

Complete Policy Title:  
**Policy on Discrimination and Harassment:  
Prevention & Response**

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**Senate / Board of Governors**

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**University Secretariat**

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## SECTION I: INTRODUCTION

### PREAMBLE

1. McMaster University is committed to fostering a respectful and inclusive organizational culture in which all members of the University community work, study, and live free of Discrimination and Harassment.
2. The University upholds a fundamental commitment to freedom of expression and association for all its members and to academic freedom for faculty. In exercising those freedoms, all its members are required to respect the rights and freedoms of others, including the right to freedom from Discrimination and Harassment.
3. Prevention of Discrimination and Harassment are matters of not only individual concern but of significance for the overall climate and welfare of the University community.
4. The University is committed to providing the policies, resources, and organizational structures required to support an environment free from Discrimination and Harassment.
5. Prevention through education is a fundamental aspect of the University's commitment. As part of this commitment, the University provides a range of educational and community-building activities that foster understanding of human rights issues and of the harm incurred by their violation, and communicate the expectation of and support for a working, studying, and living environment free from Discrimination and Harassment.
6. The University has a legal and ethical responsibility to address issues, incidents, and Complaints of Discrimination and Harassment, to enable accessible processes for resolution, and to provide support to all Community Members involved in such processes. The Administration may also respond when it is identified that there is [systemic](#)/institutional Discrimination and/or Harassment that needs to be addressed. In fulfilling this responsibility, the University is committed to balancing the principles of fairness, thoroughness, timeliness, and confidentiality, as appropriate in each circumstance. See [Appendix C: Glossary of Terms](#).
7. In seeking to prevent and address Discrimination and Harassment, the Policy is guided by the [Human Rights Code](#) and the [Occupational Health and Safety Act](#), as well as by other legislation, policies, and collective agreements identified in [Appendix A: Related Policies and Legislation](#).
8. For the purpose of interpreting this document, words in the singular may include the plural and words in the plural may include the singular.
9. In the University context, a member of the Administration may on occasion delegate responsibilities to another individual in the University. Any named positions in this Policy may delegate their authority where appropriate.
10. Links to more information may be found on the Equity and Inclusion Office website [equity.mcmaster.ca/](http://equity.mcmaster.ca/) or the [Respectful Community](#) website.

## POLICY REVIEW

11. The Policy will be reviewed annually to ensure compliance with the *Occupational Health and Safety Act*. For all other purposes, the Policy will receive an initial review within two years. Thereafter it will be reviewed every three years at the same time as the *Sexual Violence Policy*.

## PREVENTION, EDUCATION, AND TRAINING

12. Prevention through education is a fundamental aspect of the University's commitment to addressing Discrimination and Harassment. The Equity and Inclusion Office, with the support of the Senior Administration, is responsible for coordinating the University's preventive, educational and training initiatives and programs, which include:
  - a) prevention, education and training initiatives for the University Community, that will be attuned to the broader social context in which Discrimination and Harassment occurs; and
  - b) training to support those with particular responsibilities related to this Policy, which will be provided on an ongoing basis, integrating an anti-oppressive and trauma-informed analysis of Discrimination and Harassment.
13. The University Secretary, in consultation with the [Director, Human Rights & Dispute Resolution](#) (Equity and Inclusion Office), will ensure that the members of the [Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence](#) receive training on Discrimination and Harassment.

## SCOPE OF THE POLICY

14. Unless otherwise specified in this Policy, the Policy and its provisions apply to all acts of Discrimination and/or Harassment where the University has the jurisdiction (see [Appendix B: Jurisdiction](#)) to pursue, adjudicate, or take steps to safeguard the University community. The Policy applies to:

### All Members of the University Community ("Community Members")

- a) Community Members include, but are not limited to: students (graduate, undergraduate, and continuing education), staff, faculty, postdoctoral fellows, adjunct professors, visiting professors, sessional faculty, teaching assistants, clinical faculty, librarians, medical residents<sup>1</sup>, volunteers, visitors, observers, and institutional administrators and officials representing McMaster University.
- b) It is possible that members of the Administration may be the focus of Complaints concerned either with their conduct as individuals (in relation to incidents of Discrimination and Harassment), or with their conduct in their formal roles (e.g. Chair, Manager, Dean).

### All University-Related Activities

- c) University-related activities include events ([authorized](#) and [non-authorized](#)) that occur on University premises or on non-University premises where there is a clear nexus to the working or learning environment at the University (see also clause 44); and

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<sup>1</sup> Except where the medical resident's employment relationship takes precedence.

### All instances of Discrimination and/or Harassment

- d) all instances of Discrimination and/or Harassment that have occurred or are occurring during University-related activities.

### DEFINITIONS

15. This Policy prohibits Discrimination and/or Harassment on the grounds articulated in the [Human Rights Code](#):
  - a) age;
  - b) ancestry, colour, race;
  - c) citizenship;
  - d) [ethnic origin](#);
  - e) place of origin;
  - f) [creed](#);
  - g) [disability](#);
  - h) family status;
  - i) marital status (including single status);
  - j) gender identity, gender expression;
  - k) receipt of public assistance (in housing only);
  - l) record of offences (in employment only);
  - m) sex (including pregnancy and breastfeeding); and
  - n) sexual orientation.
  
16. This Policy expressly prohibits any discriminatory or harassing action and/or conduct, verbal or non-verbal, directed at or about one or more individuals or groups, that creates an intimidating, hostile or offensive environment ([poisoned environment](#)), or interferes with academic or work performance, in a manner that exceeds the bounds of freedom of expression and academic freedom.

### Discrimination

17. Discrimination means an unjust or prejudicial form of unequal treatment, whether imposing extra burdens or denying benefits, based on any of the grounds articulated in the *Human Rights Code*. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people ([systemic discrimination](#)). Discrimination may take obvious forms, or it may happen in very subtle ways. Even if there are many factors affecting a decision or action, if Discrimination is one factor, then that is a violation of this Policy.<sup>2</sup>

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<sup>2</sup> Modified Language from "A policy primer: Guide to developing human rights policies and procedures (1996; revised December 2013) © Queen's Printer for Ontario, 2013. Reproduced with permission.

## Harassment

18. Harassment means engagement in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. "Vexatious" comment or conduct is comment or conduct made without reasonable cause or excuse. Harassment includes Sexual and/or Gender-Based Harassment and Workplace Sexual Harassment.

## Poisoned Environment

19. A Poisoned Environment means an environment where harassing and/or discriminatory conduct is found to be sufficiently severe, intimidating, hostile, offensive, and/or pervasive to cause significant and unreasonable interference to a person's study or work environment. . A Poisoned Environment can interfere with and/or undermine work or academic performance and can cause emotional and psychological stress for some employees or students not experienced by other employees or students. As such, it results in unequal terms and conditions of employment or study and prevents or impairs full and equal enjoyment of employment or educational services, benefits, or opportunities. Although a person may not be the target of the conduct, a person may feel the effects of certain harassing or discriminatory conduct at their place of work or study.<sup>3</sup>

## Sexual and/or Gender-Based Harassment

20. Sexual and/or Gender-Based Harassment, including Workplace Sexual Harassment, means engaging in a course of vexatious comment against an individual because of sex, sexual orientation, gender identity or gender expression where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or making a sexual solicitation or advance to an individual where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Such Harassment may involve one incident or a series of incidents.
21. While allegations of Sexual Harassment are processed under the [Sexual Violence Policy](#), there may be circumstances where the allegations in a Complaint may necessitate following the procedures under both this Policy and the *Sexual Violence Policy*. Where an individual files a Complaint that involves behaviour prohibited by this Policy, as well as behaviour more appropriately dealt with under the *Sexual Violence Policy*, the Complaint will be processed under the *Sexual Violence Policy* so as to ensure that the complainant has access to the specialized supports available under that Policy. However, any Investigation or hearing related to the Complaint will still determine if the complainant suffered unequal, discriminatory or harassing treatment in violation of this Policy, in addition to any findings related to the *Sexual Violence Policy*.

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<sup>3</sup> Ryerson University has kindly shared its definition of Poisoned Environment with McMaster University for use in this policy. Some language has been added to the definition.

## SECTION II: OPTIONS FOR RESOLUTION

22. Community Members who raise an issue, report an incident or make a [Complaint](#) may pursue one or more of the options below. Prior to pursuing one of the options below Community Members should read [Section IV: Confidentiality](#). When the University becomes aware of an [issue](#) or an [incident](#) it may be obliged to investigate.
23. Individuals may consult with an Intake Coordinator or with the Ombuds to receive advice and guidance on options that may be available to resolve the matter. Such options include:

### INFORMAL RESOLUTION

24. Options for informal resolution may include some fact-finding discussion, clarification of the issues, facilitated conversations, informal dispute resolution, coaching, reconciliation, workplace restoration, settlement conferences, restorative justice measures, and mediation.

