

Workplace Violence and Harassment Policy

Category: Operations

Approval: PVP

Responsibility: Vice-President, Human Resources

Approval Date: June 19, 2007; Revised December 2, 2016; March 4, 2024

Definitions:

Workplace Violence is defined as:

- the exercise of physical force by a person against any worker in the workplace that causes or could cause physical injury to that worker;
- an attempt to exercise physical force against any worker in the workplace that could cause physical injury to that worker, and
- a statement or behaviour that it is reasonable for a person to interpret as a threat to exercise physical force against them or someone else in the workplace, that could cause physical injury to a worker.

Workplace: Any location at which Trent-sanctioned activities occur, including all Trent owned, rented, and leased properties and all other locations, such as field research locations or placements, where the academic and administrative activities of the university take place.

Domestic Violence: The exercise, attempt or threat to exercise physical force against any person in the workplace by another person who has or had a personal relationship with the first person, such as a spouse or former spouse, current or former intimate partner, or a family member.

Workplace Harassment: Is defined as engaging in a course of vexatious comment or conduct against any person in the workplace that is known, or ought reasonably be known, to be unwelcome, or sexual harassment. A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

Sexual harassment is defined as:

- (a) engaging in a course of vexatious comment or conduct against another 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
- (b) making a sexual solicitation or advance 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;

Sexual Misconduct means non-consensual physical sexual relations with an individual, touching of a sexual nature of an individual, or behaviour or remarks of a sexual nature toward the individual by

another, where the act constitutes an offence under the *Criminal Code*, a breach of clause 7(3) of the *Human Rights Code*, or a breach of any other Trent University policy or relevant Collective Agreement.

Sexual Violence means any sexual act or act targeting a person's sexuality, gender identity, or gender expression, whether the act is physical or psychological in nature, that is committed, threatened, or attempted against an individual without the individual's consent, and may include indecent exposure, sexual assault, sexual exploitation, sexual harassment, stalking, stealthing, and voyeurism.

Supervisor is defined as anyone who has charge of a workplace or authority over a worker. This includes lead hands, College Residence Life Coordinators (CRLCs), supervisors, managers, directors, associate vice-presidents, department chairs, deans, principle investigators, instructors, vice-presidents, and the president.

Supportive Person: means a person selected by either the complainant or respondent to assist them throughout the complaint process. Supportive persons are required to uphold confidentiality and are not permitted to intervene and/or disrupt the process. The complainant or respondent to a complaint may choose to obtain legal counsel or advice at their own expense. Such legal advisors (for non-unionized employees) may attend meetings as supportive persons but cannot act as legal representatives.

Bargaining Agent Representation: A complainant or respondent who is a member of a collective bargaining unit is encouraged to consult with their bargaining agent about a complaint. Bargaining agent representatives shall accompany the member in any meeting or related proceedings under this policy, in addition to any supportive person designated by the individual.

Vexatious complaint: A complaint that is trivial, frivolous, malicious, made in bad faith or contains allegations that the complainant knows to be false. A vexatious complaint in itself is considered harassment and is subject to sanctions.

Purpose/Reason for Policy:

Trent University is committed to providing a safe and welcoming environment, in which all members of the Trent Community are treated with respect and dignity. The purpose of this policy is to define Trent's commitment to addressing workplace violence or threats of violence and harassment.

Scope of this Policy:

This policy applies to all individuals in the workplace and addresses workplace violence and harassment from and towards all sources including employees, students, volunteers, contractors and visitors on Trent property.

Policy Statement:

Workplace violence and harassment will not be tolerated at Trent University. Trent will take all reasonable steps to protect all individuals in the workplace from violence and harassment and will respond appropriately to all incidents and complaints in a fair and timely manner, respecting the privacy of all concerned unless disclosure of identifying information is necessary for the purposes of protecting all individuals in the workplace, investigating or taking corrective action with respect to the incident or complaint, or as otherwise required by law. Individuals who commit workplace violence and harassment may be subject to disciplinary action, criminal penalties, or both.

