



Human Rights Policy

Category: Human Resources;

Jurisdiction: Vice-President, Administration and Finance; Board Finance & Operations Committee;

Approval Authority: Board of Governors

Established on: September 16, 1994;

Amendments: February 28, 2008; November 24, 2022 (previously named the Harassment and Discrimination Policy and Procedures);

1. Preamble

(1.1) Lakehead University respectfully acknowledges that its campuses are located on the traditional lands of Indigenous Peoples and recognizes the inherent rights of Indigenous Peoples as affirmed in the Canadian Constitution and the United Nations Declaration on the Rights of Indigenous Peoples. Lakehead University acknowledges the special relationship between the University and the Indigenous Peoples on which its campuses are located and is committed to implementing the Calls to Action of the Truth and Reconciliation Commission of Canada, including in relation to curriculum, teaching, and research.

(1.2) Inspired by the Universal Declaration of Human Rights, Lakehead University recognizes that the inherent dignity and equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. As a public post-secondary institution, Lakehead University is committed to the fundamental principles as set out under the Ontario *Human Rights Code*, including the principle that it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities, without Discrimination, in the areas of education, employment, and housing.

(1.3) Lakehead University is committed to the principles of equity, diversity, and inclusion, and recognizes that these principles are fundamental to realize the right to equal treatment in the areas of education, employment and housing for members of Equity-Deserving Groups within the Lakehead University community, including women, Indigenous peoples, members of racialized groups, persons with disabilities, and members of 2SLGBTQ+ groups. The principles of equity, diversity, and inclusion shall extend to all activities, including Student and Employee recruitment and retention, policy development, teaching, research, and governance at Lakehead University.

(1.4) Lakehead University recognizes that all forms of Discrimination including, but not limited to, racism, sexism, ableism, homophobia, and transphobia, are violations of the values and norms of the Lakehead University community as well as violations of federal and provincial laws. Discrimination violates the fundamental right of persons to fully participate in the economic, social, cultural, and political life of the community. Every member of the Lakehead University community, whether a Student, faculty member, staff member, or volunteer, is responsible for building and fostering a safe and healthy environment that is free from Discrimination.

(1.5) Every person who experiences Discrimination has the right to a remedy under this Policy. Human rights laws are preventive and remedial rather than punitive, and, therefore, these principles should be reflected in associated human rights policies, procedures, and outcomes of Complaints. Where Discrimination is found to have occurred, steps shall be taken to ensure that the Complainant is, to the extent possible, “made whole” and the effects of the Discrimination remedied. Moreover, Lakehead University shall ensure that human rights promotion, including education and training to prevent Discrimination, is a core component of a comprehensive human rights system.

(1.6) The purpose of this Policy and associated Human Rights Procedures is to set out Lakehead University’s commitment to promoting the positive values and norms of human rights and to supporting a comprehensive human rights system at Lakehead, including initiatives to prevent and respond to Discrimination against any member of the Lakehead University community. This commitment includes:

- (a) supporting the Office of Human Rights and Equity as a department dedicated to promoting and protecting the human rights of Students, Employees, and volunteers;

- (b) supporting a Discrimination prevention initiative, including a comprehensive education and training that emphasizes the rights and responsibilities of Students, Employees, and volunteers with respect to human rights; and
- (c) supporting a Discrimination response initiative, including a comprehensive Complaints resolution process that guarantees every person who experiences Discrimination with a remedy.

2. Definitions

In this Policy,

“Accommodation” means the removal of barriers or flexibility in a policy, practice, rule, or requirement and/or the built environment, to ensure that persons with Personal Characteristics protected under the Ontario *Human Rights Code* receive equitable treatment and are fully able to participate in all aspects of University community life. The principles of accommodations are dignity, individualization, and inclusion.

“Business Day” means the days between Monday and Friday, inclusive, but does not include holidays or the days that constitute the annual holiday closure of the University. The day that a correspondence is sent or received is not counted as a business day.

“Code” means the Ontario *Human Rights Code*, RSO 1990, c H.19.

“Complaint” means a Report of an incident of Discrimination that proceeds to a formal resolution process under these Procedures.

“Complainant” means a person(s) who reports an incident of Discrimination.

“Director” means the Director of Human Rights and Equity or their designate.

“Discrimination” means a distinction, intentional or not, that is based on grounds relating to the Personal Characteristics of the person or group concerned, and that has the effect of imposing disadvantages or burdens not imposed on others, or of withholding access to advantages or benefits available to others. Harassment and sexual harassment, where based on a Personal Characteristic, are discrimination for the purposes of the Human Rights Policy.

“Employee” includes but is not limited to, full-time and part-time unionized and non-unionized faculty and staff members, contract faculty and staff members, and research and graduate assistants.

“Equity-Deserving Group” means women, Indigenous peoples, members of racialized groups, persons with disabilities, and members of 2SLGBTQ+ groups.

“Harassment” means engaging in a course of vexatious comment or conduct that is known or ought to be known to be unwelcome and includes sexual harassment. In some cases, one incident can be serious enough to be harassment or sexual harassment. Harassment and sexual harassment, if based on a policy, is Discrimination for the purposes of this Policy.

“Personal Characteristic” means a prohibited ground of Discrimination under the Ontario *Human Rights Code*: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, disability, family status, marital status (including single status), gender identity, gender expression, receipt of public assistance (in housing only), record of offences (employment only), sex (including pregnancy and breastfeeding), sexual orientation.

“Policy” means the Lakehead University Human Rights Policy.

“Poisoned Environment” means persistent or repetitious comments or conduct that creates a hostile or intolerant environment. Comments or conduct need not be directed at a specific person and may be from any person, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned environment.

“Respondent” means a person(s) against whom allegations of Discrimination are made.

“Report” means a verbal or written account of an incident of Discrimination.

“Student” means a person who is enrolled in any form of study at Lakehead University.

“Systemic Discrimination” means policies, procedures, or practices that appear neutral, but result in a disproportionate and negative impact on persons or groups with Personal Characteristics protected under the *Code*.

“University” means Lakehead University.