#### Communicate Directly

25. Community Members who have experienced unwelcome comment or conduct by another person are encouraged, although not obliged, to make it known to the other person that their behaviour is unwelcome. In situations where it is believed that addressing the other person could lead to an escalation of the comment or conduct, or to safety risks, this approach is not recommended. If the problem is not resolved, or if the Community Member feels they cannot speak directly to the other person, they should notify an appropriate [supervisor](#) within the University of the matter.

#### Resolve with Assistance of Supervisor

26. Individuals may inform/seek assistance from their supervisor or person who has formal oversight of their area to help address the situation.

#### Resolve with Assistance of Intake Office

27. Individuals may inform/seek assistance from an Intake Office to help address the situation.

### FORMAL RESOLUTION

#### Complaint

28. A Complaint is made when an individual completes the relevant intake form notifying an [Intake Coordinator](#) of an allegation and seeking the University's formal response.
29. Informal resolution processes may continue after a Complaint is filed, and remains an option for resolution until the point when a final determination is made on whether or not there has been a violation of the Policy. A final determination under this Policy means **the later of**: (a) the date on which the appropriate decision-maker initially determines that a violation of the Policy has occurred and that sanctions and/or remedies are appropriate; or (b) the first date of a Hearing of student's appeal or faculty member's Hearing.



## OTHER OPTIONS

30. Individuals may exercise other options external to this Policy (e.g. the grievance provisions of applicable collective agreements) or other options external to the University (e.g. through civil litigation or *Human Rights Code* provisions)
31. Individuals who file a Complaint, or pursue other options as outlined above, may be required to attend/participate in a hearing, either internal to the University, or external through arbitration or tribunal hearing, etc.
32. At any time, Community Members may also seek advice and support from: Human Resources Services, Union representative, relevant Student association, Faculty Association, [Ombuds](#), and Chaplaincy Centre, etc.

## SECTION III: SUPPORTS AND RESOURCES

33. Community Members who make a Complaint, or who are the subject of an allegation, are encouraged to contact any of the offices below to ensure that they are in receipt of relevant information and services:

- [Equity and Inclusion Office](#) (all Community Members)
- [Employee/Labour Relations](#) (faculty and staff)
- [Student Support & Case Management](#) (students)
- [Faculty of Health Sciences Professionalism Office](#) (all Community Members in the Faculty of Health Sciences)

34. Community Members may also make use of available supports and resources below.

### *For the University Community*

- [Equity and Inclusion Office](#)
- [Faculty of Health Sciences Professionalism Office](#)
- [Security Services](#)
- [Chaplaincy Centre](#)

### *For Students*

- [Student Wellness Centre](#) (personal counselling and medical services)
- [Student Support & Case Management](#) (support and guidance on the Code of Student Rights and Responsibilities)
- [MSU Women and Gender Equity Network](#) (peer support and resources)
- [MSU Peer Support Line](#) (24 hour a day telephone support line, including legal advice and counselling)
- [MSU Queer Students Community Centre](#) (peer support and resources for sexual orientation and gender identity)
- [MSU Maccess](#) (peer support and resources for disabilities)
- [Graduate Students Association Health & Dental Plans](#) (health benefits include access to psychological counselling in the community)

*For Staff and Faculty*

- Union or Association
- [Employee/Labour Relations](#)
- [Employee and Family Assistance Program](#) (access to professional counsellors, legal guidance and other supportive services available to staff and faculty)

*Broader Community*

- [Good2Talk \(24/7 phone support for students offered by professional counsellors\)](#)
- [John Howard Society](#) (for individuals in conflict with the law)
- [Elizabeth Fry Society](#) (for individuals in conflict with the law)

*Guidance about a Policy and/or Procedures*

- [University Secretariat](#)
- [Equity and Inclusion Office](#)
- [Employee/Labour Relations](#)
- [Student Support & Case Management](#)
- [Faculty of Health Sciences Professionalism Office](#)
- [Ombuds Office](#)

*Independent Resource*

- [Ombuds Office](#)

The Ombuds Office provides confidential advice and assistance to all members of the University community. The Ombuds Office reports directly to the President of the University and the President of the McMaster Students Union (MSU) and **is otherwise not a University office as it is independent** of all existing administrative structures. Notwithstanding the foregoing, the Ombudsperson is not required to maintain confidentiality in cases involving the commission of a serious crime or where there is an imminent risk of physical harm or abuse.

## SECTION IV: CONFIDENTIALITY AND PRIVACY

35. The University recognizes the importance of confidentiality for anyone coming forward with an [issue](#), [incident](#) or [Complaint](#) of Discrimination and/or Harassment and for anyone named as an alleged Respondent, and will protect confidentiality to the extent permitted by its legal obligations.
36. The University and its employees and agents will protect personal information and handle records in accordance with the [Freedom of Information and Protection of Privacy Act](#) and the [Personal Health Information Protection Act](#), with the provisions of applicable collective agreements and, in the case of health care providers, in keeping with any professional obligations.
37. When discussing issues, incidents or reporting a Complaint to any University office, individuals should receive an explanation of, and are advised to clarify, the level of confidentiality that applies to the office/individual.
38. Individuals may speak in confidence to an Intake Coordinator or any University office, subject to the provisions of this section and the limitations below. In such cases, only the minimum amount of information needed to address the matter and/or meet requirements will be disclosed. Limitations to confidentiality exist when:
  - a) an individual is at risk of harm to self;
  - b) an individual is at risk of harming others;
  - c) there are reasonable grounds to be concerned with risk of future violence or the safety of the University and/or broader community;
  - d) disclosure is required by law or to comply with the *Occupational Health and Safety Act* or with human rights legislation;
  - e) evidence of the disclosed incident of Discrimination or Harassment is available in the public realm (e.g. video shared publicly on social media); and/or
  - f) where there is a need for notification in order to comply with the reporting requirements of regulatory bodies.
39. Individuals may also choose to speak with the [Ombuds](#), an office that provides an independent, impartial, and confidential process through which members of the University community may pursue a resolution.
40. Some offices and Community Members have additional limitations to confidentiality because of their particular reporting requirements or professional obligations. For example:
  - a) those faculty and staff etc. who are regulated health care providers (such as those in Student Wellness Centre) are required to maintain the confidentiality of patient information disclosed during a medical interaction. These health care providers are not permitted to share information except in very limited circumstances, such as with the express permission of the patient, or if the health care provider believes that disclosure is necessary to eliminate or reduce a significant risk of serious harm to a person or group of persons, in accordance with their professional obligations; and

- b) those staff who are Special Constables in Security Services are required to investigate reports of domestic violence and to lay charges in all cases when there are reasonable grounds to believe such an offence has been committed, regardless of whether the individual wishes to have further involvement with the legal process.
41. Procedural limits to confidentiality may also occur if the University is subject to legal proceedings that, in the opinion of the Provost and Vice-President (Academic) or the Vice-President (Administration), (in consultation with the President), require the disclosure of information.
  42. As part of the University's internal responsibility to maintain an environment free from Discrimination and Harassment, information shall be shared on a [need-to-know](#) basis.
  43. The Complainant will receive information about any sanctions/remedies taken by the University, within the constraints of relevant legislation. In all cases, information about any sanctions/remedies that have a direct impact on the Complainant will be provided to them.
  44. Where required by a professional licensing body, the results of the Investigation may also be communicated to that professional licensing body.
  45. The University's responsibility to address issues, incidents, and Complaints of Discrimination and/or Harassment extends to University-related activities such as the off campus experiential learning and working environment (including, but not limited to, off-campus coursework such as fieldwork, placement, clinical placement, internship and out-of-the classroom learning experiences). However, this responsibility exists independently from the off-site/placement or third party entity. In order to address such issues, incidents, and Complaints, the University may need to disclose information to the off-site entity on a need-to-know basis. This could include notifying the off-site entity of the outcome of the Investigation or coordinating a joint Investigation. See [Appendix B: Jurisdiction](#).

## SECTION V: PROCEDURAL GUIDELINES

### ACCOMPANIMENT

46. Individuals coming forward with a Complaint (Complainants), individuals about whom allegations are made (Respondents), and witnesses may at any stage of any of the procedures outlined in this Policy be accompanied by an [Advisor](#). The Advisor may be present during Investigation interviews but may not participate as a representative. The costs of any accompaniment are to be borne by the party.

