



ST. FRANCIS XAVIER UNIVERSITY
DISCRIMINATION & HARASSMENT POLICY

PART I

Preamble

St. Francis Xavier University believes that all members of the University community have the right to study, work and live in an environment that promotes equity and that is free from discrimination and harassment. Such an environment enhances each member of the University community's ability to achieve excellence.

In support of the goal of establishing a campus free of discrimination and harassment, and of creating a collegial study, work and living environment where all individuals are treated with respect and dignity, the University adopts the following Discrimination and Harassment Policy.

Persons covered by this policy

This Policy applies to all members of the University community, to visitors, and to contractors.

Purpose

The purposes of this Policy are:

- to identify the characteristics of discrimination and harassment;
- to increase awareness of and sensitivity to the impact discrimination and harassment have on members of the University community;
- to prevent discrimination and harassment;
- to establish procedures for members of the University community to resolve complaints.

1. Discrimination and Harassment Prohibited

1.1 St. Francis Xavier University prohibits discrimination and harassment within the University community.

1.2 **Discrimination** is distinctive treatment, whether intentional or not, on the basis of:

- a. age;
- b. race;
- c. colour;
- d. religion;
- e. creed;
- f. sex;
- g. sexual orientation;
- h. physical disability or mental disability;
- i. an irrational fear of contracting an illness or disease;
- j. ethnic, national or Aboriginal origin;
- k. family status;
- l. marital status;
- m. source of income;
- n. political belief, affiliation or activity;
- o. an individual's association with another individual or class of individuals having any one or more of the characteristics referred to in the list above;¹

that from the perspective of a reasonable person in the position of the complainant has the effect of imposing a burden, obligation or disadvantage on an individual or a class of individuals not imposed upon others, or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals.

¹ Human Rights Act, R.S., c. 214, s. 4 and 5 (1) (h) to (v). Any legislative changes to the list of prohibited grounds will automatically be incorporated into this Policy.

1.3 **Harassment** is offensive or objectionable conduct or comment toward another person or persons, including **sexual harassment**, the instance or persistence of which is known or ought reasonably to be known from the perspective of a reasonable person in the position of the complainant to be intimidating, offensive or unwelcome, including but not limited to that on the basis of any characteristic referred to in section 1.2, which has the effect of creating an intimidating, humiliating, hostile or offensive work, study or living environment.

1.4 **Harassment** may:

- (a) be the result of a repeated course of conduct or comment occurring over time; however, in exceptional circumstances, if the conduct is of a very serious nature, one incident may constitute harassment;
- (b) be expressed verbally, physically, visually or electronically;
- (c) come from a colleague, supervisor or subordinate;
- (d) involve one person or a group;
- (e) be either deliberate or unintentional.

1.5 **Harassment** may include behaviour that:

- a) interferes with the academic or employment performance or participation in a University-related activity for the person harassed;
- b) is associated with an expressed or implied promise of employment-related or academic-related consequences for the person harassed (including reward, reprisal or conditions of study or employment);
- c) provides a basis for academic or employment decisions affecting the person harassed; or
- d) excludes the person harassed from rights and/or privileges to which they are entitled.

1.6 **Harassment** is not:

- (a) proper and authorized supervision, including training, direction, instruction, evaluation, and counselling;
- (b) imposition of authorized and appropriate discipline;
- (c) occasional curtness or lack of friendliness, but not lack of friendliness that is so persistent or intense and individualized that it constitutes shunning;
- (d) other routine interactions, including interpersonal conflicts or difficulties from time to time, short of harassment as defined above.

1.7 **Sexual harassment** may include:

- (a) persistent and unwelcome sexual solicitations, flirtations or advances;
- (b) sexually suggestive comments, gestures, threats or verbal abuse;
- (c) non-consensual touching or physical contact of a sexual nature;
- (d) coerced consent to sexual contact, including misuse of position or authority to secure sexual favours;
- (e) sexual assault;
- (f) inappropriate display or transmission of sexually suggestive or explicit pictures, posters, objects or graffiti;
- (g) demands for sexual favours;
- (h) degrading, demeaning or insulting sexual comment or content, including unwelcome remarks, taunting, jokes or innuendos about a person's body, sexuality, sexual orientation or sexual conduct;
- (i) persistent, unwanted attention or requests for sexual contact after a consensual relationship has ended; or
- (i) a course of sexualized comment or conduct that interferes with the dignity or privacy of a member of the University community, a visitor, or contractor.

