

POLICY ON THE PREVENTION OF HARASSMENT

Approved by the Board of Governors: September 23rd 2016

PREAMBLE

Bishop's University ("Bishop's") is committed to fostering a collegial learning and work environment that is free from harassment; one where students, staff, faculty and managers (the "University Community") are treated with equity, mutual respect and dignity.

Bishop's considers that harassment, in any form it might take, is an infringement of a person's dignity and physical and psychological integrity. Bishop's recognizes its responsibility in creating a climate dedicated to excellence, where learning, teaching, and research are permitted to thrive. Bishop's also takes the view that the key to fostering a harassment-free environment lies in the shared responsibility of all individual members of the community.

Through this Policy on the Prevention of Harassment (the "Policy"), each and every person who is part of the University Community, regardless of his or her role, is called upon to play a prominent part in creating and promoting an environment that is free from harassment.

This Policy is to be interpreted in a manner that is consistent with the *Civil Code of Quebec*, the *Quebec Charter of Human Rights and Freedoms*, and the *Act Respecting Labour Standards* of Quebec.

Acts of harassment are prohibited by law and constitute University offences that may be grounds for disciplinary action. Bishop's will address incidents of harassment with prompt action and will sanction such conduct by measures deemed proportional and appropriate in the circumstances, up to and including expulsion (for a student) and dismissal (for a member of faculty, staff or management).

Nothing in this Policy is intended to discourage or prevent a person from seeking assistance or pursuing a complaint with other bodies such as the police, the courts or administrative tribunals, a labour union or any other relevant legal avenue available.

1. SCOPE AND APPLICATION

All members of the University community and all persons present on campus for whatever reason are responsible for contributing, through their conduct, to creating a harassment-free environment.

This Policy therefore applies to all individuals within the University community, including students, faculty, staff, managers, volunteers, as well as any third party having contact with the University, including visitors and clients. All outside contractors hired by Bishop's will abide by, and their operations and practices will conform to, this Policy.

Incidents of harassment, sexual harassment and cyber harassment are governed by this Policy where they occur in a University context, meaning on University premises or on work or study sites under the University's control, or during the course of a Bishop's-sponsored activity. Conduct that occurs in a University context can also arise off University premises, where that conduct has a link to the University, affects a member of the University community and impacts on the University learning, working or living environment.

2. POLICY OBJECTIVES AND FUNDAMENTAL PRINCIPLES

2.1 Purpose

This Policy seeks to:

- Establish appropriate guidelines and procedures to foster a learning and work environment free from all forms of harassment;
- Raise awareness about harassment and inform members of the University Community about their rights, responsibilities and recourses;
- Provide assistance mechanisms to ensure that victims of harassment receive appropriate support and perpetrators of harassment stop their behaviour;
- Create a Committee for the Prevention of Harassment which has as its mandate the creation and implementation of a program to sensitize and educate members of the University Community.

2.2 Prevention as a Priority

Bishop's shall maintain policies, procedures, and mechanisms that foster a learning and work environment free of harassment, with prevention of incidents of harassment as a top priority.

When an incident of harassment has been alleged, Bishop's shall take reasonable and appropriate action to properly address the conduct and to treat formal complaints of harassment. In doing so it shall take into account the needs of each segment of the University community.

2.3 Shared Responsibilities

2.3.1 Secretary General

The Secretary General is responsible for the application of the present policy in accordance with policies, regulations and agreements governing work and academic relations at Bishop's. The Secretary General will inform the parties to a complaint of the decision on the complaint, as well as the Human Resource Department where the complaint involves faculty or staff, or the Dean of Student Affairs where the complaint involves students.

2.3.2 Managers

A manager having staff under his/her supervision will manage in a preventive way, so as to avoid conflict within his/her team to the extent possible. A manager is responsible for monitoring conflicts and for acting quickly to solve them before they degenerate or give rise to behaviour that can potentially be qualified as harassment. He or she may consult the Secretary General's Office or the Human Resources Department, if necessary, to seek support and advice on how best to manage conflicts.