“University Community Member” means a Student, Employee, volunteer, post-doctoral fellow, and visitor of Lakehead University.

3. Scope

(3.1) This Policy applies to all University Community Members. A Complainant and Respondent must be University Community Members in order to resolve the Complaint. However, a University Community Member who experiences Discrimination has the right to access Accommodations and support services regardless of whether the Respondent is a University Community Member.

(3.2) This Policy applies to all University activities and University-sponsored events including, but not limited to, the following:

- (a) all classes and workplaces;
 - (b) all electronic communications including email, websites, and social media;
 - (c) experiential learning opportunities including but not limited to placements, internships, co-ops and work studies;
 - (d) research activities;
 - (e) residence;
 - (f) conference activities;
 - (g) athletic and sporting events;
 - (h) external events and meetings including donor, volunteer, alumni and University announcement events and meetings; and
 - (i) social events related to the workplace
- regardless of whether the activity or event is on or off-campus.

(3.3) This Policy in no way is intended to preclude a person who experiences Discrimination from pursuing a remedy under any external process, including the Human Rights Tribunal of Ontario or the police. To avoid duplicate processes, the Office of Human Rights and Equity will provide University Community Members with their options with respect to remedies under internal and external resolution processes.

4. Procedural Fairness

(4.1) The Complainant and Respondent have a right to procedural fairness and natural justice in all proceedings under this Policy, including, but not limited to, the investigation, adjudication, and appeal processes. The duty of procedural fairness is

to ensure that there is a fair and open procedure that provides persons affected by the decision with an opportunity to put forward their perspectives and evidence fully and have them considered by a fair and impartial decision-maker, including the following:

- (a) the right to a timely, fair, and open procedure;
- (b) the right of a person against whom allegations are made to know and respond to those allegations before a decision is made;
- (c) the right to be notified of all proceedings and the right to have a representative present at those proceedings;
- (d) the right to have the matter heard by a fair and impartial decision-maker; and
- (e) the right to be provided reasons for the decision.

5. Office of Human Rights and Equity

(5.1) The Office of Human Rights and Equity is an arms-length department of the University whose mandate is to promote and protect the human rights of University Community Members.

(5.2) The Office of Human Rights and Equity is responsible for the implementation of the Policy and these Procedures and has all the powers and duties as set out herein including:

- (a) to provide University Community Members with information and consultation on matters related to human rights and sexual and gender-based violence;
- (b) to provide University Community Members with education and training on matters related to human rights and sexual and gender-based violence;
- (c) to participate in research relevant to human rights and sexual and gender-based violence;
- (d) to collect and maintain records and statistics related to incidents of Discrimination and sexual and gender-based violence within the University community;
- (e) to investigate and resolve Reports and Complaints of Discrimination and sexual and gender-based violence; and
- (f) to promote principles and practices related to equity, diversity, and inclusion.

(5.3) The Office of Human Rights and Equity is the first point of contact for a University Community Member who experiences Discrimination or sexual and gender-based violence to access Accommodations and support services.

(5.4) Any University Community Member who receives a disclosure or Report of Discrimination or sexual and gender-based violence from another University Community Member shall refer that person to the Office of Human Rights and Equity.

6. Human Rights Review Pool

(6.1) The Human Rights Review Pool (the “Pool”) is a pool of University Community Members whose roles and responsibilities are to review and adjudicate Complaints of Discrimination. The Pool is composed of no less than six (6) and no more than nine (9) members including:

- (a) Employees of the University who are not faculty members;
- (b) Employees of the University who are faculty members; and
- (c) representatives of the Lakehead University Student Union.

(6.2) No less than two-thirds (2/3) of the Pool shall be composed of members of Equity-Deserving Groups. The Pool shall have diverse gender representation as well as representation from the Thunder Bay and Orillia campuses.

(6.3) The members of the Pool shall, collectively, have expertise in the following:

- (a) human rights and Discrimination, including lived experience of racism, sexism, ableism, homophobia, and transphobia;
- (b) human rights and administrative law; and
- (c) investigation and adjudication processes.

The University shall provide members of the Pool with appropriate training.

(6.4) The members of the Pool shall be appointed by the Board of Governors on the recommendation of the President and Vice-Chancellor. Members of the Pool shall serve for a term of three (3) years (the “Term”). If, during the Term, a member is unable to continue

serving on the Panel, the Board of Governors shall appoint a replacement member to serve out the remaining term.

(6.5) The Director shall select three (3) members of the Pool to serve on a panel to review and adjudicate each individual Complaint of Discrimination.

7. Policy Review

(7.1) Lakehead University shall review this Policy at least once every five (5) years ensuring that consultation, including Student input, forms part of that review.

(7.2) The University may, by approval of the Executive Team, update the following information in this Policy at any time at its discretion:

- (a) the supports and services that are available at the University or in the community;
- (b) the identity of the following University officials, offices and departments:
 - (i) the specific official, office or department at the University that should be contacted to obtain supports and services for Students who are affected by human rights Discrimination;
 - (ii) the specific official, office or department at the University that should be contacted to obtain Accommodations for Students who are affected by Discrimination;
 - (iii) the specific official, office or department to whom incidents of human rights Complaints may be Reported or Complaints may be made about human rights Discrimination; and
 - (iv) the specific officials, offices or departments that will be involved in each stage of investigation and decision-making processes.

8. Acknowledgements

(8.1) Lakehead University acknowledges the work of numerous Ontario post-secondary academic institutions as well as the Ontario Human Rights Commission whose policies and guidelines informed the drafting of this document.

Review Period: 5 years;

Date for Next Review: 2026-2027:

Related Policies and Procedures: Human Rights Procedures (attached); Accommodations and Access for Students with Disabilities/Medical Conditions; Procedures Associated with the Policy on Accommodations and Access for Students with Disabilities/Medical Conditions; Sexual and Gender Based Violence Response Policy;

Policy Superseded by this Policy: Harassment and Discrimination Policy and Procedures (previously named):

The University Secretariat manages the development of policies through an impartial, fair governance process. Please contact the University Secretariat for additional information on University policies and procedures and/or if you require this information in another format:

Open: Monday through Friday from 8:30 am to 4:30 pm;

Location: University Centre, Thunder Bay Campus, Room UC2002;

Phone: 807-343-8010 ext. 7929 or Email: univsec@lakeheadu.ca.