### TIME LIMITATIONS FOR BRINGING FORWARD A COMPLAINT

47. Individuals are encouraged to report a Complaint at the earliest opportunity, but **must do so within one year** of the date on which the incident of Discrimination and/or Harassment is alleged to have occurred. If there was a series of incidents it **must** be reported within one year of the date of the last event. However, if the Assessment Team is satisfied there are compelling reasons and/or extenuating circumstances, or where a Complainant engages this Policy and the *Sexual Violence Policy* and the allegations cannot be separated from one another, Complaints may be pursued outside of this timeframe. When the Complainant is no longer a [Community Member](#), the Assessment Team will review the Complaint and determine whether it is within the scope of the Policy and may decide to initiate a University Investigation.

### PROTECTION FROM REPRISAL

48. The University specifically prohibits [reprisal](#) or threats of reprisal against any Community Member who, sincerely and in good faith, makes use of this Policy or participates in any process held under its jurisdiction. An individual who believes they are the subject of a reprisal or threat of reprisal shall report this to an Intake Office. Any individual or body found to be making such reprisals or threats will be subject to sanctions under the appropriate policy (including this Policy, the *Sexual Violence Policy*, and the *Code of Student Rights and Responsibilities*) as circumstances dictate.

### COOPERATION AND SELF-INCRIMINATION

49. It is possible that individuals questioned as witnesses, informants or bystanders about an alleged violation of the Policy may, by cooperating responsibly with the University's processes, reveal their own infraction of a University regulation or code (e.g. alcohol use, unsanctioned use of University facilities). In such instances, and given the University's commitment to addressing Discrimination and Harassment, every effort will be made to support individuals coming forward and, if appropriate and possible, take their cooperation into account if any sanction applies to their conduct.

### INTERIM MEASURES AND ONGOING SUPPORT OF ALL PARTIES

50. At any stage in the proceedings under this Policy it may be necessary to take Interim Measures in order to safeguard the environment of Complainants, and/or Respondents.
51. Interim Measures may include, but are not limited to, the rearrangement of academic/employment responsibilities or oversight, the rearrangement of residence location (where possible), adjustments in

University activities (e.g. attendance at guest lectures, social events), implementation of a [No Contact Order](#), or implementation of a [Persona Non Grata](#) designation.

52. Interim Measures imposed on any party shall not be construed as evidence of either guilt or a finding of violation of this Policy, or as an affirmation of innocence/finding of non-violation of this Policy.
53. The Assessment Team considers, recommends, and/or coordinates, and reviews Interim Measures as they relate to the parties involved in the matter; facilitates any planning; and considers other University responses that may be necessary. The Assessment Team shall give due consideration to the effect that the filing of a Complaint may have on both parties in the case of any kind of supervisory relationship, as well as the need to preserve future working relationships, career progress/prospects, and/or academic program/studies.
54. The authority to approve Interim Measures will rest with the relevant [Decision-Maker](#) in line with the reporting structure of the Complainant and/or the Respondent, as outlined in ([clause 72-75](#)).
55. In the event an [Employee](#) is directed to take an administrative leave as an Interim Measure, the conditions of the administrative leave shall accord with the terms of any applicable collective agreement. In the absence of an applicable collective agreement, (e.g. where the employee is faculty or The Management Group (TMG)) the leave shall be without loss of pay or benefits. It is understood that an administrative leave as an Interim measure is non-disciplinary and is designed to separate a person from a situation or another person until the matter has been resolved. During such period, the person can continue to access relevant University [support services](#).
56. Interim Measures will be reviewed by the Assessment Team monthly throughout the process to ensure they remain necessary and appropriate in the circumstances. Interim Measures do not extend beyond the final resolution of a Complaint.
57. Should an Investigation extend beyond six months, there will be a full review by the Assessment Team in consultation with the Decision-Maker to assess progress, considering fairness to all parties, thoroughness, timeliness, and confidentiality, and to consider any necessary next steps.

## DATA GATHERING & RECORD KEEPING

58. The [Equity and Inclusion Office](#) is responsible for providing a written, anonymized, annual statistical report to the Senate and the Board of Governors in order to ensure the identification of areas or issues of repeated concern. The report shall include statistical data on Complaints, resolution/mediation, Investigations, outcomes, sanctions, and Complaints dropped or withdrawn, as well as data on consultations.
59. All notes, materials, Investigation reports, and decisions, pertaining to Complaints will be kept by the relevant Intake Office for seven years. These records may be retained longer, subject to the discretion of the appropriate Director or Decision-Maker.

## SECTION VI: ROLES AND RESPONSIBILITIES

### INTAKE OFFICES

60. The Intake Offices share responsibility for addressing issues, incidents, and Complaints relating to Discrimination and Harassment. There are four Intake Offices:
- [Equity and Inclusion Office](#) (available to all Community Members)
  - [Student Support & Case Management](#) (available to all Community Members, where the Respondent is a student)
  - [Employee/Labour Relations](#) (available to staff and faculty)
  - [Faculty of Health Sciences Professionalism Office](#) (available to all Community Members in the Faculty of Health Sciences).

### INTAKE COORDINATORS

61. Intake Coordinators are available in each of the four Intake Offices listed above, and will assist in exploring and facilitating resolution processes, as appropriate. The Intake Coordinators are also responsible for assessing [issues](#) and [incidents](#) in consultation with their Director, as well as the initial intake of [Complaints](#). An Intake Coordinator's referral activates the Assessment Team.

### ALL COMMUNITY MEMBERS

62. All [Community Members](#) are responsible for:
- contributing to and maintaining an environment that is free of Discrimination and Harassment;
  - participating in education and training programs when appropriate;
  - handling issues and incidents through the [Options for Resolution](#) listed in Section II; and
  - participating in Investigations under this Policy, if requested to do so.

### FACULTY AND STAFF IN SUPERVISORY ROLES

63. Within the University Community it is recognized that there are various types of supervisors: [Academic Supervisors](#), [Academic Administrators](#), and [Workplace Supervisors](#). All such supervisors are responsible for:
- modeling acceptable standards of behavior;
  - supporting any employee or student who, in good faith, reports a potential violation of the Policy and protecting them from reprisal;
  - cooperating with Intake Offices during Investigations, and in the implementation of Interim Measures, and/or Sanctions;
  - completing all required training and ensuring that the people they are supervising are trained appropriately on the Policy and [RMM 300 Health and Safety Training Program](#); and



- e) being aware of their roles and responsibilities as set out in the *Occupational Health and Safety Act* with respect to workplace violence and workplace Harassment.
64. Faculty members and staff who become aware of an issue, incident, or Complaint of a potential violation of the Policy **must**:
- a) contact one of the Intake Offices for guidance and advice to address the matter as appropriate in the circumstances. In many cases matters may be adequately addressed through the fact-finding necessary to effect an informal resolution;
  - b) inform individuals coming forward of the reporting requirements and limits to confidentiality that apply to them; and
  - c) advise the individual of the Policy, the supports available and provide the option of referring them to an Intake Office.

### STUDENT LEADERS

65. Students in designated positions of responsibility and/or leadership (Student Leaders) are responsible for modeling acceptable standards of behavior.
66. Student Leaders who become aware of an issue, incident, or Complaint of a potential violation of the Policy **must**:
- a) inform individuals coming forward of the reporting requirements and limits to confidentiality that apply to them;
  - b) refer them to the faculty or staff person who has formal oversight of the designated area, and/or the appropriate Intake Office; and
  - c) inform the person with formal oversight of the potential violation.

### ASSESSMENT TEAM

67. The Assessment Team is responsible for assessing every Complaint of a potential violation of the Policy referred to them by an Intake Coordinator, and for reviewing issues and incidents of which they become aware.
68. The Assessment Team will include the [Director, Human Rights & Dispute Resolution](#), and as necessary in the circumstances:
- a) the Director, [Employee/Labour Relations](#);
  - b) the Director, [Student Support & Case Management](#);
  - c) the Advisor, [Faculty of Health Sciences Professionalism Office](#); and/or
  - d) the Intake Coordinator.
69. As necessary, and disclosing identities only on a [need-to-know](#) basis in order to appropriately respond to the matter, the Assessment Team may draw upon representatives of key services and/or departments (e.g. a Co-Chair of the [Violence Risk Assessment Team](#), Director of Housing and Conference Services, Director of the Student Wellness Centre, Director of Security Services).

## DIRECTOR, HUMAN RIGHTS & DISPUTE RESOLUTION

70. The Director, Human Rights and Dispute Resolution is responsible for working in close partnership with individuals and offices involved in implementing this Policy, including but not limited to: the Assessment Team, Investigators, Associate Vice-Presidents, Assistant Vice-Presidents, Senior Administration, and the University Secretariat.
71. The Director, Human Rights and Dispute Resolution is responsible for the analysis of data gathered by the Equity and Inclusion Office or provided to that office by Human Resources Services, Faculty of Health Sciences Professionalism Office, and Student Support & Case Management.

