discrimination and can provide advice, assistance, coaching, and referrals to assist complainants in addressing harassment and/or discrimination. See **Appendix A** 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

**Harassment/Discrimination**  
**Private and Confidential**

**Instructions for completing this form:** This form is intended for the use of NOSM University 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 University Human Resources who will guide you in the process.

**Complainant Information**

First Name	Last Name
<input type="checkbox"/> Check this box if First Name and Last Name do not apply to you because you have either a registered Birth Certificate or Change of Name Certificate bearing a Single Name. Provide your name below.	
Single 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

Respondent (alleged to have engaged in wrongdoing)  
 Witness  
 Other: \_\_\_\_\_

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

**Person 3**

First Name		Last Name
Telephone Number	Alternative Telephone Number	Work Email

Respondent (alleged to have engaged in wrongdoing)  
 Witness  
 Other: \_\_\_\_\_

**Person 4**

First Name		Last Name
Telephone Number	Alternative Telephone Number	Work Email

Respondent (alleged to have engaged in wrongdoing)  
 Witness  
 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"/> Race	<input type="checkbox"/> Personal or Social Lifestyle <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"/> Level of Literacy <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 Policies, 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*

### NOSM University

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

### 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 Representative 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 and experienced external individual hired by NOSM to investigate complaints of Harassment and Discrimination.

#### **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 the Policy for NOSM's response.

#### **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.

The Division Head functions in a number of capacities including representation of the Division within Northern Ontario School of Medicine and externally, administration of faculty and curriculum development and resources for delivery. The Division Head achieves these goals through relationship building and liaison with the Dean, other Associate Deans, Division Heads, members of the Executive, and other NOSM administrators.

#### **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.

### **Ontario Human Rights Tribunal**

Is an administrative tribunal in Ontario, Canada 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 by a decision-maker, rather than the actual outcome reached. 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.

### **Reasonable Persons Test**

A person must exercise the standard of care that would be expected of an ordinary, reasonable and prudent person in the same circumstances to avoid liability.

### **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*.