Human Rights Procedures

Category: Human Resources;

Jurisdiction: Vice-President, Administration and Finance; Board Finance & Operations Committee;

Approval Authority: Executive Team

Established on: September 16, 1994;

Amendments: February 28, 2008; November 24, 2022 (previously named the Harassment and Discrimination Policy and Procedures);

1. Preamble

(1.1) The purpose of these procedures (hereinafter “Procedures”) is to support the associated Human Rights Policy by providing a process to resolve Reports and Complaints of Discrimination by members of the Lakehead University community.

(1.2) All capitalized terms used in these Procedures shall have the same meaning as defined in the *Human Rights Policy*, unless otherwise defined herein.

2. Report of Discrimination

Report

(2.1) A University Community Member may report an incident of Discrimination to the Office of Human Rights and Equity in-person, by phone, by email, or on the Lakehead University Mobile Safety App. Where an incident of Discrimination is witnessed by multiple persons, a witness to that incident may make a Report. A person who reports an incident of Discrimination is a Complainant for the purposes of these Procedures.

Report to Police

(2.2) If a Complainant chooses to report an incident of Discrimination to the police, the Office of Human Rights and Equity will support the Complainant throughout that process. Where a Complainant reports to the police, the Director may place the Report or Complaint in abeyance pending the conclusion of a criminal investigation or prosecution.

Assessment of Report

(2.3) Upon receipt of a Report, the Director shall determine whether the allegation as set out in the Report, if proven, would constitute Discrimination (i.e. *prima facie* discrimination). A finding of *prima facie* discrimination will be made where:

- (a) the Complainant has a Personal Characteristic protected under the Code;
 - (b) the Complainant has experienced negative treatment or adverse impact;
- and
- (c) there is a connection (i.e. nexus) between the negative treatment or adverse impact and the Personal Characteristic.

(2.4) The Director may request that the Complainant provide additional information or documentation to make an assessment under Section 2.3.

(2.5) A finding of *prima facie* discrimination is not a finding that the allegations as set out in the Report are proven. Rather, it is a finding that the Report falls under the jurisdiction of the Policy.

Report Not Within Jurisdiction of Policy

(2.6) Where the Director determines that the Report does not fall within the jurisdiction of the Policy, the Director shall:

- (a) provide the Complainant with reasons; and
- (b) refer the Complainant to another policy or procedure, if applicable.

Report Within Jurisdiction of Policy

(2.7) Where the Director determines that the Report falls within the jurisdiction of the Policy, the Director, in consultation with the Complainant, shall:

- (a) coordinate the appropriate Accommodations for the Complainant, where appropriate;
- (b) refer the Complainant to the appropriate support services;
- (c) refer the Report to the alternative resolution process under Section 6; or
- (d) refer the Report to the formal resolution process under Section 7.

Right to Accommodations and Support Services

(2.8) A Complainant has the right to access Accommodations and support services without the Director:

- (a) notifying the Respondent that the Complainant has made a Report; or
- (b) referring the Report to the alternative or formal resolution process.

Right to Determine Process

(2.9) The Complainant must consent to have the Report referred to the alternative or formal resolution process. However, the Director reserves the right to refer the Report to the formal resolution process, without the Complainant's consent, where the University has a legal duty to investigate the allegations as set out in the Report.

3. Confidentiality

(3.1) The Office of Human Rights and Equity shall treat the personal information collected and used for the purposes of the Policy as strictly confidential. The Office of Human Rights and Equity shall not disclose the personal information of any person, without their consent, except as required under the Policy or by the *Ontario Health and Safety Act* or any other relevant act or law.

(3.2) The Office of Human Rights and Equity, without the consent of the person, shall report the incident to an external body, such as the police or child protection services, where:

- (a) there are reasonable grounds to believe that a person is at imminent risk of harming themselves or another person; or
- (b) there are reasonable grounds to believe that a child needs protection pursuant to the *Child, Youth and Family Services Act*, SO 2017, c. 14.

(3.3) Parties who participate in an alternative or formal resolution process under this Policy may be required to disclose their personal information, such as their identity, for the purposes of procedural fairness and natural justice.

(3.4) The Office of Human Rights and Equity shall collect and use all personal information pursuant to the *Personal Health Information Protection Act*, S.O. 2004, c.3, Sched. A and the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F31.

(3.5) Where a person who is subject to a confidentiality agreement violates one or more terms of that agreement, that person may be subject to disciplinary measures under appropriate University policies, including the *Student Code of Conduct* or the *Employee Code of Conduct*.

4. Accommodations and Support Services

Accommodations

(4.1) Equal treatment in services and employment requires that the University accommodate Students and Employees because of Personal Characteristics protected under the Code. The Accommodation process is a collaborative one between the person seeking the Accommodation, the University, and the union, where applicable. The University has a duty to accommodate, up to the point of undue hardship, and the person seeking the Accommodation has a duty to participate in the Accommodation process. All Accommodations are to be reasonable and shall incorporate the principles of dignity, individualization, and inclusion.

Accommodations for Students and Employees

(4.2) Accommodations for Students and Employees with respect to Personal Characteristics other than disability are determined by the Office of Human Rights and Equity as set out under the Policy and these Procedures, including the grounds of creed, family status, and sex (i.e. pregnancy and breastfeeding).

Accommodations for Students with Disabilities

(4.3) Accommodations for Students with disabilities are determined by Student Accessibility Services as set out under the *Accommodations and Access for Students with Disabilities and Medical Conditions Policy and Procedures*.

Accommodations for Employees with Disabilities

(4.4) Accommodations for Employees with disabilities are determined by Human Resources as set out under the *Accommodations for Employees with Disabilities Policy and Procedures*.