- 1.8 **Sexual harassment** can occur between individuals of the same or different status, and both women and men can be the subject of sexual harassment by a member of either gender. Sexual harassment generally involves engaging in a course of comment or conduct but it can occur during a single incident.
- 1.9 Intention need not be proven for a complaint of discrimination or harassment to be upheld. Regardless of intent, it is the effect, context and characteristics of the behaviour that determine whether the behaviour constitutes discrimination or harassment, subject to the test of a reasonable person in the position of the complainant.
- 1.10 Systemic discrimination means discrimination that arises as the effect of workplace policies or practices, as opposed to the discriminatory actions of an individual.

General

1. The University recognizes that human rights education and training is key to the elimination of discrimination and harassment.
2. The University will address discrimination at all levels of the institution and will assist members of the University community in preventing and responding to discrimination and harassment. Senior administrators and managers have the responsibility to communicate this Policy to their faculty and staff and encourage all faculty and staff to attend relevant training related to this Policy and its procedures. The relevant senior administrators will also have the responsibility to communicate the existence and general intent of this policy to students by working with student representatives including the Students' Union and Residence Staff.
3. Members of the University who have managerial or supervisory authority over others, including academic and administrative decision makers, or who make or influence decisions regarding members of the University community, shall foster an environment that is free of discrimination or harassment, and shall respond in a timely, proactive and diligent manner if they become aware of any violation of this Policy.
4. The University, through the Human Rights & Equity Advisor (hereinafter the Human Rights Advisor) shall provide human rights information, assistance, education, training, and informal complaint resolution to all members of the University community with regard to discrimination and harassment. The Human Rights Advisor serves as the University's Sexual Harassment Advisor.
5. The Human Rights Advisor reports to the President, through the Vice-President Recruitment and Student Experience.
6. An Equity Advisory Committee comprising representatives from various constituencies across the University will maintain communication between the various groups on issues of human rights and equity, assist with ongoing education and awareness programs, and provide information, guidance and support to the Human Rights & Equity Office.
7. The University will endeavour to address institutional and systemic human rights and equity issues through inquiry and remedial action. The Equity Advisory Committee will assist the University in identifying measures that will create an equitable learning, work and living environment.
8. The Human Rights Advisor may be contacted for information or assistance by anyone seeking educational or employment accommodation from the University. Persons seeking educational or employment accommodation should generally utilize and exhaust the processes available for such requests through relevant academic personnel or the Human Resources Office before lodging a complaint under this Policy.

9. This Policy shall not be applied in such a way as to detract from the right to engage in the frank discussion of potentially controversial matters, including, but not limited to age, race, politics, religion, sex and sexual orientation. These are legitimate topics within the University setting, and this Policy shall not be applied so as to have the effect of limiting appropriate discussion of them or of prohibiting *bona fide* instructional techniques, such as the use of irony, the use of conjecture and refutation, or the assignment of readings that advocate controversial positions, provided that such discussion and instruction are conducted in a mutually respectful and non-coercive manner.
10. This Policy is not to be interpreted, administered or applied in such a way as to detract from the right and obligation of those in supervisory or instructional roles to manage and discipline employees and students respectfully in accordance with collective agreements and relevant University policies and procedures. Conversely, an obligation to manage or correct others is not an excuse for actions that may constitute discrimination or harassment.

