

Procedures:	Violence, Harassment and Discrimination Prevention and Response Procedures
Associated Policy:	Harassment, Violence, and Discrimination Prevention and Response Policy
Procedure Holder:	Human Resources
Original Date:	September 2021
Next Review:	September 2022

1. Purpose and Background

The purpose of these procedures is to lay out the University's approach to complaints involving violence, harassment, and discrimination.

2. Guiding Principles

See policy document.

3. Definitions

- **Complainant:** an individual who makes a formal complaint of, violence, harassment, or discrimination.
- **Complaint:** a formal notice of an allegation of harassment, violence, or discrimination, submitted to the appropriate university department, division, faculty, office, or individual as outlined in this policy.
- **Hazard:** a thing or condition that may expose a person to a risk of physical or psychological injury, including violence or harassment.
- **Respondent:** an individual who is said to allegedly have committed an act of harassment, violence, or discrimination.
- **Restorative Practice:** a practice or approach designed, in the event of harm to an individual or community, to strengthen relationships between individuals as well as social connections within communities. These may include but are not limited to the involvement of Elders, circle processes, and relationship reparation.

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- **Restorative Justice:** a process where behavioural issues are analyzed by identifying the impact/harms of behaviour and creating an agreement that restores the community by addressing the harms, and that rebuilds trust among involved parties. There is a focus on education and community-building throughout the process. Individuals disrupting the community learn about the impact of their behaviour and attempt to repair the harm to the community, and those who are harmed by the behaviour learn to voice their needs and participate in the resolution.
- **University Activity:** any activity that is directly connected to the operations of the University at any location (including online learning environments, field work and travel), voluntary or mandated university-supported cultural or traditional ecological knowledge gatherings, or any activity where a student or group of students is representing the University.

4. Procedures

For employees, Human Resources is available to provide information or advice throughout the complaint process, including in advance of filing a complaint.

For students, the Registrar (or designate) is available to provide information or advice throughout the complaint process, including in advance of filing a complaint.

All University community members are encouraged to seek information and advice as early as practicable.

Decisions are made using the balance of probabilities standard of proof, where a reasonable person would determine that, based on the information collected after a formal complaint is received, it is more likely than not that the harassment, violence, or discrimination happened and is worth pursuing.

4.01 Informal Resolutions

Early resolution is a primary objective in addressing workplace conflicts, including those involving harassment, violence, or discrimination. The University recognizes that many disputes or incidents of workplace conflict may be resolved informally by mutual agreement without submitting a formal complaint under this policy. Wherever possible,

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members of the university community are encouraged to use respectful, open, and direct communication to resolve such disputes or incidents informally by way of apology, conciliation, education, consultation, coaching, training, counselling, facilitation or mediation.

Every reasonable effort should be made to resolve any concerns or conflicts as soon as possible in a fair and respectful manner without invoking the formal complaint process. The University will support requests it receives for assistance with informal resolutions.

4.02 Pursuing a Complaint

If an employee or student who feels they have been the recipient of harassment, violence, or discrimination has discussed the situation with the individual(s) alleged to have committed the harassment, violence, or discrimination in an attempt to resolve the problem and the situation persists, or if employee or student is not comfortable in approaching the individual(s), they are encouraged to bring the issue to the attention of the Director of Human Resources or designate. They will inform the individual about potential next steps, including assistance with informal resolution or with submitting a formal complaint.

4.03 Submitting a Formal Complaint – Employees

The complainant will prepare and submit a complaint in writing to the Authority established in section 4.06. The complaint should include details of the incident(s) (e.g. what happened, where, what date and time, etc.), the person(s) involved and any witnesses to the alleged incident(s).

The Human Resources Department will, upon request, make every reasonable effort to assist a complainant in writing their formal complaint, including drafting the formal complaint based on oral statements.

Formal complaints should be made as soon as the complainant feels all informal attempts to resolve the situation have been exhausted. Except in exceptional circumstances, formal complaints must be received no later than six months after the most recent incident.