Accommodations for Complainants

(4.5) In recognition that a Complainant's mental and physical health may be negatively impacted because of experiencing Discrimination, a Complainant has the right to access Accommodations regardless of whether a Report proceeds to an alternative or formal resolution process under this Policy. Accommodations may include, but are not limited to, the following:

- (a) academic Accommodations including extensions on assignments;
- (b) non-academic Accommodations including relocation of residence room;
- and
- (c) employment-related Accommodations including changes in working conditions [in collaboration with Human Resources].

(4.6) The Office of Human Rights and Equity shall, in consultation with the appropriate faculty or departmental supervisor, determine what are reasonable Accommodations for the Complainant under the circumstances. The relevant faculty, faculty member, department, or departmental supervisor shall provide reasonable Accommodations.

No Requirement to Notify Respondent

(4.7) The Office of Human Rights and Equity is not required to notify the Respondent when a person affected by Discrimination seeks Accommodations or support services.

5. Interim Measures

(5.1) The University may implement interim measures where the University concludes that such measures are necessary to protect the health, safety, or security of another University Community Member, regardless of whether a Report of Discrimination is referred to the alternative or formal resolution process under these Procedures. Interim measures may be implemented at any time after a Report is received by the Office of Human Rights and Equity.

(5.2) Interim measures implemented under the Policy are not intended to be punitive or disciplinary within the meaning of any University policy, contract, or collective agreement.

(5.3) Interim measures include, but are not limited to:

- (a) a no-contact order;
- (b) restricted access to buildings or other areas of the University;
- (c) suspension from University-sponsored extra-curricular activities;
- (d) suspension from class or placement;
- (e) relocation of room within residence;
- (f) re-assignment of course section;
- (g) re-assignment of working hours or location;
- (h) re-assignment of supervisor; or
- (i) trespass from University campus.

(5.4) The University shall implement the least possible disruptive measures that balance the following:

- (a) the health, safety, and security interests of the Complainant or any other University Community Member; and
- (b) the procedural fairness and natural justice rights of the Respondent.

(5.5) The decision to implement interim measures shall be made by the Director, or pursuant to Section 9.7, the Human Rights Review Panel, in consultation with the following:

- (a) where the Respondent is a student, a representative of Student Affairs and the relevant department Dean/Chair or Program Director/Chair;

(b) where the Respondent is an Employee or volunteer, a representative of Human Resources and the relevant departmental supervisor or faculty Dean.

(5.6) Either the Complainant or Respondent may request to modify the interim measures by submitting a written request to the Office of Human Rights and Equity. The request must include reasons for modifying the interim measures. In considering a request to modify the interim measures, the Director shall balance the interests of both parties.

(5.7) Where a person who is subject to interim measures violates one or more of those measures, that person may be subject to disciplinary measures under appropriate University policies, including the *Student Code of Conduct* or the *Employee Code of Conduct*.

6. Alternative Resolution Process

(6.1) Where appropriate, a report of discrimination may be resolved through an alternative resolution process. The purpose of the alternative resolution process is to resolve the matter outside of a formal investigation and adjudication process. An alternative resolution process does not require the Complainant and Respondent to meet face-to-face. Rather, it is a facilitated process to arrive at an agreement between the parties to resolve the matter, which may include imposing interim measures as set out under Section 5 of these Procedures.

(6.2) The Director shall determine, in collaboration with the Complainant, whether an alternative resolution process is appropriate in the circumstances. The Director, in their sole discretion, may determine that an alternative resolution process is not appropriate where the University has a duty to investigate the incident under the *Occupational Health and Safety Act*, RSO 1990, c.O.1, the *Code*, or other applicable laws.

(6.3) Both the Complainant and Respondent must agree to participate in the alternative resolution process voluntarily. Either the Complainant or Respondent may withdraw their participation in the alternative resolution process at any time.

(6.4) In collaboration with the parties, the Director shall determine the form of the alternative resolution process, including any measures to be put in place to balance the

health, safety, or security and procedural fairness interests of the parties. Where appropriate, the Director may involve other University departments in the process, including, but not limited to, Student Affairs or Human Resources.

(6.5) The Complainant and Respondent have the right to have present at any meeting with respect to the alternative resolution process a support person or union representative, where appropriate.

(6.6) All parties to an alternative resolution process, including support persons and union representatives, are subject to the confidentiality provisions under these Procedures, including the consequences for violating confidentiality.

(6.7) Where either of the parties violates one or more terms of an agreement made under the alternative resolution process, that party may be subject to disciplinary measures under the appropriate University policy, including the *Student Code of Conduct* or *Employee Code of Conduct*.

7. Formal Resolution Process

(7.1) A formal resolution process includes:

- (a) referral to the Human Rights Review Panel (the “Panel”) (see Section 8);
- (b) review of the allegations as set out in the Complaint;
- (c) investigation of the allegations as set out in the Complaint; and
- (d) adjudication of the Complaint.

Referral to Process

(7.2) A Report may proceed to a formal resolution process where:

- (a) the Director determines that the nature of the allegations are not appropriate for the alternative resolution process under Section 6;
- (b) the Complainant or Respondent do not consent to participate in an alternative resolution process under Section 6; or
- (c) the Complainant and Respondent are unable to reach an Agreement within the alternative resolution process under Section 6.

Complaint

(7.3) A Report of Discrimination that proceeds to a formal resolution process is a Complaint for the purposes of the Policy.

Filing a Complaint

(7.4) A Complaint must be submitted by the Complainant, in print or electronic form, to the Office of Human Rights and Equity, in-person or by email, on the Human Rights Complaint Form (the “Form”). The Form must include:

- (a) the name of the Complainant and Respondent;
- (b) a description of the incident(s) including any relevant dates, times, locations, and persons involved; and
- (c) a signed declaration.

(7.5) The Complainant may request assistance from the Office of Human Rights and Equity to complete the Form.

(7.6) On review of the Form, the Director may:

- (a) request additional information or documentation; and
- (b) revise the Form to exclude any information that:
 - (i) is not relevant to the allegations; or
 - (ii) contains the personal information of a third party to the Complaint.