Policy Application

11. This Policy applies to all members of the University community, to visitors, and to contractors. All persons and contractors to the University are bound by the provisions of this Policy while on campus or in contact with any member of the University. A breach of this Policy may be dealt with as a breach of contract, grounds for discipline or a breach of the Community Code, and/or may result in suspension of University privileges such as access to campus or University services.
12. Behaviour which constitutes discrimination or harassment and which impacts on the work, study or living environment of a member of the University community is covered by this Policy, whether or not they occur during normal work/school hours on campus, or during off-campus University sponsored academic or work related travel, social functions such as staff parties, and/or in the course of work or academic assignments or placements, including international placements and exchanges.
13. This Policy operates in conjunction with other relevant University policies and collective agreements, including the **SifXAUT**, **CAW** and **CUPE** collective agreements, the Employee Handbook (Non-Union), the Community Code, the Residence Life Handbook, and provincial employment and human rights legislation. The application of this Policy and the procedures hereunder may be modified in specific circumstances to accommodate existing University policies and collective agreements.
14.
 - (a) Nothing in this Policy shall be construed to remove any of the contractual rights that members of the University community have independently of this Policy, such as in collective agreements. Neither does the Policy remove any rights to take action against the University or members of the University community in other processes within or outside of the University, including the lodging of a grievance or human rights complaint with the Nova Scotia Human Rights Commission.
 - (b) In the event of any human rights complaint, grievance or legal action arising from substantially the same circumstances as a complaint made under this Policy, the complaint process hereunder will be suspended until the conclusion of such action. The University shall be entitled to continue the complaint process upon the conclusion of such action if, in the opinion of the President or appointed designate, the University maintains an interest in continuing the complaint process. Absent any continuing University interest, the complaint process shall be stayed.
 - (c) Notwithstanding any suspension or stay of the complaint process under this Policy, the University shall continue to have all rights to discipline, and to apply any other sanction or remedy available to it, if, in the opinion of the President or appointed designate, the University maintains an interest in the substance of the complaint.
15. The University will endeavour to ensure that the natural justice and human rights of persons accused of discrimination or harassment are safeguarded during all aspects of the complaint resolution process.

Right to Lodge a Complaint

16. Any member of the University who believes he or she has been discriminated against or harassed by another member of the University community may make a complaint under this Policy.
17. Systemic discrimination within the University may be the subject of a request for inquiry or complaint under this Policy.
18. In response to a request for an inquiry into systemic discrimination, the Human Rights Advisor shall make the necessary inquiries and may make recommendations in writing to Senior Administration as she/he deems appropriate to remedy the matter. In the event that a formal complaint is made alleging systemic discrimination, the President or delegate may appoint an appropriate person to act as respondent with regard to the complaint process.
19. Where it has reasonable grounds to believe that there may be a pattern of discriminatory or harassing conduct, that any instance of discriminatory or harassing conduct is of such a serious nature as to warrant intervention by the University, or otherwise in its discretion, the University may initiate a complaint, or continue one even if the complaint has been withdrawn or the parties have reached a resolution through informal processes or mediation. This decision is made by the President or his/her delegate, who shall appoint an appropriate person, other than the Human Rights Advisor, to act as complainant with regard to the complaint process.

Complaint against a University Student

20. Student misconduct, including discrimination and harassment including sexual harassment, is governed by the University Community Code, which is administered by the Dean of Students. Any person who believes s/he has been discriminated against or harassed by a student should make a complaint to the Dean of Students, for inquiry and action under the Community Code. Concerns and questions concerning student conduct involving discrimination or harassment may also be brought to the attention of the Human Rights Advisor.

Interim Measures

21. When a University official is made aware of a concern involving human rights issues, she or he is required to assess the risk to the individual(s) and department(s) involved. Where warranted, s/he may recommend that the appropriate authority take immediate interim measures to protect the safety, academic or employment interests of the complainant or respondent pending resolution of the matter. Interim measures are precautionary only and shall not be considered disciplinary, and are not to be viewed as judgement of the credibility of the complainant or respondent or eventual disposition of the complaint.

Privacy and Confidentiality

22. All members of the University, including the parties and witnesses to a complaint, are expected to respect and maintain the privacy and confidentiality of persons involved in discrimination or harassment complaints, except to the extent necessary to ensure the fairness and effectiveness of complaint and investigation processes pursuant to this policy. Without limiting the generality of the foregoing, in any formal complaint process the parties are entitled to know the identities of, and the relevant information in relation to, the other parties and any witnesses. The Human Rights Advisor, the Investigator and/or the parties may discreetly disclose such personal information as is necessary to gather relevant evidence, to safeguard against risk of serious physical harm to any person, and to monitor compliance with any resolution or remedy agreed to or imposed. Any unauthorized or unnecessary breach of confidentiality may be considered in the imposition of sanction or remedy, and in the case of employees of the University may be subject to administrative discipline.