2.3.3 Faculty, librarians and contract faculty

Members of the faculty should manage classroom interactions in a preventive way to avoid conflict within the classroom. They are responsible for monitoring conflicts and acting quickly to solve them before they degenerate or give rise to behaviour that can potentially be qualified as harassment. A faculty member may consult the Secretary General's Office or the Human Resources Department or the Dean of Student Affairs, if necessary, to seek support and advice on how to best manage the conflict.

2.3.4 Staff

As members of the Bishop's community, staff shares in the responsibility to ensure a learning and work environment free of harassment.

2.3.5 Human Resources Department

The Human Resources Department acts as counsel for faculty, staff and managers. It intervenes in a preventive way to try to resolve conflict and

to prevent it from degenerating. In cases where a situation of conflict cannot be resolved, the HR Department will direct the persons involved to the Secretary General.

It is the responsibility of the Human Resources Department to coordinate training and communication on harassment.

2.3.6 Dean of Student Affairs and Academic Deans

The Dean of Student Affairs and the Academic Deans are responsible for managing conflicts involving students. They intervene in a preventive way to resolve conflicts before they degenerate. They will direct those involved to appropriate resources.

2.3.7 Association des professeurs de Bishop's University

The A.P.B.U. collaborates with the University to foster a work and learning environment free from any type of harassment, in particular by supporting awareness activities, by informing its members and by encouraging them to contact the Human Resources Department or the Secretary General.

The A.P.B.U. is consulted on modifications to the Policy.

2.3.8 Students

Students are responsible for fostering a work and learning environment free from any type of harassment. They collaborate in the enforcement of the Policy, in particular by supporting awareness activities and by contacting the Dean of Student Affairs or the appropriate Academic Dean to seek advice and support to resolve conflict.

2.3.9 Committee for Prevention of Harassment

The Committee for the Prevention of Harassment shall take proactive measures to promote understanding, awareness and discussion of matters such as harassing behaviour among members of the University Community, with a focus on educating and disseminating information through online materials. The Human Resources Department will support the work of the Committee by coordinating training and communication.

2.4 Fair and Equitable Treatment in Situations of Harassment

Situations of harassment will be addressed and treated in accordance with the fundamental principles of fairness and equity owed to all involved parties, and with a focus on putting an end to the unwanted behaviour.

2.5 Protection of persons involved

This Policy prohibits reprisals against an individual who has made a good faith complaint, sought advice, acted as a witness, or provided information regarding an incident of harassment.

3. DEFINITIONS

3.1 Harassment

There are three forms of harassment: psychological harassment, sexual harassment and cyber harassment. Harassment can occur between individuals with different statuses within the University community or between individuals having the same status.

3.1.1 Psychological Harassment

Under Quebec law, Psychological Harassment is defined as vexatious behavior in the form of repeated conduct, verbal comments, actions or gestures:

- that is hostile or unwanted
- that affects the dignity or psychological or physical integrity of the person
- that makes the work or learning environment harmful.¹

Four criteria must be present and demonstrated in order to establish Psychological Harassment, namely:

1) Vexatious conduct that is repetitive in nature

Vexatious conduct is conduct that is humiliating, offensive or abusive for the person on the receiving end. It causes the person anguish and injures his or her self-esteem. It exceeds what a reasonable person considers appropriate in the learning or work context.

Although a word, behaviour, an act or a gesture taken in isolation may seem harmless, the accumulation of repeated words, behaviours, acts or gestures may, taken together, amount to harassment.

On the other hand, a single serious act that causes continuing harmful effects may constitute an infringement of the dignity and respect of the person, and amount to psychological or sexual harassment.

2) Hostile, unwanted character

Behaviours, comments, acts or alleged acts must be considered hostile or unwanted.

¹ The definition of harassment is inspired by s 81.18 of the Quebec Labour Standards Act

In some cases, it may be so clear that the behaviour would be unwanted that the victim's refusal or disapproval need not necessarily be clearly expressed by the victim during the act of harassment.