## INVESTIGATORS

72. All Investigators appointed under this Policy, whether internal or external to the University, will have training and expertise in the area of Discrimination and Harassment, and a trauma-informed, anti-oppressive approach to Investigation processes.

## DECISION-MAKERS FOR INTAKE AND INVESTIGATIONS

73. The Decision-Makers under the intake and Investigations procedures include, as applicable, the: Assistant Vice President and Chief Human Resources Officer; Associate Vice-President (Students and Learning) & Dean of Students; and Provost and Vice-President (Academic) (or in the case of the Faculty of Health Sciences, an appropriate delegate).
74. Depending upon the constituency of the Respondent, Decision-Makers may be responsible for reviewing and responding to Investigation reports (see [Section VIII: Adjudication and Decisions](#)).
75. When the line of authority is unclear, the Provost and Vice-President (Academic) or the Vice-President (Administration), as appropriate, will determine the appropriate individual in the line of authority.
76. Should there be a conflict of interest with a Decision-Maker, the appropriate Vice-President shall assume the responsibilities of the Decision-Maker under this Policy. Similarly, if that Vice-President is in a conflict then another Vice-President or the President shall act.

## SENIOR ADMINISTRATION

77. The Senior Administration [the President, Provost and Vice-President (Academic), Vice-President (Administration)] has overarching responsibility for maintaining an environment free from Discrimination and Harassment, for providing the resources required to support such an environment, and for ensuring the timely development and review of relevant policies through Senate and Board of Governors procedures.
78. In addition, the Senior Administration is responsible for promoting awareness of what constitutes an environment free from Harassment and Discrimination, and providing resources so that members of the University are able to function with the highest standards of integrity, accountability, and responsibility. The Equity and Inclusion Office, with the support of the Senior Administration, will carry out programs that may include disseminating information about the expectations for a University environment free from Discrimination and Harassment, and providing education to all members of the University community.

## SECTION VII: INVESTIGATIONS

### INTAKE OF COMPLAINTS

79. If an individual wishes to file a [Complaint](#) of Discrimination and/or Harassment for the University to address, they must contact an **Intake Coordinator** in one of the Intake Offices listed below:
- [Equity and Inclusion Office](#) (available to all Community Members)
  - [Student Support & Case Management](#) (available to all Community Members, where the Respondent is a student)
  - [Employee/Labour Relations](#) (available to staff and faculty)
  - [Faculty of Health Sciences Professionalism Office](#) (available to all Community Members in the Faculty of Health Sciences).
80. The **Intake Coordinator** is responsible for:
- continuing to explore and facilitate resolution processes, as appropriate;
  - ensuring [Complainants](#) are aware of the additional options that may be available to them in seeking a response to the allegation(s) of Discrimination and/or Harassment, which include:
    - filing a grievance through their collective agreement;
    - filing an application with the Human Rights Tribunal of Ontario; or
    - other processes which, if appropriate and acceptable to the Complainant, may be recommended to address issues/incidents expeditiously without proceeding with a Complaint if what is described by the Complainant is not obvious Harassment or Discrimination as defined by this Policy;
  - explaining this Policy and the sequential steps for processing a Complaint;
  - assisting the Complainant, when necessary, with completing a **Complaint Intake Form**, which includes a description of the allegation: what happened; who was involved; when it happened; where it happened; who (if anyone) saw or heard it happen, or saw or heard something of relevance prior to or after the alleged incident(s) of Discrimination and/or Harassment;
  - assessing issues and incidents in consultation with their Director and, where appropriate, referring such matters to the Assessment Team; and
  - referring Complaints to the Assessment Team.

### ASSESSMENT TEAM

81. Members of the Assessment Team will assess issues and incidents referred to them by an Intake Coordinator to determine whether any further action is required.
82. Members of the Assessment Team will assess Complaints on a priority basis. Identities of the Complainant and/or Respondent will only be shared with the relevant Assessment Team members on a need-to-know basis. During this assessment, the Assessment Team may determine it is necessary to disclose identities on a need-to-know basis in order to administer the Policy.

83. The Assessment Team reviews the Complaint in order to:
- a) confirm that it fits within the scope of the Policy;
  - b) determine, where necessary, if a Complaint should be investigated under the Sexual Violence Policy;
  - c) consider requirements pursuant to the *Occupational Health and Safety Act*;
  - d) in consultation with the appropriate Decision-Maker, determine if an Investigation is required and set parameters accordingly, including:
    - (i) which University office to mobilize;
    - (ii) scope and mandate for the Investigation;
    - (iii) whether to engage an internal or external investigator;
    - (iv) expected timelines for the Investigation;
    - (v) an appropriate and respectful way to inform the Respondent about the Complaint, and ensure that written details of the Complaint are provided; and
    - (vi) communicate to the parties the expected timelines for the Investigation;
  - e) consider and coordinate appropriate Accommodations and/or Interim Measures as they relate to all parties involved in the matter; and
  - f) as necessary, draw upon representatives of relevant services or departments in order to appropriately respond to the matter.
84. Interim Measures will be reviewed by the Assessment Team in accordance with [clauses 55-56](#).

### Decision Not to Investigate

85. In some circumstances a decision may be made not to investigate (e.g. a [frivolous, vexatious](#) Complaint, or a failure to establish a [Prima facie](#) case). The decision will be communicated in writing, with reasons, to the parties by the appropriate Decision-Maker. The Complainant will be informed of their right to make a written request for review of the decision to the appropriate Vice-President.

### UNIVERSITY INITIATED INVESTIGATION

86. Through data gathering on issues, incidents, and Complaints, an Intake Office may become aware of situations where a University-initiated Investigation may be warranted, including, but not limited to circumstances where:
- a) repeated allegations are made about the conduct of the same individual and/or specific environment;
  - b) none of those coming forward regarding an issue or incident have been willing to proceed with a Complaint;
  - c) allegations are made about the conduct of a Community Member by an individual who is not, or is no longer, a Community Member;

- d) the power differential in the alleged incident suggests the potential for a pattern of repeated Discrimination and/or Harassment;
  - e) the University has a duty to investigate pursuant to the *Occupational Health and Safety Act*;
  - f) available information suggests there may be a poisoned environment or systemic discrimination; and/or;
  - g) available information suggests there may be concerns about climate and/or conduct in an area of the University.
87. The Intake Office will refer the matter to the [Assessment Team](#) and the appropriate Decision-Maker to determine whether an Investigation is warranted.

## INVESTIGATION PROCEDURES

88. Investigations conducted under this Policy will follow the principles of procedural fairness. Respondents have the right to know the case against them, and to produce evidence and witnesses to the Investigator in response to any allegations.
89. The Investigator will impartially collect evidence and interview available witnesses deemed relevant by the Investigator. In consultation with the Assessment Team, the Investigator may adjust the scope and the manner in which the Investigation will be conducted in compliance with this Policy, the principles of procedural fairness, and balancing the principles of fairness, thoroughness, timeliness, and confidentiality.
90. All Community Members are expected to meet with the Investigator if requested to do so and to participate in good faith.
91. Respondents are expected to participate in the Investigation. Lack of participation will not stop the matter from proceeding under the Policy.
92. Complainants, Respondents and witnesses have the option of being accompanied by an Advisor.
93. Except for sharing information with their Advisor, pursuing options external this Policy or as otherwise required by law, all those who meet with an Investigator (including the Advisor) are required to keep confidential the meeting and any information shared to ensure the integrity of the proceedings. Failure to do so could be considered a breach of [confidentiality/privacy](#), and may result in disciplinary action.
94. An individual who was not previously identified as a Respondent but who, during the course of an Investigation, is identified as a potential Respondent will be notified and given an opportunity to meet the Investigator and to respond to any allegations. These new allegations may invoke a new or separate Investigation, which may require the reactivation of the Assessment Team.
95. If during the course of the Investigation the Investigator believes the Complaint is frivolous (it does not have any serious purpose or value; is of little or no weight, worth, or importance), or is vexatious (instituted without sufficient grounds and only to cause annoyance) the Investigator shall refer the matter back to the Assessment Team to determine the next steps.

## SECTION VIII: ADJUDICATION AND DECISIONS

96. At the conclusion of an Investigation, the following procedures apply for adjudication and decision-making, dependent upon the constituency of the Respondent.

