

<b>Policy Title:</b>	<b>Harassment</b>
Policy Approver:	President's Office
Policy Holder:	Human Resources
Category:	Operational
Original Date:	August 1998
Last Revised:	March 2009
Next Review:	

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### **Policy Statement**

It is Yukon University's policy that any and all forms of harassment are prohibited and will not be tolerated. Yukon University community members include all persons engaged in University activities, including staff, students, independent agents and contractors while performing work for or on behalf of the University and official University groups, boards and committees. All Yukon University community members have the right to enjoy an environment free of harassment and behaviour which is consistent with our Code of Ethics (which articulates 11 core values for guiding our behaviour) and the Collective Agreement between Yukon University and the Yukon University Employees' Union (YUEU). Yukon University community members also share in the responsibility of creating and maintaining an environment free from harassment by conducting themselves in a respectful and professional manner. Retaliation against an individual or group making a complaint or witnesses to the event is likewise prohibited and will not be tolerated. This policy does not supersede other legislation, e.g. the Yukon Human Rights Act or the Criminal Code, etc.

Yukon University will make every reasonable effort to ensure that no Yukon University community member is subject to harassment and will investigate all alleged harassment claims and effectively remedy them when an allegation is determined to be valid. All complaints of harassment will be held in the strictest confidence, subject to discussions that are required to take place during an investigation process. Each Yukon University employee is to assist in the prevention of harassment by reading, understanding and adhering to the University's harassment policy and complaint resolution procedure.

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**Approval Statement**

With the consent of the Senior Executive Committee and approval of the President of Yukon College, this policy is hereby deemed in effect the 20<sup>th</sup> day of March, 2009.

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President, Yukon College

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Date

## 1. Definitions

For the purpose of this policy, the word harassment will refer to all forms of harassment.

- **Personal Harassment:** Personal harassment includes, but is not limited to, any behaviour, statement or practice that the individual performing it knows, or ought reasonably to know, is unwelcome, belittles, demeans, causes personal humiliation and/or has adverse effects on an individual's employment or job performance or educational performance. Harassment can be a single incident or an ongoing situation. It also includes behaviour which creates a hostile or disrespectful environment. Harassment is prohibited behaviour that targets a person or group based on their ancestry, including colour and race; national origin; ethnic or linguistic background or origin; religion or creed, or religious belief, religious association or religious activity; age; sex, including pregnancy, and pregnancy related conditions; sexual orientation; physical or mental disability; criminal charges or criminal record (unless relevant to employment); political belief, political association, political activity, or political convictions; marital or family status; source of income; mental and physical disability; receipt of public assistance; membership in a union; or any other criterion outlined in the Yukon Human Rights Act.
- **Sexual Harassment:** Sexual harassment is any sexual solicitation or other sexually-oriented remarks, conduct or contact by a person or group who knows, or ought reasonably to know, that such conduct is unwanted and
  - is likely to cause offence or humiliation to a Yukon University community member;
  - might, on reasonable ground, be perceived by that Yukon University community member as placing a condition of a sexual nature on employment or on any opportunity for training or promotion or grades or successful completion of a course or program, etc.
- **Complainant:** A complainant is any person making an allegation of harassment under the conditions of this policy.

- **Respondent:** A respondent is an individual or group against whom there has been an allegation of harassment.

## 2. Examples of Harassment

Examples of harassment include but are not limited to:

- Verbal abuse or threats,
- Unwelcome remarks, jokes, innuendoes or taunting about a person's body, attire, age, marital status, ethnic or religious origins, etc.
- Displaying of pornographic or other offensive or derogatory pictures,
- Practical jokes which cause awkwardness or embarrassment,
- Unwelcome invitation, or requests, whether indirect or explicit,
- Leering or other gestures,
- Unnecessary physical contact such as touching, patting or pinching,
- Physical assault,
- Condescending remarks that undermine another person's self-respect,
- Bullying, goading, ridicule, taunting, slurs, sarcasm, speaking loudly in a threatening angry, intimidating and/or aggressive tone, swearing, use of graffiti, and other actions that are disruptive to work production or the physical or psychological well-being of others,
- Behaviour which denies individuals of their dignity and respect or which is offensive embarrassing or humiliating,
- Abuse of authority or position to intimidate, blackmail, threaten, coerce or harass – this does not include the legitimate exercise of individual supervisory or instructor powers and authority.

This list is intended to illustrate the variety of forms that harassment may take and is not meant to be exhaustive.

Harassment does not include:

- Managing, counseling, performance improvement planning or implementation of disciplinary action that is a management requirement,

- Providing feedback, grades or counseling to students which is meant to improve performance or disciplinary action taken as a result of inappropriate student behaviour,
- Social and friendly interactions between employees and/or students that is mutually agreed to by all parties and is not offensive or unwanted,
- Disagreements that are a normal part of any workplace or educational institution. Positive and early resolution of these conflicts is required to avoid the possibility of the situation evolving into harassment.

Harassment can occur in or outside of the University. For behaviour to be considered harassment there must be some link to the Yukon University relationship, employment or University community.