3) Affect the person's dignity, or physical or psychological integrity

Harassment has a negative impact on the person who suffers it. Human dignity is violated when a person is belittled, put down or denigrated, whether on a personal, a professional or an academic basis. Harassment may cause a deterioration of the psychological and physical health of the victim.

4) Harmful workplace or academic environment

The consequence of harassment is a work or an academic environment which is harmful and hostile, and has a negative impact on the victim.

The management of performance, of absenteeism, the distribution of tasks, discipline and the application of sanctions, including dismissal in appropriate circumstances, constitute the legitimate exercise of the rights of management. These actions by the employer, as well as the enforcement of any University regulation, do not constitute psychological harassment as long as they are not carried out in an abusive or discriminatory manner.

Discrimination

Discriminatory conduct is conduct that places an individual at a disadvantage on the basis of one of the prohibited grounds of discrimination under the Quebec *Charter of Human Rights and Freedoms* (race, color, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap). When the conduct meets the four criteria of harassment, it is considered discriminatory harassment and it is governed under the current policy.

3.1.2 Sexual Harassment

Sexual harassment is defined as words, gestures, behaviour or physical contact of a sexual nature that is unwelcome by the victim. It usually occurs repeatedly but can also be one serious incident. The acts have a negative effect on the work and learning environment making it uncomfortable.²

Acts by individuals in positions of authority aimed at obtaining sexual favours under pressure, or acts or comments of a sexual nature by any member of the community that humiliate another, or infringe the dignity or the physical or psychological integrity of the individual at whom they are directed constitute sexual harassment.

² Summary of case law definition

Sexual Assault

Sexual assault is an unwanted sexual act that is forced on a person. It is a criminal act, and such assault should be referred to the police for investigation and criminal charges.

3.1.3 Cyber Harassment

Cyber Harassment refers to online harassment. It is a new form of harassment using e-mail, instant messaging, social media and derogatory websites to stalk, to bully or otherwise harass an individual or group.

3.2 Conflictual Situation

Conflict is the expression of a difference or dispute between at least two parties. It may result from incompatibility, actual or perceived, between the roles, the goals and objectives, or the intentions and interests of individuals having opposing interests.

While some situations of conflict, tension or confrontation may involve a failure to respect another person, not all of them do. Constructive and respectful disagreement, difference of opinion, debate and argumentation are not considered harassment.

If efforts by the parties concerned to resolve a conflict are not successful, measures should be taken by the relevant first-line respondent to prevent the situation from festering and resulting in unacceptable behaviour, and to help resolve the conflict in an appropriate way that is respectful of the parties involved.

The Human Resources Department is mandated and empowered as first-line respondent to manage conflict involving members of the faculty, staff and managers. For students, the Dean of Student Affairs is designated as first-line respondent to manage conflicts.

3.3 Academic Freedom

This policy should not be interpreted in such a way as to abridge the University's educational mission, or the academic freedom of faculty members to cultivate a respectful but challenging academic environment. The policy should not be interpreted in such a way as to detract from the freedom to engage in frank discussions of potentially controversial matter, or to use legitimate instructional techniques, as long as these freedoms are exercised without abuse or discrimination.

In the context of academic activities, the assessment of knowledge and skills revealing the presence of gaps or challenges in relation to established standards, the correction of these deficiencies, and the enforcement of any University regulation, do not constitute psychological harassment as long as they are not done in an abusive or discriminatory manner.

4. ADMINISTRATORS OF THIS POLICY

The administration of the Policy on the Prevention of Harassment falls under the Secretary General's Office. All expenses relating to the implementation of this policy should be pre-approved by the Secretary General.

4.1 Advisors

Advisors consist of the Dean of Student Affairs, the Director of Human Resources, and the Human Resources Advisor. In addition, the Secretary General will appoint a maximum of six other Advisors from the members of the faculty, staff and managers so as to achieve a gender and linguistic balance, and reflect the diversity of the Bishop's community. The names of Advisors are made available to the University Community through the Secretary General's webpage.