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4.04 Submitting a Formal Complaint – Students

The complainant will prepare and submit a complaint in writing to the Office of the Registrar. The complaint should include details of the incident(s) (e.g. what happened, where, what date and time, etc.), the person(s) involved and any witnesses to the alleged incident(s).

The Office of the Registrar (or designate) will, upon request, make every reasonable effort to assist a complainant in writing their formal complaint, including drafting the formal complaint based on oral statements.

Formal complaints should be made as soon as all informal attempts to resolve the situation have been exhausted. Except in exceptional circumstances, formal complaints must be received no later than six months after the most recent incident.

Students can nominate a support person to assist them throughout the entire process, which may include a fellow student, a staff member, a faculty member, and/or a culturally appropriate support person.

4.05 Appealing the Investigation’s Decision – Students

Where a decision has been made against a respondent under this policy, the respondent may appeal the decision within ten university business days of receiving notice of the decision, providing that there are sufficient grounds for appeal. Appeals will be submitted to the Vice-President, Academic and Provost, who may grant an extension of time in reasonable circumstances.

An appeal under these procedures is a pure appeal only, not a new investigation. Sufficient grounds for an appeal include one or more of the following:

- relevant information emerges that was not available at the time of the original decision;
- the respondent believes the investigation or decision was biased;
- the processes or procedures set out in this policy were not followed which may have substantially affected the outcome; or

- the severity of the consequence applied reasonably exceeds the nature of the misconduct.

The Vice-President, Academic and Provost will strike an ad hoc Appeals Committee to review and, if accepted, decide an appeal. The Committee will meet as soon as is practicable, determine whether the appeal meets the grounds-for-appeal criteria, and can decide to uphold the original decision and/or consequences(s), reverse the decision, reverse or modify the consequence(s), or determine that a procedural error occurred and refer the matter back to the original decision-maker for re-investigation.

Any consequence will continue to be applied until the appeal has been decided.

4.06 Authority

The Director Human Resources or designate (e.g. Human Resources Advisor) will oversee the investigation of all staff related harassment, violence, and discrimination complaints. If the Director of Human Resources is the respondent, the complaint shall be filed directly with the President of Yukon University who will appoint an independent investigator.

If the Director of Human Resources has an unmanageable conflict of interest, they will refer the complaint to President of Yukon University, who will appoint an independent investigator.

If the President of Yukon University is the respondent, the complaint shall be filed directly with the Chair of the Yukon University Board of Governors.

In hearing appeals, if the Vice-President, Academic and Provost is the respondent or has an unmanageable conflict of interest, the appeal will be submitted to and led by the President of Yukon University.

4.07 Initial Review of a Complaint

When a formal complaint of harassment, violence, or discrimination is submitted, the Human Resources Director will review the complaint. The Director may decline to proceed with an investigation or engage in restorative practices in cases where the Director is of the opinion that:

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- the formal complaint falls within the scope of another university policy, procedure or regulation and it is more appropriate to proceed under that policy or regulation;
- the formal complaint is not deemed to be harassment, violence, or discrimination under this policy or is outside the scope of this policy;
- an unreasonable amount of time has elapsed since the incident such that resolution of the formal complaint is not possible;
- the formal complaint has been adequately addressed by another internal process;
- the formal complaint is being addressed by another process – internal or external, including community safety officer programs or law enforcement – and it is reasonable to put the formal complaint temporarily on hold pending the outcome of such a process; or
- the formal complaint is intentionally false, malicious, vexatious, or frivolous.

Where the Human Resources Director declines to proceed in pursuing a complaint under this policy, the Director will immediately notify the complainant in writing of the decision and will include the rationale for their decision.

4.08 Alternative Dispute Resolution

An employee or student may wish to avoid or postpone a formal investigation and instead pursue alternate dispute resolution. Options available to participants may include but are not limited to:

- Restorative pathways, including any number of practices or approaches designed to strengthen relationships between individuals as well as social connections within communities;
- Use of traditional laws, such as laws, practices, and values of the relevant traditional territory or First Nation;
- Facilitated conversation(s) between the parties;
- Mediation;
- Counselling;
- Facilitation;
- Conflict coaching; and
- Creation of a community accountability agreement and/or letter of expectation.