### **3. Authority**

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

### **4. Complaint, Investigation and Resolution**

#### Informal Resolution

Where possible, employees or students (or other Yukon University community members) who believe they are being harassed should directly request the harasser to cease the offensive conduct. This request could be made with the assistance of a supervisor or any individual the complainant feels comfortable with (e.g. a union representative or student representative). Alternatively, the employee or student could seek the assistance of the Director Student Services, Director Human Resources or Human Resources Advisor in requesting the conduct to cease. When notified of a possible harassment situation the Human Resources representative will notify both the Senior Manager within the division where the alleged harassment occurred (in the case of a student alleging harassment, the Director Student Services will be notified). In a case where the Senior Manager is the alleged offender the President will be notified.

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### Formal Resolution

If the person who feels harassed has discussed the situation with the alleged harasser in an attempt to resolve the problem and the situation persists, or if he or she is not comfortable in approaching the alleged harasser, he or she is encouraged to bring the complaint to the attention of the Director Human Resources. A written complaint is to be prepared and submitted by the complainant. 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).

Once it has been determined that an investigation is warranted, the Director Human Resources or designate, will conduct an investigation. If the Director Human Resources is the alleged harasser, the President of Yukon University will be contacted and he/she will appoint an independent investigator. If the President of Yukon University is the alleged harasser, the Chair of the Board of Governors will be contacted and he/she will appoint an independent investigator. Assuming the alleged harasser is below the level of Senior Manager, the Senior Manager in the division (or Director Student Services in the case where either the complainant or respondent is a student) will be advised that an investigation has commenced. Investigations will proceed as quickly as possible maintaining strict confidentiality, subject to any discussions that are required in the course of the investigation. Interviews will be conducted with involved parties and witnesses. All information will be documented and a written report of the investigation findings will be prepared and submitted in confidence to the President, Yukon University (unless the President is the alleged harasser, in which case the report – by an independent investigator - will be submitted to the Chair of the Board of Governors). The President (or Chair of BOG, where the President is the alleged harasser) will render a decision in a timely manner and will advise the complainant, the respondent, and the Senior Manager of the affected area, of the decision in writing.

### Substantiated Claim

Should it be determined that, based on the investigation and report, on the balance of probabilities, an employee or student has committed an act or acts constituting harassment, the entire range of disciplinary actions from verbal reprimand to dismissal (or expulsion in the case of a student) may be imposed. Severity of discipline will be

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determined by a number of considerations such as the nature of the incident itself, context of the situation, past behaviour of the respondent, etc. Remedial action such as retraining, changes to policies, procedures and practices, awareness programs and follow-up may also be recommended. The findings will be explained separately to the complainant and respondent. The complainant will be advised at a general level as to what disciplinary action has been taken against the respondent.

#### Unsubstantiated Claim

If it is determined that the claim is unsubstantiated the findings will be explained separately to the complainant and respondent. It will be stressed that finding a claim unsubstantiated does not automatically mean the claim was false.

#### False or Malicious Claims

If a claim is found to be false, frivolous, vexatious or malicious the complainant may be subject to disciplinary measures ranging from verbal reprimand to dismissal (or expulsion in the case of a student).

#### Documentation

All documentation relating to the investigation is kept separate from the employee or student files of either the complainant or respondent. Details of disciplinary action and a summary of investigation findings will be placed in the appropriate respondent's file (e.g. employee's personnel file or student's file).

#### Collective Agreement Entitlements

Collective Agreement entitlements will not be superseded by this policy and employees covered by the Collective Agreement between Yukon University and PSAC will maintain all rights outlined within the Agreement including but not limited to the right to file a grievance regarding any discipline imposed under this policy. Requests for special information sessions on harassment and the Policy may be made through the Director Human Resources, Director Student Services or President YUEC.

Education on Policy

The University will provide every new employee with a copy of this policy during their orientation and induction. In addition the University and YUEC will conduct joint education sessions on the policy on an annual basis so that Yukon University staff and students have the opportunity to become more informed on the Policy and their rights and obligations under the Policy. Other educational materials or initiatives may be provided by a variety of methods and media.

**5. Board Governing Policies**

This policy recognizes the Yukon University Board of Governors Policy on Executive Limitations, including:

“The President may not operate without written Human Resources procedures which clarify rules for staff. The President may not fail to foster professional excellence among staff.”

**6. Governing Legislation and Relevant Documents**

Collective Agreement between Yukon University Board of Governors and the Public Service Alliance of Canada  
Yukon Human Rights Act



**ADDENDUM A - POLICY COMMUNICATION CHECKLIST**

Policy Name: Harassment Policy

Number: HR 12.0

Submitted by:

List those consulted with in preparation of this policy:

<b>Name</b>	<b>Department</b>	<b>Date</b>

This checklist must be completed prior to the final draft of a policy being presented to SEC for presidential approval.

<b>Body</b>	<b>Communication Planned?</b>	<b>Completed?</b>	<b>Comments</b>
SEC			
Student Union			
Employee's Union			
Occupational Health and Safety			
Senate			
Board or a Board subcommittee			
Other			
SEC for Final Review	[Month] [Year]		