Malicious Complaints

23. A complaint that is deliberately and maliciously filed in order to damage the reputation of an individual or group, or otherwise filed in bad faith, or which is known by the complainant to have no reasonable basis in fact may be considered harassment. Such complaints are not to be confused with complaints made in good faith that are ultimately found to be without merit. A malicious complaint may be the subject of a complaint under this Policy, or may be grounds for discipline under the relevant policy, contract or collective agreement, up to and including termination.

PART II DISCRIMINATION & HARASSMENT COMPLAINT RESOLUTION PROCEDURE

Preamble

These procedures support the University's Discrimination & Harassment Policy and its commitment to provide a flexible process for resolving human rights concerns and complaints.

Voluntary settlement of discrimination and harassment claims is often the best avenue for resolving human rights issues. Individuals will be assisted in reaching informal resolution of discrimination and harassment complaints, wherever possible, so that recourse to the formal process remains a last resort.

Members of the University community are encouraged to participate in these procedures to facilitate fair, appropriate and speedy resolution of concerns and complaints.

1. General Provisions

- 1.1 These procedures are to be interpreted and applied in conformity with the principles of fairness and natural justice.
- 1.2 All parties to a complaint are to be advised of the provisions of this Policy.
- 1.3 Complainants and respondents are entitled to be accompanied by the support person or professional of their choice during the complaint resolution process. Any expenses relating to such accompaniment will be borne by the party engaging the support person or professional, as the case may be.
- 1.4 Parties to a complaint have a right to be kept reasonably informed of the status of any proceedings under this Policy.
- 1.5 The application of these procedures will be undertaken at all times with due regard for the human rights of a respondent to a complaint, such as a respondent whose actions may be the result of a physical or mental illness or disability.
- 1.6 The Human Rights Advisor shall facilitate informal resolution of complaints as outlined below under Informal Complaint Resolution.
- 1.7 The Human Rights Advisor shall not act as an advocate for complainants or respondents with respect to individual complaints of discrimination or harassment against another member of the University.
- 1.8 The University considers human rights concerns and complaints to be a matter of administrative priority. Accordingly, time frames in this procedure shall be adhered to, subject to extenuating circumstances involving the parties, the persons responsible for administering the procedures, or the availability of other individuals, such as an external mediator or investigator. Reference to days means business days.

- 1.9 A complainant or respondent may object to the participation of a person in these procedures on the grounds of conflict of interest or reasonable apprehension of bias. An unresolved objection may be referred in writing to the President or designate whose decision will be final.
- 1.10 A complaint under this Policy should be made as soon as reasonably possible and must be made within 30 days of the last alleged incident of discrimination or harassment, unless the delay is caused by circumstances beyond the control of the complainant, is incurred in good faith, and will not result in any substantial prejudice to any other party. A student with a complaint against a current professor or instructor must lodge his/her complaint no later than 20 days after formal submission of the student's final course grade by the professor or instructor.
- 1.11 If the Human Rights Advisor considers that the conduct complained of by a complainant may warrant other disciplinary or remedial action, the complainant shall be referred to the appropriate office.
- 1.12 A complaint may be withdrawn at any time during the informal or formal process. Withdrawal of a malicious complaint will not affect any action taken or to be taken with regard to such malicious complaint.
- 1.13 When two or more complaints have been lodged against the same respondent arising out of essentially the same conduct or incident, these complaints can be handled at the same time and by the same mediator and/or investigator unless the Human Rights Advisor concludes that prejudice might thereby result to the complainants or respondent.

2. RESOLUTION PROCEDURES

2.1 Consultation with Human Rights Advisor

Any individual who believes that s/he may be being discriminated against or harassed is encouraged to discuss her or his concerns with the Human Rights Advisor. Initial contact is confidential and shall remain so unless the individual wishes to pursue her or his concerns further, or there are reasonable grounds to believe that person's or other persons' health and safety is at serious risk.