Responsibilities:

All students, staff, faculty, contractors, and visitors at Trent University share the responsibility to create and maintain an environment free from violent and harassing behaviour, and are encouraged to report workplace violence and harassment when they witness or experience it.

Students, staff and faculty who experience workplace violence or harassment may obtain support and assistance from their Supervisor, Student Affairs, bargaining agent, Joint Health and Safety Committee member, Human Resources, Centre for Human Rights, Equity and Accessibility, Campus Safety or the Employee Assistance Program.

Supervisors have overall managerial and leadership responsibility for ensuring a workplace that is free of violence and harassment. This includes leading by example in matters of appropriate workplace behavior, implementing workplace violence and harassment awareness and prevention training programs, responding appropriately to any incidents and reports, and maintaining a positive ethical climate.

Supervisors are to refer complaints of sexual violence or sexual harassment to one of the offices listed below:

- Campus Safety
- Centre for Human Rights, Equity and Accessibility
- Human Resources

Supervisors are responsible for bringing forward concerns of possible workplace violence to Campus Safety. Campus Safety will then conduct a Threat Assessment as required.

When the supervisor cannot resolve a complaint of workplace violence or harassment, the complaint shall be referred to any one of the Director, Human Resources or the Director of Risk Management and Campus Safety, or Director of Equity, Diversity, and Inclusion, who will determine who shall investigate and recommend resolution of the complaint.

Campus Safety is responsible to respond to and resolve incidents of workplace violence, document reports of campus violence or harassment made to them and advise the Director of Risk Management and Campus Safety.

The Director of Risk Management and Campus Safety is responsible to conduct an annual Violence Threat Assessment for Trent and ensure the Joint Health and Safety Committee receives a copy. When advised of an incident or behaviour that may escalate to violence, they will convene and chair a Threat Assessment Team. The Director, Campus Safety will ensure the Joint Health and Safety Committee is consulted whenever this policy is reviewed or amended. The Director, Campus Safety will ensure training on this policy is made available to all employees.

Reprisal:

Every individual has the right to raise an issue or complaint of violence, harassment, sexual misconduct or sexual violence, and to participate or cooperate in any investigation under the Policy, without fear of retaliation or reprisal. Retaliation and reprisals are prohibited against any individual who, in good faith, has made a complaint or participated in an investigation under this policy.

Frivolous or Vexatious Complaints:

The University retains the right to not proceed where there is sufficient evidence that a complaint is frivolous or vexatious, and in such cases may impose sanctions and remedies that it deems appropriate.

Resolution Procedures:

The mechanisms to address issues that fall within the jurisdiction of this Policy are outlined in the Workplace Harassment Response Procedure and Workplace Violence Response Procedure. Harassment complaints under this policy will normally be managed by the Director, Human Resources. Harassment complaints on the basis of prohibited grounds under the *Human Rights Code* will normally be managed by the Director of Equity, Diversity, and Inclusion. Complaints of violence under this policy will normally be managed by the Director, Risk Management and Campus Safety. If the respondent is a student, the AVP Students will be advised and will determine and implement any corrective action that may be required.

Contact Officer:

Director, Risk Management

Date for Next Review:

Annually in August

Related Policies, Procedures & Guidelines

- (a) Workplace Violence and Harassment Procedure
- (b) Threat Assessment Team Protocol
- (c) Annual Violence Risk Assessment
- (d) Campus Violence Reporting and Response Protocol
- (e) Trent University Policy on Discrimination and Harassment
- (f) Sexual Violence Prevention and Response Policy
- (g) Student Charter of Rights and Responsibilities

Policies Superseded by This Policy:

- a) Not Applicable

Workplace Violence and Harassment Response Procedure

Associated Policy: Workplace Violence and Harassment Policy

Contact Person: Director, Human Resources

Date: March 2024

Purpose:

The purpose of this procedure is to outline the action(s) to be taken when an individual (e.g. employee, student, volunteers, contractor, or visitor) experiences violence or harassment, including sexual violence, sexual misconduct, or sexual harassment, in a Trent workplace.

The University will ensure that an investigation appropriate to the circumstances is conducted when made aware of any incident(s) of workplace violence or harassment. Complaints of violence or harassment may be resolved through the informal resolution process or the formal complaint process, as set out below.