Referral to the Panel

(7.7) The Director shall refer the Complaint to the Panel within ten (10) Business Days of the date on which the Form is received by the Office of Human Rights and Equity.

Director Involved in Complaint

(7.8) Where the Director is a Complainant or Respondent in an incident of Discrimination, the Associate Vice-President of Human Resources shall assume the powers and duties of the Director under the Policy and these Procedures for the purposes of the Complaint.

8. Human Rights Review Panel

(8.1) Where a Report is referred to the formal resolution process, the Director shall select three (3) members from the Human Rights Review Pool [see Section 6 of the Policy] to serve on the Human Rights Review Panel (the “Panel”).

(8.2) The Panel shall elect a chair (the “Chair”) to serve as the point-of-contact between the Panel and the parties to the Complaint. The Chair may request that the Director communicate with the parties on behalf of the Panel.

Roles and Responsibilities of Panel

(8.3) The roles and responsibilities of the Panel are:

- (a) to review the allegations as set out in the Complaint;
- (b) to appoint an investigator to investigate the Complaint;
- (c) to conduct a hearing(s) to determine whether Discrimination occurred; and
- (d) to implement consequences or measures, if any.

No Conflict of Interest

(8.4) No Panel member shall have a conflict of interest with the Complainant or Respondent, which could raise a reasonable apprehension of bias. A conflict of interest is where a Panel member has a personal or private interest with respect to their relationship with the Complainant or Respondent, including a romantic or familial relationship, a relationship of financial dependence (i.e. direct supervisor, grant holder), or a relationship borne out of a civil or criminal dispute. A current or previous collegial relationship without a personal or private interest, does not necessarily constitute a conflict of interest.

(8.5) All Panel members must declare any potential conflict of interest prior to the review of the Complaint. The Chair shall determine whether any declaration constitutes a conflict of interest for the purposes of this Policy. If the Chair determines that a member is in a conflict of interest, the member shall recuse themselves, and the Director shall select another member of the Pool.

Right to Challenge Composition of Panel

(8.6) The Complainant or Respondent has the right to challenge the composition of the Panel where they believe that one or more members of the Panel are in a conflict of interest as set out in Section 8.4. The Complainant or Respondent must submit a challenge, in writing, to the Director within five (5) Business Days of receiving the Notice of Complaint of Discrimination as set out in Section 9.8. The Director, in their sole discretion, shall determine whether to adjust the Panel composition.

9. Review of Complaint

(9.1) Upon receipt by the Director, the Panel shall review the Complaint and determine whether the allegations as set out in the Complaint fall within the jurisdiction of the Policy, pursuant to the assessment set out in Section 2.3.

Panel May Sever Complaint

(9.2) The Panel may sever any of the allegations from the Complaint if the Panel determines that an allegation if proven, does not constitute Discrimination as defined under the Policy.

Complaint Rejected for Filing

(9.3) Where the Panel determines that any or all the allegations as set out in the Complaint do not fall within the jurisdiction of the Policy, the Panel shall refer the Complainant to the appropriate University policy or procedure.

Vexatious Complaint

(9.4) A Complaint that is frivolous, malicious, vexatious, retaliatory, or made in bad faith (a “Vexatious Complaint”) is a violation of the Policy and these Procedures. A determination that a Complaint is a Vexatious Complaint is an extraordinary remedy that shall be made only in extraordinary circumstances.

(9.5) The Panel, at any time during the formal resolution process, may determine that a complaint is a Vexatious Complaint in the following circumstances:

- (a) where there are issues in the Complaint have already been determined by

the Panel;

(b) where it is obvious that a Complaint cannot succeed, where the Complaint will lead to no possible good, or where a reasonable person could not reasonably expect to receive relief as a result of the Complaint;

(c) where a Complaint is filed for an improper purpose, including the harassment

or oppression of other parties, other than for the purpose of asserting legitimate rights.

(9.6) Where the Panel determines that a Complaint is a Vexatious Complaint, the Panel may refer the matter to the appropriate University proceeding, such as that under the *Student Code of Conduct* or *Employee Code of Conduct*.

Complaint Accepted for Filing

(9.7) Where the Panel determines that any or all the allegations as set out in the Complaint falls within the jurisdiction of the Policy, the Panel shall:

(a) notify the Complainant and Respondent, in writing, that a Complaint has been accepted for filing under the Policy (“Notice of Complaint of Discrimination”);

(b) implement interim measures, if necessary; and

(c) appoint an investigator to investigate the allegations as set out in the Complaint.

Notice of Complaint

(9.8) The Notice of Complaint of Discrimination shall include:

(a) a description of the allegations of Discrimination including any relevant dates, times, and locations;

(b) the identity of the Complainant;

(c) a statement that the Respondent has the right to provide a response to the allegations as set out in the Complaint;

(d) a statement that the Complainant and Respondent have the right to have a support person or union representative, if applicable, at any proceeding;

and

(e) the names and positions of the Panel members, including a statement that the composition of the Panel may be challenged under Section 8.6.

Right to Determine Process

(9.9) A Complainant retains control over whether to proceed to a formal resolution process under the Policy and has the right to withdraw the Complaint at any time. To the greatest extent possible, the University will respect the person's choice not to proceed with a formal Complaint or request that the University not investigate. Notwithstanding, the University, at its sole discretion, reserves the right to initiate a formal resolution process if there is an imminent or material risk to the safety and security of a University Community Member, or the University has a duty under the *Occupational Health and Safety Act*, RSO 1990, c.0-1.

Retaliation

(9.10) No person shall retaliate against another person because that person:

- (a) files a Complaint or might file a Complaint;
- (b) is named in a Complaint or might be named in a Complaint;
- (c) provides help or evidence in a Complaint or might provide help or evidence in a Complaint; or
- (d) participates in an investigation or adjudication process in the Complaint or might participate in an investigation or adjudication process in the Complaint.

(9.11) Retaliation may include, but is not limited to:

- (a) negative treatment, such as intimidation or coercion;
- (b) imposition of burdens or obligations, such as academic or employment-related penalties; or
- (c) withholding of benefits or opportunities, such as academic or employment-related opportunities.