On an initial consultation the Human Rights Advisor may:

- provide information with respect to the Policy and what behaviours might constitute discrimination or harassment;
- assist the complainant in determining whether the conduct complained of is covered by the Policy;
- review with the complainant the procedural options available for resolution of the matter;
- offer to assist with informal resolution of the concern or complaint;
- refer the complainant as appropriate to other policies, procedures and/or services internal or external to the University.

2.2 Consultation with Supervisor/Department Head

Individuals are also encouraged to discuss their concerns about discrimination and harassment with their supervisor/department head and their union representative, or where the concerns involve that person, that person's immediate supervisor.

Following such consultation, a supervisor or department head may:

- consult with or refer the complainant and/or respondent to the Human Rights Advisor, or Human Resources if more appropriate;
- speak directly to the individual(s) involved;
- assist and support the complainant and/or respondent to talk directly to the other individual;
- refer the complainant and/or respondent to other internal or external resources for assistance.

2.3 Informal Complaint Resolution Process

- 2.3.1 Examples of informal resolution which the Human Rights Advisor may assist the parties with include, but are not limited to:
- communicating directly to the respondent that his or her comments or behaviour are unwelcome and offensive;
 - a letter to the respondent;
 - a voluntary apology from the respondent;
 - agreement by the respondent to attend human rights education sessions;
 - participation in discussion or informal mediation facilitated by the Human Rights Advisor.
- 2.3.2 Informal resolution should generally be commenced within 7 days from the request by the complainant, subject to extenuating circumstances affecting commencement or completion of the process.
- 2.3.3 The informal resolution process is consensual and confidential. No informal resolution process that may adversely affect the academic, employment, professional, or other interests of the respondent, or which has the potential to identify the respondent to others, shall proceed without the knowledge and consent of the respondent.

2.4 Formal Mediation Process

- 2.4.1 The parties to a complaint may attempt to resolve the matter through formal mediation. Mediation is a voluntary process where a neutral third party, other than the Human Rights Advisor, assists the parties in reaching an acceptable settlement of the issues in dispute through a face to face facilitated discussion of the issues.
- 2.4.2 Formal mediation shall not be initiated without a written statement from the complainant outlining the behaviour, conduct or issue that the complainant wishes to resolve through mediation. Within 7 days of receipt of a request for mediation from the complainant, the respondent shall be provided with a copy of the written statement of complaint. Within 7 days of receipt of the invitation to mediate, the respondent must advise the Human Rights Advisor whether s/he accepts the invitation to mediate.
- 2.4.3 The Human Rights Advisor will arrange for mediation by a person with relevant mediation training and experience. If necessary, a mediator external to the University will be appointed, with the approval of the President or designate.
- 2.4.4 Mediation shall be commenced within 10 days of agreement by both parties to mediate, subject to availability of a mediator.
- 2.4.5 Where agreement to resolve the matter is reached in mediation, the terms of the agreement shall be written out, signed by the complainant and respondent, and countersigned by the mediator.
- 2.4.6 A copy of a settlement agreement reached during mediation shall be provided to the parties to the agreement, and shall be kept in the confidential files of the Human Rights and Equity Office for 2 years.

2.5 Confidentiality of Informal Process

Admissions made and positions taken during attempts at informal resolution or mediation are confidential and are not admissible in any subsequent University proceedings concerning the same matter, nor are the terms of any informal or mediated agreement to be disclosed except as required by law, unless authorized by both the complainant and respondent, or unless either party has breached or failed to fulfill terms of a settlement reached informally or through mediation, in which case only the terms of settlement are to be disclosed.

2.6 Discontinuance of Informal Process

Any party may discontinue informal resolution or mediation at any time. A complaint that is not resolved through informal resolution or mediation within 10 days following the commencement of such processes, or longer as extended by agreement of the parties in writing, may proceed to formal investigation.