Procedures:

Do not ignore threatening, harassing, or violent behaviour. If you witness or experience violence, threats of violence, or harassment or if you feel that a colleague, student, or someone else on a Trent workplace is likely to become violent, take the actions as outlined below.

1 Steps for individuals upon experiencing violence or harassment:

- If you believe that you or anyone else is in immediate danger, call 911 then contact Campus Security at 705-748-1333 (Peterborough), 905-435-5111 (Durham, main campus), or 905-435-5123 (Durham, ALC) at once.
- If you experience harassment, but believe that the situation could be resolved through discussion with the individual(s) engaging in the harassing behaviour, you are encouraged to inform the offending party(ies) of the nature of the distress you have experienced, and provide them with an opportunity to discontinue the behaviour, apologize, or respond to your concerns and thereby resolve the issue(s) in question.
- If you believe that addressing the offending party(ies) could lead to escalation of the unwanted behaviors, or create additional safety risks, or if a power differential limits your ability to express concerns, you should report the situation to your immediate supervisor, student affairs, human resources, campus security, or the Centre for Human Rights, Equity and Accessibility. You may also seek assistance from your bargaining agent. Depending on the nature of the complaint, the issue will be managed by Human Resources, Student Affairs, Campus Safety, and/or Human Rights.

2 Cases of Sexual Harassment, Sexual Violence, or Sexual Misconduct:

In cases of sexual harassment, sexual violence or sexual misconduct, complainants are advised to report their situation to one of the following offices which have specially trained officers to receive disclosures or reports in a supportive manner that focuses on facilitating positive outcomes for the complainant:

- Human Resources
- Centre for Human Rights, Equity, and Accessibility
- Campus Safety
- Consent at Trent

The offices of Human Rights, Campus Safety, Student Affairs, and/or Human Resources will assess the information provided and determine whether a Threat Assessment should be conducted.

3 The Resolution Process:

The complainant will have an intake meeting with the person receiving the complaint to discuss options for its resolution.

In addition to recording specific facts relating to any incidents giving rise to the complaint, the person receiving the complaint will determine whether the issue is most appropriately addressed through this policy the, *Discrimination and Harassment Policy*, another University policy, or Collective Agreement. The person receiving the complaint will also advise the complainant on the possibilities for resolving their situation through informal means (described more fully below) without recourse to filing a formal complaint.

3.1 Option 1: Voluntary Informal Resolution Procedure

Informal resolution is a voluntary option that is intended to help parties settle disputes on mutually agreeable terms. This is a low risk option that allows the parties to determine and implement their own solution and may be more likely to preserve relationships than filing a formal complaint.

3.1.1 Documentation of Events

Complainants are encouraged to document the events, complete with times, dates, location, witnesses, and details and preserve any evidence such as e-mails, social media postings, text messages, etc.

3.1.2 Options for Resolution

Options for resolution include conflict coaching, interest-based negotiation, facilitated dialogue, impact circle, formal mediation, and shuttle diplomacy. More information on these techniques is available from Human Resources or the Centre for Human Rights, Equity, and Accessibility. Either party has the right to refuse informal resolution methods if they so choose.

3.1.3 Communication of Resolution

If the matter is resolved through the informal resolution process, a summary of the resolution and any corrective action will be communicated to the complainant and respondent in writing. If the matter is not resolved the complainant may elect to file a formal complaint.

3.2 Option 2: Formal Complaint Procedure

3.2.1 Formal Complaint

Complainants are expected to file their complaint as soon as possible after the incident(s) giving rise to the complaint has occurred. A complaint that is filed more than five months after the last incident giving rise to the complaint will not be processed, except where the delay beyond 5 months was incurred in good faith and no substantial prejudice exists such that proceeding with the complaint would deprive the respondent(s) of a fair opportunity to respond to the complaint.