### STUDENT RESPONDENT ADJUDICATION

97. The adjudication will be processed in accordance with the procedures in the [Code of Student Rights and Responsibilities](#) (the "Code"). If it is determined, on a balance of probabilities, that a violation of the Policy has occurred, remedies and/or sanctions will apply in accordance with the Code.
98. In matters where the sanctions do not include suspension, expulsion, or involuntary withdrawal, the Respondent may appeal the decision and/or the sanction(s) to the Associate Vice-President (Students and Learning) & Dean of Students.
99. In matters where the sanctions include a suspension, expulsion, or involuntary withdrawal, the Respondent may appeal the decision made by the Associate Vice-President (Students and Learning) & Dean of Students, as per the [Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence](#).

### FACULTY RESPONDENT ADJUDICATION

100. The Investigation report will be reviewed by the **Provost and Vice-President (Academic)** (or delegate) to determine, on a balance of probabilities, if a violation of the Policy has occurred. If it is so determined, the Provost will make recommendations regarding sanctions and/or remedies, and initiate a disciplinary process.
101. If the Respondent accepts the sanction(s) and/or remedies recommended by the Provost, the recommendations will be implemented and the matter will be closed.
102. If the Respondent does not accept the recommendations, **or** the Provost believes that suspension from the University for a period of time is the appropriate sanction, the matter will be **referred to a hearing** before a Tribunal under the [Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence](#).
103. At the hearing the Provost has the burden of proof to present evidence, and on a balance of probabilities, to satisfy the Tribunal that a violation of the Policy has occurred.
104. If it is determined by the Provost that Removal Proceedings should be initiated, the matter will be referred directly to the Procedures for Removal under the [Tenure and Promotion Policy](#).

## STAFF RESPONDENT ADJUDICATION

105. The Investigation report will be reviewed by the Assistant Vice-President and Chief Human Resources Officer to determine, on a balance of probabilities, if Discrimination and/or Harassment has occurred. If it is so determined, the matter will be referred to the **Director, Employee/Labour Relations** to initiate corrective action which may include a disciplinary process to determine remedies and/or sanctions (in consultation with the appropriate supervisor in line with the Respondent's reporting structure).
106. The corrective action, remedies and/or sanctions will be approved by the appropriate Vice-President (in line with the Respondent's reporting structure) before being imposed.
107. In the case of a staff member who is a member of a union, the right to appeal the disciplinary decision is within the grievance and arbitration processes of the collective agreement.
108. In the case of a staff member who is not a member of a union (e.g., members of The Management Group, interim employees), and except in the case of termination, the staff member may submit a written appeal of the disciplinary decision to the Vice-President (Administration). In the case where the Respondent's reporting line is through to the Vice-President (Administration), the appeal will be made to another Vice-President.

## COMMUNITY MEMBER RESPONDENT ADJUDICATION (NOT STUDENT, STAFF OR FACULTY)

109. When the Respondent is a Community Member but is not currently a student, staff, or faculty member, the Investigation report will be reviewed by the Decision-Maker related to the Respondent's area of activity at the University. The relevant Decision-Maker will determine, on a balance of probabilities, if a violation of the Policy has occurred. If it is so determined, the Decision-Maker will decide on the appropriate remedies and/or sanctions.
110. The Respondent may submit a written appeal of the decision and/or sanctions to the Vice-President to whom the Decision-Maker reports.

## FINDINGS AND DECISIONS (FOR ALL RESPONDENTS)

### No Finding of Violation of the Policy

111. The Complainant and Respondent will receive a written decision from the relevant Decision-Maker, that will include:
  - a) the decision that there is No Finding of Violation of the Policy;
  - b) reasons for the decision; and
  - c) a summary outlining the findings.



### Finding of Violation of the Policy

112. The Complainant and Respondent will receive a written decision from the relevant Decision-Maker, that will include:
- a) the decision that there is a Finding of Violation of the Policy;
  - b) reasons for the decision;
  - c) a summary outlining the findings;
  - d) the **Respondent** will receive confirmation of any Interim Measures that will remain in place until remedies and/or sanctions are imposed;
  - e) the **Complainant** will receive information about any Interim Measures that have a direct impact on the Complainant, such as a no-contact order, that will remain in place until remedies and/or sanctions are imposed.

### *Impact Statement*

- f) the Complainant will be provided the opportunity to submit a written impact statement to the Decision-Maker, **within five business days of receipt of the written decision**, to be considered in determining the appropriate sanction(s).

### DETERMINATION OF SANCTIONS AND REMEDIES

113. The Decision-Maker shall consider the Complainant's impact statement, any mitigating and/or contextual factors in determining/implementing appropriate remedies and/or sanctions, and the reasons shall be clearly articulated in writing to the Respondent and the Complainant as follows:
- a) the **Respondent** will be informed of all sanctions/remedies imposed;
  - b) the **Complainant** will receive information about any sanctions/remedies taken by the University, within the constraints of relevant legislation. In all cases, information about any sanctions/remedies that have a direct impact on the Complainant will be provided to them.
114. Where required by a professional licensing body, the results of the Investigation may also be communicated to that professional licensing body.



## SECTION IX: OUTCOMES

### SYSTEMIC AND PREVENTIVE INTERVENTIONS

115. Investigations may reveal broader issues to be addressed whether or not a finding of Discrimination and/or Harassment has been found. In such instances, appropriate educational and preventive intervention measures and/or changes to policies or practices may be recommended by the Decision-Maker.

### SANCTIONS

116. Sanctions are decided based on the merits of the case and shall be proportional to the severity of the offence. If there are mitigating and/or contextual factors in determining/implementing the sanction, the reasons shall be clearly articulated by the Decision-Maker.
117. The existence of any previous findings of Discrimination and/or Harassment will be taken into account when sanctions are determined, and the severity of sanctions may be greater as a result. Sanctions may be used independently or in combination for any single violation and may be varied.
118. Sanctions may include, but are not limited to:
- a) written reprimand;
  - b) inclusion of the decision in a specified file(s) of the Respondent, for a specified period of time;
  - c) the exclusion of the Respondent from, or oversight during, one or more designated University activities or duties;
  - d) a **No Contact Order**, which may include restrictions on: registration for specific classes, other academic or non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals;
  - e) a **Persona Non Grata (PNG)** designation, which is given to an individual who is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If PNG individuals are found or seen in the area they are denied, they will be subject to a charge by [Security Services](#) under the Trespass to Property Act;
  - f) for student Respondents, all sanctions in the [Code of Student Rights and Responsibilities](#) for findings of Discrimination and/or Harassment. These include, but are not limited to: behavioural contract, behavioural bond, suspension, expulsion, and for students in Residence: residence probation, room transfer, denial of readmission, eviction;
  - g) for staff or faculty, **Suspension or Recommendation for Suspension**, as applicable;
  - h) for staff or faculty, **Dismissal or Recommendation for Removal**, as applicable.

## REMEDIES

119. Remedies may include but are not limited to:
- a) mandatory referral to counselling;
  - b) education;
  - c) training;
  - d) coaching (e.g. one-on-one remedial human rights coaching, conflict coaching);
  - e) rearrangement or modification of the Complainant's study or employment arrangements to address the effects of Discrimination/Harassment found, e.g. permission to extend a program, leave or change in work responsibilities;
  - f) ensuring individuals are referred to appropriate support resources, as necessary;
  - g) group conflict resolution and mediation processes, focused on restoring productive and harmonious working and learning environments; and
  - h) [Restorative Justice](#) processes, that are culturally relevant.