3. FORMAL COMPLAINT INVESTIGATION PROCESS

- 3.1 The formal procedure for dealing with complaints of discrimination and harassment is by means of investigation. Investigation may be used in complaints where neither informal resolution nor formal mediation has been successful or feasible, the alleged discrimination may have had a serious impact on the complainant or respondent, or where the complaint is important to the goals of the University.
- 3.2 A written request for an investigation may be made to the Human Rights Advisor by either party to a complaint if neither informal resolution nor mediation has been successful or if both have been deemed inappropriate given the nature of the complaint. If the complainant requests investigation, he or she shall file a written statement of complaint setting out the full particulars of the alleged discrimination, a summary of relevant evidence available (documents, witnesses etc.), and the complainant's requested outcome or remedy. If the respondent requests an investigation, she or he shall file a written request for investigation, which shall include a relevant statement of facts, an explanation of the reason(s) for the request, and the respondent's requested outcome or remedy.
- 3.3 The Human Rights Advisor may provide guidance to the complainant in preparing his or her written statement of complaint. Additional allegations not contained in the formal complaint will not be investigated unless made in writing to the Human Rights Advisor and disclosed to the respondent, prior to the completion of the investigation. Any additional allegation will be considered a new complaint and subject to the respondent's rights of response as provided herein.
- 3.4 Immediately upon receipt of a formal complaint the Human Rights Advisor will notify the respondent in writing of the complaint, providing him or her with a copy of the complaint and this Policy. The respondent has a right to respond in writing to the complaint and must do so no later than 15 days after being notified. The Human Rights Advisor may provide guidance to the respondent in preparing his or her written response. Without limiting the substance of the response, the respondent may acknowledge or deny the validity of the allegations in whole or in part, provide new information, and/or propose a resolution of the complaint.
- 3.5 Immediately upon receipt of a written response by the respondent, the Human Rights Advisor will forward a copy of it to the complainant. The complainant has a right to respond and should do so in writing no later than 7 days after receipt. Without limiting the substance of the complainant's response, s/he may accept the response as a full resolution to the complaint, request additional efforts at informal resolution or affirm all or some of the allegations made in their complaint. Immediately upon receiving a complainant's written response, the Human Rights Advisor will provide a copy of the complainant's response to the respondent. The respondent shall have 7 days to respond in writing to the complainant's response.
- 3.6 Within 10 days of the completion of this exchange of documentation, or, in the absence of responses or resolution within the time frames provided, the Human Rights Advisor will assess the file, make a determination as to whether there is a reasonable basis for the complaint to proceed to a formal investigation or be discontinued, and communicate this decision in writing to the parties.
- 3.7 The decision of the Human Rights Advisor to discontinue a complaint may be appealed in writing by the complainant or respondent to the President or designate, within 10 days of receipt of the decision, with a copy to the Human Rights Advisor. The President or designate and the Human Rights Advisor will acknowledge receipt of request for appeal in writing to the parties within 5 days of receipt of the request

for appeal. The complainant, respondent and the Human Rights Advisor may make written submissions to the President or designate with regard to the decision to discontinue the complaint, within 10 days of acknowledgement of receipt of the request for appeal by the President or designate. The parties shall provide copies of their submissions to each other.

- 3.8 The President or designate, whose decision is final, will communicate his/her decision on the appeal to the parties, including the Human Rights Advisor, within 10 days of receipt of all submissions. If neither party appeals the decision of the Human Rights Advisor the file will be closed.