(9.12) In order for retaliation to be founded, a person against whom allegations of retaliation are made must have knowledge of the circumstances as set out in Section 9.8.

(9.13) The Panel may, at any time during the formal resolution process, determine retaliation occurred. Where the Panel determines that retaliation occurred, the Panel may refer the matter to the appropriate University proceeding, such as that under the *Student Code of Conduct* or *Employee Code of Conduct*.

10. Investigation of Complaint

Appointment of Investigator

(10.1) The Panel shall appoint a person to investigate the allegations set out in the Complaint (the “Investigator”). The Investigator may be internal or external to the University and may include the Director or their designate. The Panel may engage internal or external counsel for an assessment of whether the allegations as set out in the Complaint fall within the jurisdiction of the Policy.

(10.2) The Panel shall determine the terms of reference for the investigation.

Investigator

(10.3) The Investigator shall be independent of the Panel and shall:

- (a) have the requisite skills and training to investigate allegations of Discrimination; and
- (b) have no conflict of interest with:
 - (i) the Complainant;
 - (ii) the Respondent; or
 - (iii) any of the Panel members adjudicating the Complaint.

Notice of Appointment of Investigator

(10.4) The Panel shall notify the Complainant and Respondent, in writing, of the appointment of an Investigator (“Notice of Appointment of Investigator”). The Notice of Appointment of Investigator shall include the name and contact information of the Investigator.

Rights of the Parties

(10.5) The Complainant or Respondent has the right to choose not to participate in the investigation process. The choice not to participate in the investigation may prejudice the position of the party making that decision. The Investigator may proceed with the investigation without the participation of one or both of the parties and shall indicate this in the investigation report.

(10.6) The Complainant, Respondent, and any witnesses have the right to have present the following person(s) at any meeting with the Investigator:

- (a) a support person;
- (b) the University Ombudsperson; or
- (c) a union representative, if applicable;

and shall be informed of that right by the Investigator in advance of any meeting.

(10.7) The Complainant, Respondent, and any witnesses have the right to a reasonable expectation of privacy with respect to their personal information. All parties to an investigation, including any support person set out in Section 10.6, are bound by the confidentiality provisions including the consequences of disclosing personal information to any other party.

Collection and Disclosure of Evidence

(10.8) All interviews conducted by the Investigator shall be conducted in a fair, impartial, and professional manner, applying a trauma-informed approach.

(10.9) The Investigator shall conduct interviews with the Complainant and Respondent and collect any other evidence that, in the opinion of the Investigator, is relevant to the investigation.

(10.10) The Investigator shall conduct interviews with any witnesses and collect any evidence that, in the opinion of the Investigator, is relevant to the Investigation.

(10.11) Any party to an investigation, including the Complainant, Respondent, and any witnesses, may submit additional evidence to the Investigator. The Investigator

shall include this evidence in the investigation if, in the opinion of the Investigator, it is relevant.

Production of Evidence

(10.12) Any party to an investigation, including the Complainant, Respondent, and any witnesses, as well as the University, shall produce any documents requested by the Investigator that, in the opinion of the Investigator, is relevant.

Investigation Report

(10.13) The Investigator shall prepare a written report of the investigation (the "Investigation Report"). The Investigation Report shall include:

- (a) any statements of the Complainant, Respondent, and any witnesses;
- (b) any additional evidence including correspondences, documents, and media;
- (c) any relevant policy provisions or laws; and
- (d) a finding of the Investigator including reasons for that finding, if set out in Terms of Reference of the Panel.

(10.14) The Investigator shall submit the Investigation Report to the Chair of the Panel and the Director.

(10.15) The Investigation Report as set out in Section 10.14 is privileged, and, therefore, the Complainant and Respondent do not have the right to the Investigation Report in its entirety. The Panel shall provide the Complainant and Respondent evidence that the Panel intends to rely on for its decision as part of the adjudication process under Section 11.

(10.16) The Panel shall notify the Complainant and Respondent, in writing, when the investigation is completed.

Timeline

(10.17) The University shall endeavour to complete the investigation process, including the Investigation Report, within sixty (60) Business Days of the date the Investigator is appointed by the Panel. Timelines may be extended in extraordinary

circumstances, such as the illness of the Investigator or other parties to the investigation.

11. Adjudication of Complaint

(11.1) The Chair of the Panel shall serve as the point of contact between the Panel and the Complainant and Respondent. The Chair may request that the Director communicate with the parties on behalf of the Panel.

Hearings

(11.2) The Panel shall hold hearings to adjudicate the Complaint. The purposes of hearings are:

- (a) to adduce any additional evidence than that collected as part of the investigation;
- (b) to assess the credibility of the Complainant, Respondent, or any witnesses; and
- (c) to decide whether Discrimination occurred.

(11.3) All hearings shall be held in private, either in-person or by video conference.

(11.4) The Panel shall hold hearings in a manner that the Complainant and Respondent do not appear face-to-face with one another unless the parties agree to a face-to-face hearing. Neither the Complainant nor the Respondent has the right to appear at a hearing of one another, or at the hearings of other witnesses.

(11.5) The Panel shall determine the nature of the proceedings at any hearing including, but not limited to, the following:

- (a) the forum for the hearing;
- (b) the parties and witnesses who appear at a hearing; and
- (c) the weight given to any additional evidence before the Panel. .

(11.6) The Chair may remove any person from a hearing who acts in contempt of the Panel.

Preliminary Hearing

(11.7) The Panel shall hold a preliminary hearing to:

- (a) determine whether to instruct the Investigator to collect any additional evidence to that contained in the Investigation Report; and
- (b) determine whether to request the Complainant, Respondent, or other witnesses to appear at subsequent hearings of the Panel.

Right Not to Appear at Hearing

(11.8) The Complainant and Respondent have the right not to appear at a hearing of the Panel. Where either party chooses not to appear, the Panel may proceed without their participation and rely on any previous evidence provided by that party, if any.