The Secretary General may consult with the Committee for the Prevention of Harassment, as appropriate, concerning candidates for the list of Advisors.

Under this policy, the role of an Advisor is to meet with an individual who believes that he or she may have suffered harassment as soon as possible, and seek to identify the nature and scope of the problem.

The Advisor will identify possible solutions that are available to the person seeking advice. The Advisor will promote informal means of resolution wherever this is appropriate in light of all circumstances.

Advisors will attend orientation and training sessions, as appropriate. Advisors shall preserve confidentiality in the handling of all enquiries.

The Students' Representative Council will appoint a student to act as liaison between students and Advisors or the Secretary General. This student will attend training sessions with Advisors to become familiar with processes and available resources to deal with harassment, and will direct students who may have been the victims of harassment to resources within the University.

4.2 Assessor

The Secretary General will appoint the Assessor. The person will be selected based on his/her experience and expertise in the area of harassment and in the general conduct of administrative proceedings. Wherever possible and appropriate, the Assessor will be the University's Legal Counsel.

The role of the Assessor is to investigate and resolve a formal Complaint.

The Assessor may not have a direct or indirect personal implication or interest in the complaint. In the event of a conflict of interest, the Assessor should recuse

himself/herself. The Secretary General will appoint another qualified individual to carry out the assessment.

The Secretary General may not have a direct or indirect personal implication or interest in the complaint. In the event of a conflict of interest, the Secretary General should recuse himself/herself. The Principal will assume the duties of the Secretary General under the Policy.

5. INFORMAL RESOLUTION OF CONCERNS OF HARASSMENT

5.1 Consultation with an Advisor

Any member of the University community who has a concern about an incident or possible incident of harassment or believes that he or she has been a victim of harassment, as defined in Article 3 of this Policy, may seek advice or obtain information by contacting the Advisor of his or her choice or by requesting a referral to an Advisor from the Secretary General.

The Advisor will meet with the individual as soon as possible and seek to identify the nature and scope of the problem and possible solutions.

The Advisor will promote informal means of resolution wherever this is appropriate in light of all circumstances, and where the individual is willing to canvass these options. Informal means of resolution may include contacting the other individuals involved in order to seek an agreement between the parties, or any other form of aid which the individual may seek and the Advisor agrees to.

Any statement, information and documentation that is provided to the Advisor or otherwise comes to light during a process set forth below may be used at any later stage if the complaint proceeds to agreement, mediation or a formal investigation.

The possible outcomes of consultation with an Advisor are:

- A satisfactory resolution is reached, the details of which are noted in the file by the Advisor.
- The individual may file a formal complaint.
- The individual may decide not to proceed any further.

In each of these cases, the Advisor notes the outcome in the file and the Advisor's file is closed. The Advisor transmits the file to the Secretary General's Office.

5.2 Agreement between the parties concerned

If the individual who contacted the Advisor agrees, the latter can contact the person or persons involved in the incident or incidents that gave rise to concerns of harassment and facilitate an open discussion of potential solutions to the problem behaviour that gave rise to concerns of harassment.

During this process, the parties attempt to resolve the situation by identifying one or more possible solutions through discussion conducted in a respectful manner, with the support of the Advisor.

The possible outcomes of this process are:

- The parties may reach a satisfactory agreement, the terms of which are noted in the file by the Advisor.
- The parties may, by mutual agreement, decide to submit the problem to mediation.
- The individual may file a formal complaint.
- The individual may decide not to proceed any further.

In each of these cases, the Advisor notes the outcome in the file and the Advisor's file is closed. All files should be transferred to the Secretary General's Office to be kept in a secure and confidential area. To the extent allowed by law, the Advisors shall preserve the confidentiality of all consultations and inquiries.

5.3 Mediation

If both parties agree to have a neutral third party assist them in resolving their problem, the Secretary General will select a mediator having expertise in harassment.

The mediation process begins within fourteen (14) days of an initial request for such action, unless the parties agree to a different timeframe.