4. Formal Investigation

- 4.1 The objective of the formal investigation is to investigate and decide, on a balance of probabilities, whether the respondent's conduct falls within the definition of discrimination or harassment.
- 4.2 Upon referral to formal investigation, and unless otherwise indicated, each successive step will be carried out within 10 days, subject to extenuating circumstances.
- 4.3 The President or designate shall, within 10 days of the referral to investigation, appoint an Investigator, other than the Human Rights Advisor, independent of any party to the complaint and not in a position of authority over any party to the complaint. The Investigator may be internal or external to the University.
- 4.4 The Investigator shall conduct such interviews and obtain documentation as the Investigator considers relevant. The Investigator shall be given access to all documentation that the Investigator considers relevant and all persons subject to this Policy shall cooperate fully in the giving of interviews and evidence requested by the Investigator. The investigation shall be completed within ninety days of the Investigator's appointment.
- 4.5 Within 10 days of completing the investigation, the Investigator shall provide to the complainant and the respondent copies of all documents obtained, and summaries of all interviews and other relevant evidence other than the documents already provided to the complainant and respondent, such summaries to be in sufficient detail to enable the complainant and respondent to meaningfully respond to the evidence obtained. The complainant and respondent shall have 10 days to respond in writing to the evidence provided by the Investigator.
- 4.6 The Investigator shall, within 10 days of receiving written responses from both the complainant and respondent, or within 10 days of the deadline for receipt of such written responses, whichever is earlier, deliver a written Report of the investigation. The Report shall summarize the relevant evidence and representations of the parties, describe all relevant factual findings, and set out the Investigator's finding(s) as to whether the respondent's conduct constituted discrimination or harassment or both. The Report may recommend specific sanctions and/or remedial options.
- 4.7 The Report shall be provided to the Human Rights Advisor, and shall be immediately delivered by the Human Rights Advisor to the complainant and the respondent and the relevant Vice-President, President or designate.
- 4.8 The complainant and respondent shall have 10 days from receipt of the Investigator's Report to provide written comments on the Report to the Human Rights Advisor. Immediately upon receipt of comments from both the complainant and respondent, or within 10 days of receipt of the Report, whichever is earlier, the Human Rights Advisor will provide to the appropriate senior administrator (the relevant Vice-President or the President, or the Board of Governors in the case of a complaint against the President), the report of the Investigator and the written comments of the complainant and/or respondent.
- 4.9 The final disposition of the complaint, and any sanction or remedy to be applied will be determined by the appropriate level of senior administration or Board of Governors. An affected employee may grieve or appeal this decision under the relevant collective agreement or personnel policies.

- 4.10 In the event that a complaint is discontinued, dismissed, or withdrawn, the Human Rights Advisor may recommend to the relevant Vice President, the provision of counseling, education, or such other measures as may be appropriate for the complainant and/or the respondent. The Human Rights Advisor may also recommend measures to restore the relevant University department or unit to effective functioning.

5. Confidentiality, Records and Use of Information

- 5.1 Subject to any exceptions provided for in this Policy and to the extent required by law, all written and oral information that is created, gathered, received or compiled through the course of a complaint is to be treated as confidential by both the respondent and complainant, their representatives, witnesses, and University officials. The parties to informal or mediated complaint resolution may agree to disclose information for the purpose of restoring a department to effective functioning.
- 5.2 Information concerning a complaint may be provided to appropriate University officials on a need-to-know basis as determined by the Human Rights Advisor. This may include situations where there are security or safety issues or cases involving repeat complaints or a pattern of related behaviour. Any person so informed shall be advised of the disposition of the complaint and is bound by confidentiality requirements.
- 5.3 All recorded personal information with respect to a complaint shall be kept confidential in accordance with the Nova Scotia *Freedom of Information and Protection of Privacy (FOIPOP) Act*². Such personal information may be subject to disclosure as required by law.

6. Complaint Record Retention

The Human Rights & Equity Office is the office of record for all matters related to the application of this Policy. The complaint file (including the investigation file and record of disposition of the complaint) shall be preserved and kept confidential by the Human Rights Advisor for a minimum period of 7 years. If discipline is imposed, a record will be placed in the respondent's personnel file in keeping with any applicable collective agreement or University policy.

7. Obstruction and Retaliation

- 7.1 The University considers retaliation or threat of retaliation made in an effort to prevent or stop a person from exercising their rights under this Policy, to be a serious offence. Any person who engages in retaliation or threat of retaliation shall be subject to discipline in accordance with the relevant collective agreement or personnel policy.
- 7.2 Any person whose action or inaction obstructs the application of this Policy will be subject to discipline in accordance with the relevant collective agreement or personnel policy.
- 7.3 Threats and safety concerns should be reported immediately to a member of senior administration, and if relevant, University Security Services. Breaches of an undertaking or agreement under this Policy that do not involve a threat to personal safety should be reported as soon as possible to the Human Rights Advisor.

2 S.N.S. 1993, c.5.