Right to Have Support Persons at Hearing

(11.9) The Complainant and Respondent have the right to have present at any hearing of the Panel:

- (a) a support person;
- (b) the University Ombudsperson; or
- (c) a union representative, where appropriate,

and shall be informed of that right by the Panel in advance of any hearing. All support persons as set out in this section are bound by the confidentiality provisions under these Procedures, including any disciplinary measures for breaches of confidentiality.

Right to Notice of Hearing

(11.10) Where the Panel requests that a person appears at a hearing, the Panel shall provide the person with written notice of the following:

- (a) the nature and format of the hearing;
- (b) the date, time, and location of the hearing;
- (c) the right of the person to have a support person present at the hearing; and

(d) the right of the person not to participate in the hearing and any potential consequences for not participating.

and shall be informed of that right by the Panel in advance of any hearing. All support persons as set out in this section are bound by the confidentiality provisions of these Procedures, including any disciplinary measures for breaches of confidentiality.

(11.11) The Panel shall make all reasonable efforts to ensure that the person is able to appear at the hearing. Where the person does not respond to the notice to appear at the hearing after five (5) Business Days of receiving the notice, the Panel may proceed with the adjudication process without the party's appearance at the hearing.

Right to Know Evidence

(11.12) The Complainant and Respondent have the right to know the evidence that the Panel intends to rely on for its decision, prior to a decision being made.

(11.13) Prior to making a decision, the Panel shall provide the Complainant and Respondent access to the evidence, in print or electronic form, that the Panel intends to rely on for its decision, including evidence collected as part of the investigation and adjudication processes (i.e. at hearings of the Panel). The Panel, in its sole discretion, reserves the right to provide the parties with written summaries of witness statements.

(11.14) The Panel, in its sole discretion, reserves the right to not provide the parties with any evidence that the Panel does not intend to rely on for its decision, including evidence the Panel deems to be irrelevant.

Right to Respond to Evidence

(11.15) The Complainant and Respondent have the right to respond to the evidence that the Panel intends to rely on for its decision, prior to a decision being made.

(11.16) Prior to making a decision, the Panel shall provide the Complainant and Respondent an opportunity to respond to the evidence the Panel intends to rely on for its decision. Upon review of the evidence provided under Section 11.14, the Complainant and Respondent may provide the Panel with a written response to that

evidence, including any additional evidence. In special circumstances, the Panel may permit a party to provide a response to the Panel in-person.

(11.17) The Panel shall notify the Complainant and Respondent, in writing, of their right to respond to the evidence. The parties must submit a written response to the Panel within the deadline provided by the Chair. Where a party does not submit a response within the deadline provided by the Panel, the Panel may proceed with the adjudication process without the party's response.

Decision

(11.18) Upon completion of the hearing(s), the Panel shall consider all of the available evidence, including the Investigation Report, and determine whether Discrimination occurred (the "Decision"). The Decision of the Panel shall be based on the civil standard of proof: the balance of probabilities.

(11.19) The Panel shall prepare a written decision that contains the reasons for the Decision. The Chair shall provide a copy of the Decision to the Director. The Director shall send a copy of the Decision to the Complainant and Respondent.

Timelines

(11.20) The Panel shall endeavour to complete the adjudication process, including the Decision, within forty-five (45) Business Days of the date the Panel receives the Investigation Report.

Measures and Consequences

(11.21) Where the Panel decides that Discrimination did not occur, the Panel shall not impose any measures or consequences against the Respondent. The Panel may maintain interim measures if, in the opinion of the Panel, those measures protect the health, safety, or security of any University Community Member.

(11.22) Where the Panel decides that Discrimination occurred, the Panel may impose measures and consequences against the Respondent, subject to Section 11.25

(11.23) Where the Respondent is a Student or volunteer, the Panel may impose measures and consequences. The Panel may share their findings with Student Affairs or the Respondent's supervisor, where appropriate.

(11.24) Where the Respondent is an Employee, the Panel shall not impose any measures or consequences under the Policy. The Panel shall refer the Decision to the Respondent's supervisor. Upon receipt of the Decision of the Panel, the Respondent's supervisor, in consultation with Human Resources, shall impose appropriate measures and consequences under the appropriate University policy, contract, or collective agreement.

(11.25) Where the Respondent is both a Student and an Employee, the Panel shall impose measures and consequences with respect to the Respondent's status as a Student and shall refer the Decision to the Respondent's supervisor for measures and consequences with respect to their status as an Employee.

(11.26) The Panel shall consider the following principles when imposing measures and consequences:

- (a) to put the Complainant into the position they would have been before the Discrimination occurred;
- (b) to protect the health, safety, and security of the Complainant or any other University Community Member;
- (c) to prevent future occurrences of Discrimination against the Complainant or any other University Community Member; and
- (d) to promote a healthy, safe, and secure environment that is free from Discrimination for all University Community Members.

(11.27) The Panel shall consider the following factors when imposing measures and consequences:

- (a) the severity of the Discrimination;
- (b) the frequency and duration of the Discrimination;
- (c) the relationship of power and authority between the Complainant and Respondent, if any;

- (d) the impact of the Discrimination on the Complainant's emotional, psychological, and physical health; and
- (e) any aggravating and mitigating factors.

(11.28) Measures and consequences may include, but are not limited to:

- (a) mandatory attendance at education and training workshop(s);
- (b) re-assignment of course sections;
- (c) relocation of room within residence;
- (d) suspension from class or placement attendance;
- (e) trespass from the University campus; or
- (f) suspension or expulsion.

Disclosure of Measures and Consequences

(11.29) The Complainant has the right to know the Decision of the Panel but not the details of any measures or consequences imposed against the Respondent. The Director reserves the right, after consulting with the supervisor, to disclose disciplinary actions or consequences, should they deem that disclosing that information may protect the health, safety, or security of the Complainant.

12. Remedies

(12.1) Where the Panel decides that Discrimination occurred, the Complainant may request that the University provide remedial measures to put them back in the position they would have been in, but for the Discrimination. Remedial measures may include, but are not limited to:

- (a) extension of academic program or course of study;
- (b) reassignment of academic or employment supervisor; or
- (c) relief from academic or non-academic fees.