## APPENDIX A: RELATED POLICIES AND LEGISLATION

This Policy is to be read in conjunction with the following policies, statements, and collective agreements. Any question of the application of this Policy or related policies shall be determined by the Provost and Vice President (Academic) or the Vice President (Administration) as appropriate, and in conjunction with the administrator of the other policy or policies. The University reserves the right to amend or add to the University's policies and statements from time to time (this is not a comprehensive list):

- [Academic Accommodation of Students with Disabilities](#)
- [Academic Freedom, Statement on](#)
- [Academic Integrity Policy](#)
- [Accessibility Policy](#)
- [Code of Conduct for Faculty](#)
- [Code of Student Rights and Responsibilities](#)
- [Complaint Resolution Procedure for TMG](#)
- [Conflict of Interest Guidelines: Undergraduate and Graduate Studies](#)
- [Employment Accommodation, Policy and Procedures on](#)
- [Employee/Labour Relations – Collective Agreements](#)
- [Faculty General Grievance Procedure](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Ontario Human Rights Code](#)
- [Occupational Health and Safety Act](#)
- [Personal Health Information Protection Act](#)
- Petitions for Special Consideration – see the [Undergraduate Calendar](#) / [Graduate Calendar](#)
- [Professional Behaviour Code for Graduate Learners, Health Sciences](#)
- [Professional Behaviour Code for Undergraduate Learners, Health Sciences](#)
- [Senate Resolutions re Group Conflict](#)
- [Senate Mediation Procedures](#)
- [Sexual Violence Policy](#)
- [Sexual Violence Response Protocol](#)
- [Statement on Building an Inclusive Community with a Shared Purpose](#)
- [Statement and Guidelines on Inclusive Communications](#)
- [Student Appeal Procedures](#)
- Policy on Student Groups (Recognition, Risk Assessment and Event Planning)
- [Tenure and Promotion Policy](#)
- [Violence in the Workplace, Policy on](#)

## APPENDIX B: JURISDICTION

1. Complaints may be made or Investigations initiated about any alleged violation of this Policy involving any [Community Member](#), including members of recognized groups, teams and clubs. The Policy may extend to incidents that occur off campus where there is a clear nexus to the working and/or learning environment at the University, and recognizes that social media conduct may give rise to a violation of the Policy.
2. Normally Respondents in a Complaint procedure are Community Members. If a person alleged to have violated the Policy is not currently a Community Member, the University has no jurisdiction to adjudicate the incident. However, the University reserves the right to take whatever steps it considers appropriate to safeguard the University Community and Community Members.
3. The University's responsibility to address issues, incidents, and Complaints of Discrimination and/or Harassment extends to University-related activities such as the off campus experiential learning and working environment (including, but not limited to, off-campus coursework such as fieldwork, placement, clinical placement, internship and out-of-the classroom learning experiences). However, this responsibility exists independently from the off-site/placement entity. In order to address such issues, incidents, and Complaints, the University may need to disclose information to the off-site entity on a need-to-know basis. This could include notifying the off-site entity of the outcome of the Investigation or coordinating a joint Investigation. Ideally, the University and the off-site entity will work together to address the matter. However, in the event of a disagreement or misalignment of expectations (or where there is some conflicting third party policy etc.), the University cannot force or impose a sanction on a third party, without some contractual mechanism.
4. If a jurisdictional issue arises between the University and an off-site entity or other third party, a senior officer of the third party, and the University Provost or Dean and Vice-President (Health Sciences) in conjunction with the University Vice-President (Administration), will attempt a resolution, which may include a joint investigation or an agreement to share the findings and/or other relevant outcomes with the other party. In the absence of any agreement to the contrary, the University will proceed with the investigation according to University policy and procedures.
5. Nothing in this Policy is meant to supersede the terms and conditions of any collective agreement, or any other contractual agreement, entered into by the University and its employee groups. In the event that the provisions of this Policy contradict any such collective or contractual agreement, the collective or contractual agreement governs, to the extent of the contradiction.
6. To the extent that this Policy affects the terms and conditions of employment of faculty of the University, it may be subject to discussion and/or approval in accordance with the University policy entitled, [The Joint Administration/Faculty Association Committee to Consider University Financial Matters and to Discuss and Negotiate Matters Related to Terms and Conditions of Employment of Faculty](#).
7. This Policy is not intended to supersede or interfere with the criminal justice system; all persons have the right to pursue legal avenues.

8. Should a Complainant, with respect to the subject matter of a Complaint dealt with under this Policy, seek redress under the *Human Rights Code*, the *Criminal Code*, the *Occupational Health and Safety Act*, the provisions of an applicable collective agreement, or through civil litigation, or any other forum external to the University, the appropriate Decision-Maker, in consultation with the Director, Human Rights & Dispute Resolution, will determine in the circumstances whether proceedings under this Policy will be initiated. If proceedings under this Policy have already been initiated, the appropriate Decision-Maker, in consultation with the Director, Human Rights & Dispute Resolution, will determine in the circumstances whether or not the proceedings under this Policy will:
  - a) be permanently discontinued;
  - b) be disallowed; or
  - c) be suspended until proceedings in the external or other forum are concluded, although Interim Measures may be put in place to safeguard the environments of the parties involved.
9. Incidents of violence, Sexual Violence, or threats of violence are not covered by this Policy but will be responded to in accordance with the [Policy on Violence in the Workplace](#), the [Violence Program and Guidelines](#), the [Sexual Violence Policy](#), and the [Sexual Violence Response Protocol](#).
10. As part of the University's commitment to a Discrimination and Harassment free working, studying and living environment, all external agencies, third-party service providers, and independent contractors, who do business on the University campus and are considered agents of the University and will be informed of the existence of this Policy and of the University's expectation that these external entities shall govern themselves accordingly while doing business with the University. Information to this effect shall be included in all contracts.

## APPENDIX C: GLOSSARY OF TERMS

### Academic Freedom

Please refer to the [Statement on Academic Freedom](#).

### Advisor

A person of the individual's choice who acts in an advisory role during the Complaint and Investigation process (e.g. friend, family member, union representative, legal counsel). The Advisor may be present during Investigation interviews but may not participate as a representative.

### Agent

Anyone hired by the University or working on behalf of the University such as an external investigator or a physician or other health care professional.

### Balance of Probabilities

Balance of Probabilities is the test to be met to show, by the weight of the evidence presented, that all of the facts necessary to make a Finding of Violation of the Policy have a greater likelihood of being true than not.

### Community

Includes but is not limited to, faculty, staff, postdoctoral fellows, medical residents (except in certain circumstances), students, adjunct professors, librarians, visiting professors, volunteers, visitors, observers and institutional administrators and officials representing McMaster University.

### Complainant

The individual who files a Complaint alleging a violation of the Policy for the University's response.

### Complaint

A Complaint is made when an individual completes the relevant intake form notifying an Intake Coordinator of an allegation and seeking the University's formal response.

### Confidentiality

Refers to the obligation of an individual or organization to safeguard entrusted information. The practice of confidentiality includes obligations to protect information from unauthorized access, use, disclosure, modification, loss or theft.

### Creed

Under the *Human Rights Code*, creed includes, but is not necessarily limited to religious beliefs and practices. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, worldview and way of life. The following characteristics are relevant when considering if a belief system is a creed under the *Human Rights Code*. A creed:

- is sincerely, freely and deeply held
- is integrally linked to a person's identity, self-definition and fulfilment
- is a particular and comprehensive, overarching system of belief that governs one's conduct and practices
- addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a Creator and/or a higher or different order of existence
- has some "nexus" or connection to an organization or community that professes a shared system of belief.

**Disability**

Any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device; a condition of mental impairment or a developmental disability; a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language; and a mental health disorder/illness; or an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act.

**Employee**

Where applicable, employee is used to refer to staff (see below) and faculty (see below).

**Ethnic Origin**

Statistics Canada states that "ethnic origin" refers to the cultural origins of a person's ancestors. In the *Human Rights Code*, the ground of ethnic origin overlaps with a more commonly used term, "ethnicity," which refers to a shared cultural heritage or nationality. Ethnic groups might be distinguished on the basis of cultural traits such as language or shared customs around family, food, dance and music. People who share an ethnic origin, ethnicity or ancestry may or may not share the same racial identity.

**Event (Authorized)**

Authorized events are University scheduled or University approved activities, occurring on or off University premises, e.g. public lectures, performances, placements (co-op or clinical), athletic events, work or study-related conferences/training sessions, etc. These events can include work or study-related travel. Events that are approved under the *Policy on Student Groups (Recognition, Risk Assessment and Event Planning)*, or *Field Trips and Electives Policy* are also authorized events.

**Event (Non-authorized)**

Non-authorized events are events that are not scheduled or approved by the University and may occur on or off University premises e.g. group trips that have not been approved under the *Policy on Student Groups (Recognition, Risk Assessment and Event Planning)*, drinking games in residence, house parties, etc.

**Expulsion**

Expulsion applies to student Respondents and is the loss of all academic privileges at the University for an indefinite period.

**Faculty**

Faculty are defined as those academic teaching staff and senior academic librarians who are eligible to be members of the McMaster University Faculty Association.

**Frivolous, Vexatious Complaints**

A Complaint may be considered frivolous if it does not have any serious purpose or value; is of little or no weight, worth, or importance. A Complaint may be considered vexatious if instituted without sufficient grounds and only to cause annoyance.

**Incident**

An occurrence or event.

**Interim Measures**

Steps that are taken in order to safeguard the environments of Complainants and Respondents. Interim Measures shall not be construed as evidence of either guilt or a finding of violation of the Policy, or as an affirmation of innocence or finding that no violation of the Policy has occurred.

**Issue**

A matter that may involve a dispute/disagreement, or a concern (a matter that engages a person's attention, interest, or care, or that affects a person's welfare or happiness).

