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1. Purpose

- 1.1 The University of New Brunswick ("UNB") is committed to creating an environment in which all Members of the University Community can work and study free from Harassment and Discrimination. The purpose of this Policy is to educate Members about Harassment and/or Discrimination, processes for resolution, and the roles and responsibilities of all Members of the University Community in contributing to a climate of mutual respect and safety.

2. Definitions

Bad Faith means a complaint filed for an improper purpose, including retaliation against the Respondent.

Complainant means the person, people, or group that alleges being affected by the alleged Harassment and/or Discrimination.

Complaint means an allegation in writing setting out the allegations of Harassment and/or Discrimination filed with the Human Rights and Equity Office ("HREO").

Consult means a discussion with the HREO to discuss a concern relating to Harassment and/or Discrimination.

Discrimination means the differential treatment of an individual or group based, in whole or in part, on one or more Prohibited Grounds, and which has a negative impact on the individual or group. Discrimination also includes a seemingly fair and equal rule, policy, process, or procedure to an individual or group which has a negative impact on the individual or group by virtue of their connection to one or more Prohibited Grounds.

Systemic Discrimination means policies, practices, patterns of behaviour, or attitudes that are part of the social or administrative structures of an

organization and have a negative impact on people based on a Prohibited Ground.

Executive Summary means a summary of a Full Report which includes the allegations, the findings of fact, and the conclusions but excludes a summary of the evidence and the names or identifying information of witnesses.

Frivolous, for the purpose of this Policy, means a complaint containing allegations which are trivial, without merit, or without a basis to support the allegations.

Full Report means a full and final investigation report containing, among other things, the allegations, the evidence of all participants to the investigation, the findings of fact, the analysis, and the conclusions, including whether the allegations are founded or unfounded on a balance of probabilities (i.e. whether it is more likely than not the alleged behaviour occurred and any breach to law or policy). A Full Report may also include non-binding recommendations concerning corrective or disciplinary action or determinations concerning whether a Complaint is Frivolous, Vexatious, made in Bad Faith, or filed as a form of retaliation, where appropriate. **Harassment** refers to the prohibited conduct falling under these categories:

Abuse of Authority is where an individual improperly uses the power and authority that comes with their position to endanger a person's job or study, undermine the performance of that job or study, threaten the person's economic livelihood or academic success, or in any way interfere with or influence a person's career or academic prospects. It is the exercise of authority in a manner which serves no legitimate purpose and should reasonably be known to be inappropriate.

Personal Harassment is objectionable or offensive behaviour directed at an individual that is known or should reasonably be known to be unwelcome and which has the effect of creating an intimidating, humiliating, hostile, or

offensive environment or that threatens the health or safety of any Member of the University Community.

Sexual Harassment is defined in the Sexual Assault Policy.

Poisoned Work Environment is an environment created by an activity or behaviour, not necessarily directed at any one person, that creates a hostile or offensive environment. A poisoned work environment can be created by (i) managers or supervisors to their subordinates, (ii) subordinates to their managers or supervisors, (iii) employees amongst themselves who may or may not have a reporting relationship with each other, (iv) employees towards students, (v) students to each other or towards employees, or (vi) any combination of them. Examples of a poisoned work environment include but are not limited to: bullying, graffiti, sexual, racial or religious insults or jokes, abusive treatment of an employee or student, alienation, isolation, and the display of pornographic or other offensive material.

Though Harassment is often part of a course of conduct, when sufficiently serious, a single incident may be considered Harassment. The behaviour does not need to be intentional to constitute Harassment.

Harassment does not include the reasonable direction or oversight of employees or students by persons in Positions of Authority, including management of attendance and performance.

Intersectionality refers to discrimination based on combined grounds simultaneously and how these intersected grounds uniquely impact an affected individual.

Member of the University Community includes, for the purpose of this Policy, all students of all faculties and campuses, all staff, all faculty, all administrators, all visitors to any UNB campus (including, but not limited to, users of campus recreation, fitness, cultural, athletic, library and other services), third party contractors providing services on University Premises, and guests of any Member of the University Community or UNB while on University Premises.