(12.2) Where the Panel decides that Discrimination did not occur, the Respondent shall not be entitled to request that the University provide a remedy.

(12.3) The Complainant must submit a request for a remedy, in writing, to the Director no later than thirty (30) Business Days after the date of the Decision of the Panel.

(12.4) The decision to approve or deny the request for remedy, in whole or in part shall be made by:

- (a) the Vice-President of Administration and Finance or their designate, where the applicant is an Employee or Volunteer; or
- (b) the Provost and Vice-President (Academic) or their designate, where the applicant is a Student.

(12.5) The decision to approve or deny the request for remedy shall be provided to the Complainant in writing.

(12.6) Neither the Complainant, Respondent, nor any person involved in the Complaint or process shall be entitled to compensatory, punitive, or aggravated damages.

(12.7) The decision to approve or deny a remedy under this Section 12 is final and is not subject to an appeal under Section 13.

13. Appeal Process

Appeal

(13.1) A Complainant or Respondent may appeal a Decision of the Panel in accordance with this Section 13.

(13.2) The right of the Complainant or Respondent to appeal a Decision of the Panel is not without limitation. An appeal is not an opportunity to re-adjudicate the Complaint, but rather an opportunity to correct any procedural errors made during the adjudication process.

(13.3) An appeal must meet the following criteria:

- (a) the appeal is a Decision of the Panel;
- (b) the appeal is made by the Complainant or Respondent; and
- (c) the appeal is made in writing within the time limit set out in Section 13.5.

(13.4) The appeal must be submitted to the Director, in writing, and include:

- (a) the contact information of the Appellant;
- (b) the reasons for the appeal including any procedural errors made during the adjudication process; and
- (c) any additional evidence that could not have been available during the adjudication process, if any.

Time Limit

(13.5) The appeal must be made no later than thirty (30) Business Days after the date of the Decision is sent to the parties.

Notice and Referral of Appeal

(13.6) Upon receipt of the appeal, and within five (5) Business Days, the Director shall:

- (a) notify the other party to the Complaint that an appeal has been made including a copy of the appeal; and
- (b) refer the appeal to the General Counsel of the University.

Appeal Board

(13.7) Upon receipt of the appeal, the University Secretary shall convene a meeting of the Appeal Board. The Appeal Board is composed of the following three (3) members:

- (a) the General Counsel or their designate, who shall serve as Chair;
- (b) the Vice-President of Administration and Finance or their designate; and
- (c) the Provost and Vice-President (Academic) or their designate.

Decision of Appeal Board

(13.8) The Appeal Board may grant an appeal based on the following factors:

- (a) there is clear and convincing evidence of a procedural error made during the adjudication process that resulted in actual prejudice to the party making the appeal;
- (b) there is new evidence or arguments that were not, and could not have been made during the adjudication process that would likely have resulted in

- a different Decision; or
- (c) the measures or consequences imposed are disproportionate to the Discrimination.

(13.9) The Appeal Board may reject an appeal based on the following factors:

- (a) the appeal is based on evidence or arguments that were made to the Panel during the adjudication process;
- (b) the appeal is based on evidence or arguments that were not made but could have been made, to the Panel during the adjudication process or such evidence or arguments would likely not have changed the Decision;
- (c) the appeal is based on a disagreement with a finding of fact made by the Panel including findings of credibility;
- (d) the appeal is based on mere speculation of a procedural error or does not present clear and convincing evidence of the connection between a procedural error and actual prejudice to the party making the appeal; and
- (e) other grounds as determined by the Appeal Board in accordance with procedural fairness and natural justice.

(13.10) The Appeal Board may request that either party provide additional information in order to make a decision.

(13.11) Where the Appeal Board grants the appeal, the Appeal Board shall make one of the following decisions:

- (a) to uphold the Decision of the Panel; or
- (b) to overturn the Decision of the Panel and substitute a new decision.

(13.12) The decision of the Appeal Board is final.

Notice of Decision

(13.13) The General Counsel shall notify the parties, in writing, of the decision of the Appeal Board with a copy to the Director.

Timelines

(13.14) The Appeal Board shall complete the appeal process within thirty (30) Business Days of the date the Board receives the appeal.

14. Systemic Review Process

(14.1) The Director or their designate may conduct a systemic review of an academic or non-academic department if there are reasonable grounds to believe that:

- (a) there are policies, procedures, or practices that are neutral but may disproportionately impact members of equity-deserving groups; or
- (b) there is conduct by one or more members of the department that may constitute a Poisoned Environment as defined under these Procedures.

(14.2) A systemic review shall not result in any disciplinary measures against a Student or Employee under any University policy, contract, or collective agreement.

(14.3) The Director shall receive the approval to conduct a systemic review of a department:

- (a) by the Vice-President of Administration and Finance, where the review is of a non-academic department; or
- (b) by the Provost and Vice-President Academic, where the review is of an academic department.

(14.4) The supervisor of the department shall cooperate with, and participate in, the systemic review, including providing the Director or their designate with any information or documentation requested as part of the review.

(14.5) The Director or their designate shall prepare a written report, including recommendations, and send a copy to the Vice-President of Administration and Finance or the Provost and Vice-President Academic.

Review Period: 5 years;

Date for Next Review: 2026-2027:

Related Policies and Procedures: Human Rights Policy (attached); Accommodations and Access for Students with Disabilities/Medical Conditions; Procedures Associated with the Policy on Accommodations and Access for Students with Disabilities/Medical Conditions; Sexual and Gender Based Violence Response Policy;

Policy Superseded by this Policy: Harassment and Discrimination Policy and Procedures (previously named):

The University Secretariat manages the development of policies through an impartial, fair governance process. Please contact the University Secretariat for additional information on University policies and procedures and/or if you require this information in another format:

Open: Monday through Friday from 8:30 am to 4:30 pm;

Location: University Centre, Thunder Bay Campus, Room UC2002;

Phone: 807-343-8010 ext. 7929 or Email: univsec@lakeheadu.ca.