The possible outcomes of the mediation process are:

- The parties reach a satisfactory agreement, the terms of which are noted in the file by the mediator;
- If an agreement cannot be reached, then the individual who complained of the harassing behaviour may choose to submit a formal complaint or decide not to proceed any further.

In each of these cases, the Mediator notes the outcome in the file and the mediator's file is closed. The Mediator transmits the file to the Secretary General's office.

6. FORMAL RESOLUTION OF CONCERNS OF HARASSMENT

6.1 Initiating a Complaint

A formal complaint may be filed in conformity with the procedures outlined below.

A formal complaint of harassment (the "Complaint") must be submitted to the Assessor using the Complaint Form provided.

By filing a Complaint, the Complainant authorizes the disclosure of the contents and of his or her identity to the Respondent and to any other person involved in handling the Complaint.

The Assessor shall refuse to take any further action where:

- ◆ a Complaint appears abusive or patently unfounded or is filed more than 90 days after the event that forms the basis of the Complaint (or, in the case of a series of events, more than 90 days from time the last event in the series of events occurred);
- ◆ a Complaint is formulated with the intent to harm or to mislead;
- ◆ another recourse has been exercised in relation to the incidents that form the basis of the Complaint.

The 90 day time limit may be extended at the discretion of the Assessor upon being satisfied that the delay was incurred in good faith and that no substantial prejudice will result to any person affected by the delay.

6.2 Investigation and resolution of a Complaint

A copy of the Complaint form is provided to the Respondent. The Respondent is invited to respond to the Complaint in writing.

Upon receiving the written response, the Assessor provides a copy to the Complainant.

The Assessor also provides both parties with:

- ◆ a copy of this Policy or the link to the webpage where it can be found;
- ◆ information on rights, obligations, and internal and external recourses pursuant to the law and to applicable collective agreements, and applicable University policies and regulations.

Both Complainant and Respondent will be invited in writing to respect the confidential nature of the Complaint file.

A Complaint may be withdrawn at any time by the Complainant. The withdrawal of the Complaint shall be evidenced in writing and signed by the Complainant.

The Assessor shall investigate the Complaint fairly and objectively, using such methods as are deemed appropriate in the circumstances, subject to the principles of procedural fairness applicable in a University context, which shall include:

- Interviewing the Complainant and Respondent individually and inviting them to submit any further written submissions or documentation in support of their viewpoint.
- Where appropriate, inviting the parties to submit the names of witnesses or other individuals with information that may be useful in the circumstances.

In addition, the Assessor may use the following methods as appropriate:

- Seeking information from third parties, including meeting with any witnesses or other individuals suggested by the parties, as may be applicable and as relevant to the resolution of the Complaint.
- Gathering documents relevant to the Complaint;

Witnesses can only be interviewed in reference to the Complaint, not as character witnesses;

All members of the University Community, including the parties to the Complaint, shall cooperate with the Assessor and respond in a timely fashion to requests for meetings or information. They shall respect the confidentiality of all information shared during the investigation.

In cases where the Complainant or Respondent fails to cooperate with the investigation process in a timely manner without appropriate justification, the Assessor may complete the investigation without the party who has failed to cooperate.

No later than 45 days after receiving the Complaint, the Assessor shall report in writing the results and recommendation of the investigation to the Secretary General, and provide a copy to the Complainant and the Respondent under confidential cover.

The report shall be in writing and may contain the following details as appropriate:

- Date the report was drafted;
- Identification of the Complainant and the Respondent;

- Description of the event or events which led to the Complaint and the facts alleged;
- The findings of facts made and any other information relevant to the conclusions reached;
- The Assessor's determination of whether the Complaint is well founded, on a balance of probabilities, with reasons explaining the determination;
- Recommendations, as may be appropriate, to ensure the resolution of the event or events that led to the Complaint;
- Recommendations, if any, of such measures as may be appropriate to prevent future incidents of harassment and improve the University environment.
- Recommendations on whether disciplinary action, if any, should be taken;

During investigation, the Assessor has the authority to take appropriate measures and actions to protect the security of the Complainant.