It is the University's preference to support employees and students using an alternate dispute resolution process, where appropriate and reasonable. To engage in the alternative dispute resolution process, the complainant, respondent, and university must all voluntarily agree to enter into the process, and informed consent must be collected from all participants. The University will make every reasonable effort to consent to participation in alternate dispute resolution processes. Alternative dispute resolution processes may be initiated at the request of the respondent, complainant, or the University, but must be agreed upon collaboratively; if agreement cannot be reached among all parties, alternate dispute resolution processes cannot be used.

Any information shared or submitted within an alternative dispute resolution process may be used by the University in the investigation while pursuing a formal complaint if a suitable agreement cannot be reached within the alternative dispute resolution process, or should the University determine that an incident requires investigation.

Because the outcome of an alternate dispute resolution involves the respondent's continued consent, participation, and agreement, the outcome(s) of all alternate dispute resolutions is not subject to internal appeal.

4.09 Investigations

Unless alternative dispute resolution is being pursued, or the University has determined that the complaint will not proceed and has provided the complainant with its rationale, the University will investigate all complaints of harassment, violence, or discrimination.

In all cases, the investigation will be conducted by an impartial individual with the knowledge, experience, and qualification to conduct it properly.

Once the University has decided to pursue a complaint via an investigation, an investigative lead will be identified within ten (10) business days of the decision to pursue the complaint.

The lead for the investigation will follow section 4.06: Authority, and investigative leads may hire or appoint an investigator from outside the University to lead the investigation on their behalf.

Investigations will proceed as quickly as practicable while maintaining strict confidentiality, subject to any discussions that are required in the course of the investigation.

The investigation will conduct interviews with involved parties and relevant witnesses.

The University will make every reasonable effort to accommodate consent-based alterations to typical, investigation practices such as conducting interviews in the presence of invited witnesses and/or support persons.

All information will be documented, and a written report of the investigation's findings will be prepared and submitted in confidence to the President, Yukon University (unless the President is the respondent, in which case the independent investigator will submit their report to the Chair of the Board of Governors). The President (or Board Chair, respectively) will make and communicate a decision in a timely manner, normally not exceeding five (5) business days from receipt of the report, and will advise the complainant, the respondent, and the Senior Manager of the affected area of the decision in writing as soon as possible.

4.10 Information Disclosure

The University shall not disclose the circumstances related to an incident or complaint of harassment, violence, or discrimination, or the names of the victim, the person alleged to have committed the violence or harassment, or any witnesses, except in the following circumstances:

- where to do so would be necessary:
 - to investigate the incident or complaint;
 - to take corrective action;
 - to inform the persons involved in the incident or complaint of the results of the investigation and any corrective action to be taken to address the incident or complaint; OR
 - to inform workers in the workplace of the nature and extent of the risk of violence or harassment there;
- as required by law;

Any personal information disclosed due to the above reasons involving an incident or complaint of violence or harassment will be the minimum amount necessary for the purpose for which it is disclosed.

The Human Resources Department may track and generate reports on instances of workplace harassment, violence, and discrimination in order to better understand the workplace and inform decision-making around workplace safety. All data will be anonymized, that is free from identifying information and will adhere to the above-stated procedures on information disclosure.

4.11 Consequences for Violence, Harassment or Discrimination

In cases of confirmed violence, harassment or discrimination, one or more consequences may be applied as appropriate.

In determining an appropriate consequence(s), consideration may be given to factors including:

- the severity, impact, or harm of the misconduct to an individual or community, a university activity, the relationship(s) between the University and its partners, or the University's reputation;
- the nature of the misconduct;
- whether the incident is isolated;
- whether the incident was inadvertent or deliberate;
- whether other university policies were violated;
- related financial costs; and
- any other mitigating factors.

Where, after completing the investigation, the Director of Human Resources or designate has concluded that harassment, violence, or discrimination has occurred and a consequence is appropriate, and upon their review the President decides the same, the President may apply consequences up to and including suspension or dismissal.