Position of Authority refers to any manager or supervisor responsible for directing and managing UNB employees, including faculty and staff, either directly or indirectly, and any academic staff with respect to the students they teach in a classroom or supervise in their academics at UNB.

Prima Facie Review means a review of all the allegations to determine whether, assuming the allegations are true, and unless disproved or rebutted, the alleged behaviour could be considered Harassment and/or Discrimination under this Policy.

Prohibited Grounds includes the following grounds as enumerated under the New Brunswick Human Rights Act and as it is amended in the future:

- Race
- Colour
- National origin
- Ancestry
- Place of origin
- Creed or religion
- Age
- Physical disability
- Mental disability
- Marital status
- Family status
- Sex
- Sexual orientation
- Gender identity or expression
- Social condition
- Political belief or activity

Respondent is the person or people against whom an allegation of Harassment and/or Discrimination is made.

Serious Incident refers to any alleged act which is severe in nature and generally includes physical or psychological injury. Serious Incidents include,

but are not limited to, physical assault, sexual assault, stalking, blackmail, coercion, detainment, or any other incident that could constitute a violation of the Criminal Code of Canada.

Trauma-informed approach refers to recognizing the widespread impact of trauma and understanding how it affects individuals. This approach aims to prevent re-traumatization and promotes support, healing, and recovery.

University Premises means (i) all UNB operated spaces on a UNB campus, (ii) such other locations leased or licensed by UNB where UNB sponsored or sanctioned activities are undertaken, and (iii) all virtual locations where UNB sponsored or sanctioned activities are undertaken, whether or not such virtual locations are hosted and supported by UNB facilities and staff. University Premises does not include spaces leased and operated by third parties even if they are on a UNB campus or UNB-owned lands.

Vexatious means a complaint filed with the intention of harassing or annoying the Respondent.

3. Principles

- 3.1 Harassment and/or Discrimination is unacceptable and prohibited conduct and subject to remedial, restorative, corrective and/or disciplinary action.
- 3.2 All Members of the University Community share responsibility for creating an environment free from Harassment and Discrimination and must avoid such behaviour. All Members must comply with all parts of this Policy and all staff and faculty shall participate in training on this Policy.
- 3.3 Those who work at UNB in a Position of Authority must appropriately address allegations of Harassment and Discrimination through proper oversight and response. As persons with control over places of work and study within UNB, those in a Position of Authority are held to a higher

standard in maintaining a Harassment- and Discrimination-free environment by establishing and enforcing standards of respectful behaviour and supporting early resolution of conflict.

3.4 This Policy shall not be interpreted or applied in such a way as to:

- a. take away from the right of those in Positions of Authority to manage those under their supervision in accordance with Collective Agreements or other applicable UNB policies and procedures; or
- b. take away from the right and obligation of those in Positions of Authority to correct inappropriate student behaviour or provide appropriate academic guidance.

3.5 Those in Positions of Authority must address inappropriate actions that come to their attention even if a Complaint has not been filed.

3.6 While recognizing the right of the Complainant to choose the path they take with a Complaint, wherever possible, Complaints shall be resolved by informal resolution before going through the formal resolution process. Every reasonable effort should be made to resolve Complaints early.

3.7 Where a Collective Agreement conflicts with this Policy, the Collective Agreement shall prevail.

3.8 Under this Policy, the HREO is responsible for:

- a. providing information respecting the Policy and its processes;
- b. consulting with Members of the University Community and intake of Complaints;
- c. offering educational materials, information, and resources;
- d. conflict resolution processes;
- e. overseeing informal resolution processes; and
- f. overseeing formal resolution processes, including investigations.

In carrying out its responsibilities outlined in this Policy, the HREO aims for these services to be as confidential and trauma-informed as possible with an intersectional lens, while also ensuring that UNB fulfills its legal obligation to establish and uphold a Harassment- and Discrimination-free environment.