6.3 Remedial action and disciplinary measures

If the Complaint is determined to be well-founded, the Secretary General shall forward the file to the Principal, who may take such remedial or preventive measures as may be necessary, depending on the circumstances and to the extent possible, to resolve or address the Complaint.

The Principal shall have authority to take disciplinary action as required against the Respondent in accordance with Bishop's policies, regulations and collective agreements, and may consult with the appropriate administrative offices (e.g. Academic, Human Resources, Student Affairs, etc.) before deciding to impose a disciplinary measure or take any other form of remedial action.

The objective of the disciplinary action is to deter and prevent the continuation or repetition of the conduct, and may include a range of measures, such as, but not limited to, one or more of the following:

- A directive to the Respondent to cease the behaviour, where a failure to comply may lead to further penalty;
- A program of education or counseling to be undertaken by the Respondent;
- A directive to the Respondent that a verbal or written apology be made to the Complainant;
- Suspension;
- Dismissal or expulsion.

Any violation of the “Policy” can lead to administrative or disciplinary measures including termination of employment or expulsion of students.

7. RIGHTS

7.1 Right to be accompanied

In order to safeguard the rights of all concerned, any person who avails himself or herself of this Policy and any person involved in a process governed by this Policy has the right to be accompanied by a member of the Bishop’s Community of his or her choosing, such as an A.P.B.U. representative, a Residence Assistant or a member of the Committee for the Prevention of Harassment.

7.2 Right to confidentiality

The University recognizes the importance of confidentiality in the handling of inquiries and Complaints of harassment and will make every reasonable effort to balance confidentiality with the legal responsibility of the University.

Records of materials relating to formal complaints will be handled in a confidential manner and will be stored in a secure location in the Secretary General’s Office during and after the treatment of the matter. Access to these records will be limited to the Secretary General, the Principal, and to those required to have access under this Policy or when required by law.

University administrators and any other member of the Bishop’s community who, by virtue of their position or involvement in the treatment of an incident of harassment, are privy to information or in possession of documentation pertaining to the incident shall hold such information in strict confidence. This shall include refraining from discussing or releasing information in any form, beyond that required to fulfill the aims of this Policy and to manage the risk of harm to others, or as required by law.

8. COMMITTEE FOR THE PREVENTION OF HARASSMENT

8.1 Mandate of the Committee

The Committee for the Prevention of Harassment has the mandate of educating the University Community about harassment and about both informal and formal means of resolving problems or complaints. The Committee’s activities shall include:

- Collaborating and conferring with Advisors and other administrators who receive complaints and/or inquiries, as may be applicable, without particular individuals being identified, with the objective of providing information to the University Community about issues relating to harassment and making University resources better known;

- Publishing a summary report each year which is made available to all sectors of the University Community;
- Reporting on such other matters as the Committee believes should be brought to the attention of the Principal or the University Community in general;
- Holding regular meetings as needed in the event of education planning, approval of reports, or other related business;
- Providing recommendations to the Principal and/or the Secretary General on possible improvements to this Policy.

8.2 Committee Composition

The Committee for the Prevention of Harassment is comprised of the Dean of Student Affairs, the Director of Human Resources or a delegate, the Secretary General and the University Legal Counsel. In addition, a member from each of the following groups will be appointed to the Committee:

- Faculty Council
- Librarians
- Managers' Council
- Staff Council
- Students' Representative Council (SRC)

Members are appointed every two (2) years and may sit a maximum of two consecutive terms.

8.3 Confidentiality

Beyond the Committee's annual public report and educational efforts, all Committee members will respect the confidential nature of the consultations under 4.1 and 4.2.

9. NOTICES

For members of the Bishop's community, notice is deemed to have been given by using the electronic address provided by the University.

10. RETURN OF DOCUMENTS

Once a decision on an incident of harassment is rendered, a party may request the return of original documents submitted. The Secretary General will return the original and retain a copy.

11. REVIEW

This Policy may be reviewed from time to time as required by those responsible for its administration.