**Mediation**

The act or process of mediating; especially: intervention between conflicting parties to promote reconciliation, settlement, or compromise.

**Need-to-know**

Access to information must be necessary for the performance of official responsibilities or to defend the University in any form of litigation.

**No Contact Order**

Includes restrictions on: registration for specific classes, other academic or non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals.

**Persona Non Grata (PNG)**

A designation which is given to an individual who is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If PNG individuals are found or seen in the area they are denied, they will be subject to a charge by [Security Services](#) under the *Trespass to Property Act*;

**Prima facie**

A Prima facie case is one in which, if the information provided is assumed to be valid and credible, **may** be sufficient to find that Discrimination and/or Harassment has occurred.

**Recommendation for Removal**

A recommendation for removal of a faculty Respondent shall be dealt with in accordance with Section VI of the [Tenure and Promotion Policy](#) and the common law where applicable.

**Recommendation for Suspension**

A recommendation for suspension of a faculty Respondent shall be dealt with in accordance with Section V of the [Tenure and Promotion Policy](#) and the common law where applicable. Suspension involves relieving the Respondent of their University duties and denying them access to University facilities and services for a stated period of time, and may be with or without pay and/or benefits as recommended by a Tribunal and determined by the President.

**Reprisal**

An act of retaliation; this may include, but is not limited to, adverse actions by a person who has the authority to confer, grant or deny a benefit or advancement to the person filing a Complaint



## Respondent

Those about whom allegations have been made in a Complaint process.

## Restorative Justice

Restorative Justice is an outcome following the determination of finding and focuses on restoring the losses suffered, holding Respondents accountable for the harm they have caused, and building peace within communities. This process can be facilitated by any of the Intake Offices.

## Sexual and/or Gender-Based Harassment

Sexual and/or Gender-Based Harassment includes, but is not limited to:

- a) any reward/promise of reward, whether explicit or implicit, for complying with a sexual solicitation or advance; demands for dates or sexual favours; or propositions of physical intimacy;
- b) any reprisal or threat of reprisal, whether explicit or implicit, for refusing to comply with any sexual solicitation or advance;
- c) any form of sexual exploitation, or conduct that takes non-consensual sexual advantage of someone;
- d) unwelcome sex or gender-related comments about a person's physical characteristics, mannerisms, gender identity or expression;
- e) sex or gender-related verbal abuse, threats or taunting;
- f) Workplace Sexual Harassment; and
- g) any other comment or conduct associated with sex, sexual orientation or gender (including gender identity or expression) that is known or should be known to be offensive, embarrassing, humiliating, demeaning, intimidating, or isolating to an individual or group.

## Staff

Employees of the University including, but not limited to, The Management Group (TMG), Unionized Employees, Temporary/Casual, non-teaching staff, Sessional Faculty, Post-doctoral Fellows, Teaching Assistants, and part-time Clinical Faculty.

## Students

A student is any individual recorded by the University Registrar as enrolled in an educational course of study recognised by the Senate and for whom the University maintains education records.

## Supervisor

Within the University Community there are various types of supervisors, which include the following:

- **Academic Supervisor** who oversees the academic work of a student, the most common example being a faculty member overseeing a graduate student's academic work;
- **Academic Administrator** is any faculty or staff member acting in their capacity as supervisor/administrator within a Faculty, Academic Department, etc., which includes, but is not limited to, Department Chairs, Deans, or other supervisors who oversee the work of a [Community Member](#) (e.g. a faculty member overseeing a Post-Doctoral fellow / technician / undergraduate or graduate student performing research in the faculty member's laboratory).
- **Workplace Supervisor** is "a person who has charge of a workplace or authority over a [Worker](#)" (*Occupational Health and Safety Act*). Supervisors are responsible for knowing the [Duties of Supervisors](#) under the Act.

**Support**

The provision of resources appropriate to the individual and the circumstances. This may include access to the Student Wellness Centre, Employee Family Assistance Program, McMaster Students Union (MSU). Support resources do not include the provision of legal counsel.

**Suspension**

Relieving the staff Respondent of their University duties and denying them access to University facilities and services for a stated period of time, and may be with or without pay and/or benefits. Suspensions shall be dealt with in accordance with established policies and procedures and by the terms of existing contracts of employment or collective agreements and the common law where applicable. For a student Respondent, suspension is the loss of all academic privileges at the University for a specified period of time and/or until imposed conditions are met. The student is eligible to return after this time but may be required to fulfill specified non-academic conditions upon return.

**Systemic Discrimination**

Policies, practices and institutional procedures which, deliberately or not, have the effect of creating or perpetuating disadvantage and discrimination against identifiable groups on grounds prohibited by the *Human Rights Code*.

**University**

“University” means McMaster University and its designates, the Board of Governors of McMaster University, or any officers authorized to act on behalf of the Board.

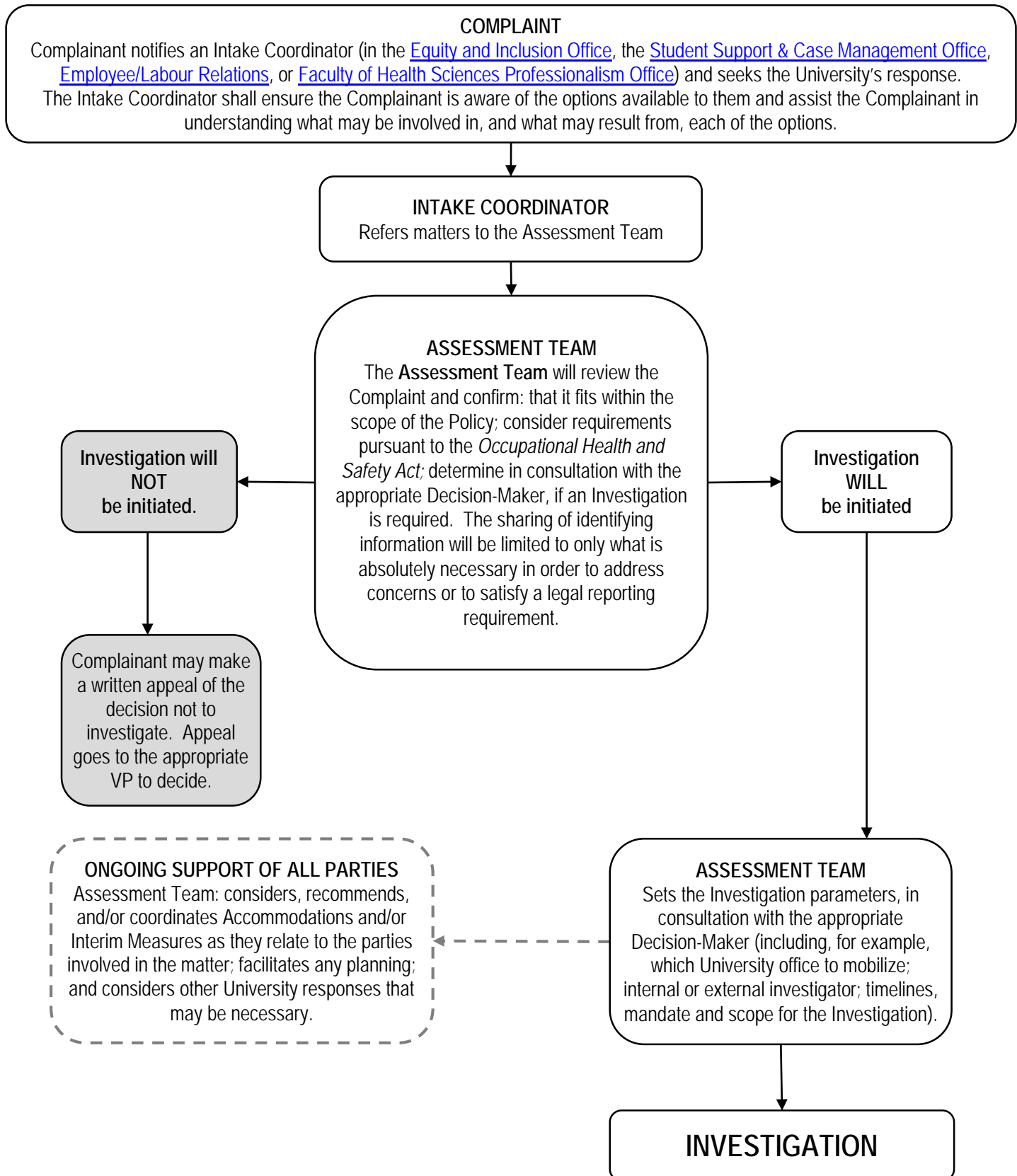
**Violence Risk Assessment Team**

The Violence Risk Assessment Team is a sub-committee of the Crisis Management Group. This team takes a multi-disciplinary approach to assessment, investigation, and response to reports of behaviour that is of potential concern or threat to the University community. The team is made up a diverse population of the campus including representation from Human Resources, Health and Safety, Academics, Dean of Students and Student Affairs.