3.9 UNB recognizes there are existing power differences among faculty, staff, and students, including as it relates to decision-making power and authority, gender identity, racial identity, and other personal characteristics leading to inequity. UNB will make every effort to resolve matters addressed under this Policy through an intersectional lens.

3.10 UNB recognizes Members of the University Community, specifically academics (faculty members, graduate student workers and post-doctoral fellows) have the right to academic freedom, as it is defined by any relevant Collective Agreement.

4. Scope and Jurisdiction

4.1 This Policy applies to all Members of the University Community and includes, but is not limited to, behaviours and incidents which occur:

- a. on University Premises;
- b. off University Premises but involving activities sanctioned, sponsored, or representing UNB. Examples may include, but are not limited to, athletic events, cooperative placements, clinical placements, academic or professional conferences, volunteer activities, and academic or research field work; and
- c. on any electronic or web-based platforms used by Members of the University Community, whether or not the activities or platforms are used on University Premises or make use of UNB's facilities or equipment.

4.2 If UNB receives a Complaint from or against a former Member of the University Community, the HREO shall, in consultation with appropriate UNB

officials, determine whether to accept the Complaint and/or initiate any other resolution process.

- 4.3 This Policy does not apply to events hosted or attended by Members of the University Community which are not connected to study or work at UNB.
- 4.4 Allegations of Sexual Harassment, which can include sexual assault and/or sexual violence, shall be addressed under UNB's Sexual Assault Policy, as that policy is amended from time to time.
- 4.5 A Complainant is not permitted to pursue multiple policies or procedures for substantially the same facts, and involving the same people, at the same time. Where a Complainant is already seeking a resolution under another UNB procedure such as a Collective Agreement or another UNB policy, the HREO will discuss the matter with the Complainant and the Complainant will choose which policy or procedure will be followed to deal with the Complaint. If the Complainant refuses to choose and attempts to continue both processes, then the process under this Policy shall cease in favour of the other and the Complainant will not be permitted to raise the issue again under this Policy.

This Policy does not prevent individuals from pursuing resolution and/or complaint processes external to UNB. However, in such cases, where the HREO determines, in its sole discretion, that any such process is based on substantially the same facts and involving the same people as the original Complaint under this Policy, then the HREO shall consider whether the Complaint and any resolution process should be paused pending the outcome of the other external proceedings. A decision to temporarily pause the Complaint procedures shall be communicated to the parties. Where, in the opinion of the HREO, the matter has been sufficiently addressed by another process, the HREO will determine whether the Complaint should be dismissed.

5. Timelines

- 5.1 Complainants must report incidents of harassment as soon as possible. All Complaints made under this Policy must be brought to the attention of the HREO within twelve (12) months of the alleged act(s) of Harassment and/or Discrimination, or within twelve (12) months of the last act of Harassment and/or Discrimination if part of a pattern of conduct.
- 5.2 All individuals involved in a resolution process will make every effort to follow the timelines outlined in this Policy. However, the HREO can extend any timelines contained in this Policy in exceptional circumstances.

6. Complaints Against a Student

- 6.1 Where there are allegations of Harassment and/or Discrimination between students or against a student and the parties are willing to participate in an informal resolution process, the matter shall be overseen by the HREO. If the matter moves to a formal resolution process, it will be referred to the Commissioner of Student Discipline, who shall discuss the matter with the HREO and determine whether the matter should be addressed under this Policy or the Student Disciplinary Code.

7. Resolution Processes

- 7.1 All Members of the University Community may consult with the HREO on a confidential basis without having to proceed through a resolution process. However, while the HREO generally only moves a Complaint forward with the consent of the individual raising the allegation, it may recommend UNB move forward with a Complaint without the individual's consent in accordance with Section 8.1.
- 7.2 As provided in Section 3.5, individuals in a Position of Authority who become aware of allegations of Harassment and/or Discrimination must take action to address the behaviour. They may inform and seek guidance from the HREO, who may advise on what steps should be taken,

if any, under the Policy.