4.12 False Complaints

The University views formal complaints of harassment, violence, and discrimination seriously and may pursue disciplinary action against a member of the university community who is found to have made an intentionally false formal complaint against another university community member.

4.13 Interim Measures and Separation of the Complainant and the Respondent

When a formal complaint is filed under this policy, the Director of Human Resources or designate may impose interim measures upon the complainant or the respondent to protect the safety, academic, or employment interests of either party, pending investigation or resolution of the complaint.

Imposed interim measures may be either at the request of the complainant or respondent, or on the judgement of the Director or designate. In the case where the complainant or respondent requests the imposition of one or more interim measures, the Director of Human Resources or designate has the authority to grant or deny such requests, taking into consideration the nature and context of the complaint, the feasibility of the request, and the operations of the University.

Interim measures are not to be viewed as judgement on the validity of a complaint and are intended to be precautionary rather than punitive. They may be appealed by either the complainant or the respondent to the President, whose decision on the appropriateness of the interim measures will be final; or, they may be grieved in accordance with the provisions of the Collective Agreement.

4.14 Hazard Assessments and Prevention

Yukon University will conduct hazard assessments in relation to each University campus to identify existing and potential hazards in the workplace and to determine the extent of the risk of injury arising from these hazards. Hazard assessments will specifically include harassment, violence, and discrimination (see Definitions section: **Hazard**).

In conducting a hazard assessment, Yukon University will:

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- a) Consider any previous experience or incidents in the workplace in relation to each identified hazard;
- b) Consider any experience or incident in similar workplaces in relation to each identified hazard;
- c) Take into consideration the location and circumstances in which work takes place in the particular workplace; and
- d) Assess the likelihood that each identified hazard presents or will present a risk of physical or psychological injury.

Hazard assessments will be conducted in consultation with the University's Joint Occupational Health and Safety Committee.

Hazard assessments will be conducted:

- a) as frequently as required to prevent the development of hazards;
- b) as soon as practicable after a significant change occurs in any of the following:
 1. the location or circumstances in which work takes place in the workplace,
 2. the interactions that occur in the course of the performance of work in the workplace, including the nature of the interactions,
 3. the physical location or layout of the workplace;
- c) as soon as is practicable after the University becomes aware of an incident or injury in the workplace involving a hazard that was identified when a previous hazard assessment was conducted; or
- d) when ordered to be conducted by a WCB safety officer.

4.15 Training

Yukon University will ensure that all University employees receive training and education with respect to each of the following:

- The identification of existing and potential hazards in the workplace, including the hazards of violence, harassment, and discrimination;
- The University's policies and procedures on the prevention of physical or psychological injury in the workplace;

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- The appropriate responses to incidents and injuries, including how employees can receive assistance;
- The procedures for reporting, investigating, and documenting incident and injuries;

Training and education will include awareness of other cultures and worldviews and the accompanying responsibilities and ways of being. The Human Resources department will facilitate the development and delivering of this training and maintain all records related to employee training under this policy. Training may be tailored to different employee groups (such as senior management, faculty, or staff).

4.16 Interactions with the Collective Agreement

Employees who are also bargaining unit members will first use the procedures outlined within HR 12: Harassment, Violence, and Discrimination Prevention to address complaints covered within this policy. If after exhausting these procedures the employee is not satisfied with the outcome, the employee is encouraged to make use of the relevant articles of the Collective Agreement.

5. Exceptions to the Procedures

None anticipated.

6. Problem Solving

Any questions arising out of the content or communication of this policy or disputes arising from a decision made as a result of applying this policy should be first reported to Director of Human Resources, who will endeavor to find a resolution with all stakeholders. Failing such a resolution, the matter should be reported to the university president.

7. Forms

Formal Complaint of Harassment, Violence, or Discrimination Form

8. Appendices

None.

9. Document History

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Human Resources

Include all updates here, including maintenance and editorial changes, beginning with formal approval.

<i>Date</i>	<i>Update</i>
September 2021	Approved by Yukon University President.

DRAFT