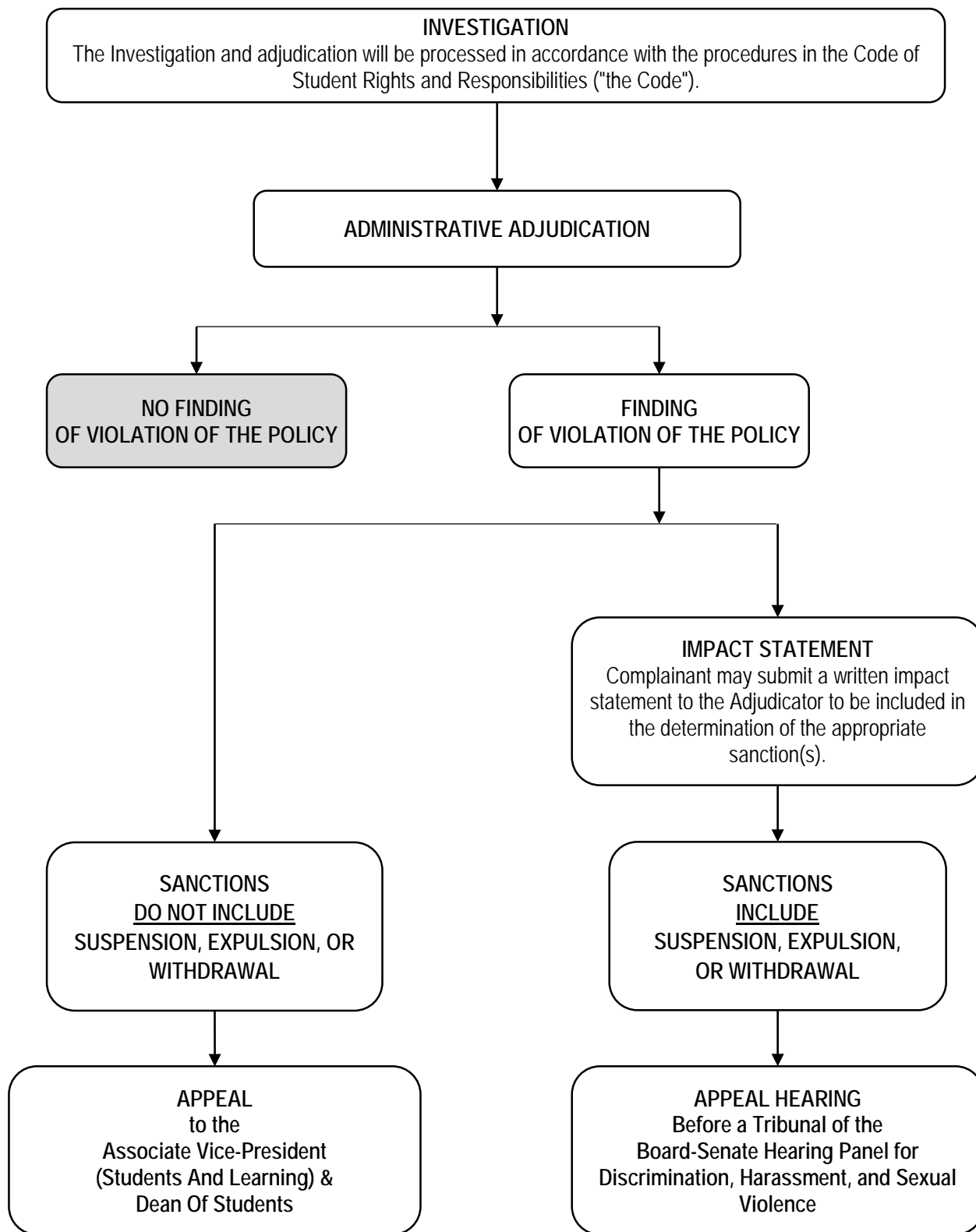
**Worker**

The definition of a Worker includes: a person who performs work or supplies services for monetary compensation; and a person who performs work or supplies services for no monetary compensation under a program approved by a college of applied arts and technology, university or other post-secondary institution. Unpaid students, learners and trainees who are workers under the Occupational Health and Safety Act have the same duties and rights as paid workers. Placement employers have the same duties to protect the health and safety of unpaid students, learners or trainees who are workers under the Occupational Health and Safety Act as they do to protect their paid workers. The definition of “worker” does not include a volunteer who works for no monetary payment of any kind.

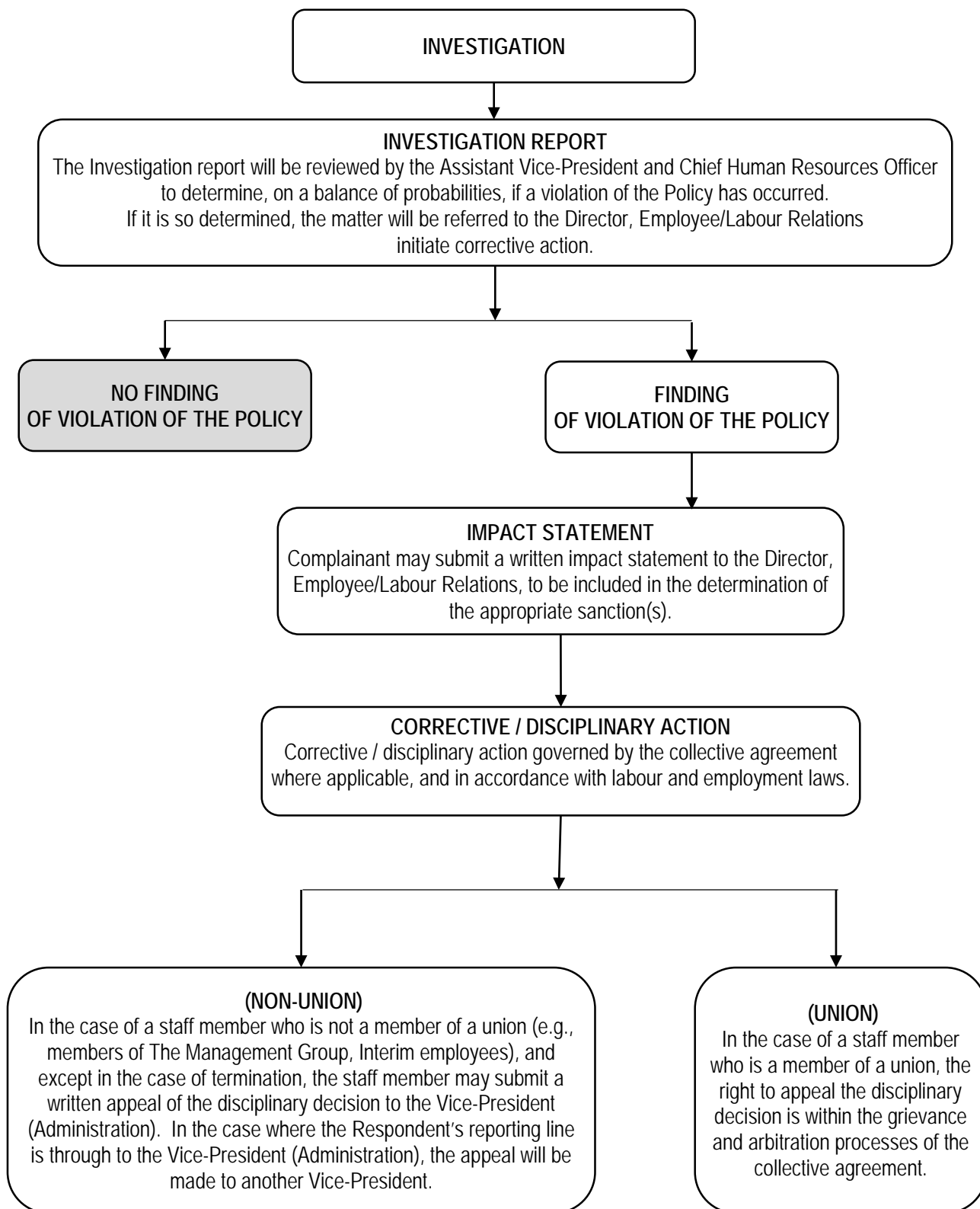
APPENDIX D: FLOWCHARTS



# STUDENT RESPONDENT



# STAFF RESPONDENT



# FACULTY RESPONDENT