- 7.3 In addressing a Complaint, the HREO and/or anyone involved in resolving the Complaint shall follow the provisions outlined in the Procedures attached as Appendix "A".

8. University-Initiated Investigation Under the Policy

- 8.1 UNB, on the recommendation of and as represented by the HREO, may file its own Complaint in the following circumstances:
- a. Multiple concerns of a similar nature related to Discrimination and/or Harassment have been raised about an individual and/or environment and no Complaint has been filed;
 - b. UNB has a legal duty to investigate;
 - c. UNB has become aware of information suggesting there may be Systemic Discrimination or a Poisoned Work Environment; or
 - d. The alleged acts may constitute a Serious Incident.

9. Remedies

- 9.1 Corrective, remedial, and/or disciplinary action will be referred to the appropriate person or body in keeping with the relevant Collective Agreement, employment contract, or Student Disciplinary Code.
- 9.2 At the conclusion of a Formal Resolution process, the following may occur:
- a. the Complaint may be dismissed as unfounded;
 - b. the Complaint may be upheld as founded. In those cases, the following actions may be taken as appropriate in the circumstances:
 - i. Restorative action; and/or
 - ii. Corrective action including group or individual training, amendments to or introduction of policies, informal resolution processes,

and any other measure deemed appropriate by the relevant decision-maker; and/or

iii. Disciplinary action, including verbal or written warnings, suspension, or termination; and/or

iv. Any other remedial or corrective action.

10. Interim Measures

10.1 While a formal or informal resolution process is underway, UNB, in consultation with the HREO, may take non-disciplinary interim measures for the safety of all parties, including but not limited to separating the parties, reorganizing reporting structures, implementing accommodations, and instituting administrative leaves of absence where appropriate.

11. Confidentiality

11.1 To protect all Members of the University Community and the integrity and fairness of the processes undertaken as part of this Policy, all Members of the University Community involved in a resolution process in any way must not discuss or disclose, for the duration of the resolution process, the existence of a Consult or Complaint, any informal or formal resolution process taking place, any evidence discussed or provided, the names of individuals involved, the nature of the allegations, or any informal resolution agreements or investigation reports, except to a person of support (who must also undertake to keep all such information confidential), a legal advisor, or if required by this Policy, by a Collective Agreement, or by law.

12. Records and Retention

12.1 All records created and which later form part of a formal or informal resolution process shall be kept by the HREO using a secure and confidential system for a length of time according to their operational procedures.

13. Reprisal and Retaliation

13.1 UNB prohibits reprisal or threats of reprisal against any person who, sincerely and in good faith, makes use of this Policy or participates in any process held under its jurisdiction. Any individual who is concerned that they are the subject of reprisals or threats should report their concerns to the HREO. Where appropriate, sanctions under the relevant policy (including this Policy, the Sexual Assault Policy, and/or the Student Disciplinary Code), legislation, Collective Agreement, contract, or general employment law principles may be applied against the individual(s) responsible for the reprisal.

14. Frivolous, Vexatious or Bad Faith Allegations

14.1 Any person who knowingly brings forward allegations under this Policy that are Frivolous, Vexatious, or made in Bad Faith, may be subject to corrective, remedial, and/or disciplinary action.

15. Review and Revision

15.1 This Policy is subject to periodic review by the HREO with a commitment to continuous improvement.

15.2 No changes may be made to this Policy except upon recommendation by the President to and approval by the Board of Governors.

16. Annual Report

16.1 Despite the confidentiality requirements set out in this Policy, the HREO shall complete, by August 31 of each year, an Annual Report concerning the number, general type and general disposition of cases and/or educational and other activities related to this Policy. Any annual reporting will protect the privacy of the parties.

17. Administration

17.1 This policy is administered under the direction of the Associate Vice President, Human Rights and Equity Office.

17.2 Questions concerning this policy may be directed to Human Rights and Equity Office at humanrights@unb.ca