To file a formal complaint, a complainant must provide a letter of complaint that contains:

- Name(s) of the complainant(s) and contact information;
- Name of the alleged harasser(s)/ respondent(s), position and contact information (if known);
- Names of the witness(es) (if any) or other person(s) with relevant information to provide about the incident (if any) and contact information (if known);
- Details of what happened including date(s), frequency and location(s) of the alleged incident(s);
- Any supporting documents the complainant may have in their possession that are relevant to the complaint; and
- A list of any documents a witness, another person or the alleged harasser may have in their possession that are relevant to the complaint.

3.2.2 Complaints with student respondents should be filed with Student Affairs and complaints with employee respondents should be filed with Human Resources: the department receiving the complaint will then route it appropriately, with complaints involving discrimination or harassment on prohibited grounds generally being handled by the Centre for Human Rights. Hereafter the individual assigned to the complaint shall be termed the “University agent” for the purpose of the handling and disposition of the complaint.

3.2.3 Review of the Complaint

The University agent shall review the complaint, obtain any necessary clarifying information, and determine:

- i. If the situation poses a threat to anyone’s personal safety. If so, the person receiving the complaint shall contact Campus Safety, which may conduct a Threat Assessment if deemed appropriate;
- ii. What remedy would be acceptable to the person experiencing the behaviour;
- iii. Whether the behavior falls under this policy or another University policy. If this is not the most appropriate policy, the person receiving the complaint shall advise the complainant of the proper policy and process for resolution;
- iv. Consider the circumstances of the complaint and determine whether interim measures should be put in place which may include temporary suspension or relocation pending the outcome of the investigation.

3.2.4 Delivery of the Complaint to the Respondent

The University agent shall provide a written copy of the complaint to the respondent and, if the respondent is a member of a bargaining unit, advise them of their right to share all information in their possession related to the complaint with their bargaining unit representative and to seek assistance and counsel respecting their rights under the applicable collective agreement. Respondent's should also be advised promptly of any changes or additions to the formal complaint that may arise.

3.2.5 Notification to the Respondent's Bargaining Unit

When a respondent is a member of a bargaining unit, the University agent shall notify the bargaining unit representative that a complaint has been filed against the member. The notice shall not contain any details other than the date of the complaint, the respondent's identity, and any security concerns or restrictions relating to communications with the respondent.

3.2.6 Written Response to the Complaint

The respondent will have ten (10) business days to provide a written response to the complaint, a copy of which will be provided to the complainant and the investigator.

3.2.7 Appointment of an Investigator

The University agent will take the appropriate steps to appoint a suitable investigator who has not otherwise been involved in the handling of the complaint. In determining the appropriate individual to appoint as an investigator, the following factors will be considered:

- i. Could there be perceived bias if a university staff member conducted the investigation?
- ii. Is the investigation in response to threatened litigation?
- iii. Whether or not available internal investigators are within the complainant's or respondent's reporting structure.
- iv. Do any of the potential investigators have another connection to the respondent or complainant that could create a perception of bias?
- v. If this is a sexual harassment complaint, is the investigator qualified to conduct sexual harassment investigations?

3.2.8 The University agent shall:

- i. Ensure the investigator reviews and understands this policy;
- ii. Ensure that the investigator shall make every effort to complete the investigation within thirty (30) working days of receiving the complaint and response;
- iii. Advise the investigator whether recommendations for corrective action are required;
- iv. Provide a copy of the complaint and response, contact information and report due date. The Director, HR or AVP, Students will keep the original versions of these documents; and
- v. Arrange administrative support for the investigation.

3.2.9 Cooperation in the Investigation

Complainants and respondents are required to cooperate with the investigator.

3.2.10 The Investigation Process

The investigator will conduct a fact-finding investigation. The investigation process will involve collection of evidence and interviews with the complainant, the respondent, and any witnesses the investigator deems necessary.

The investigator will review the written complaint and the respondent's written response (if provided) and arrange interviews with the complainant and respondent.

3.2.11 The investigator will:

- i. Explain the process and timelines to the parties and advise that all parties are expected to respect confidentiality;
- ii. Ask questions pertaining to the allegations;
- iii. Allow the parties to provide any additional information that may clarify the issues;
- iv. Take detailed notes; and
- v. Advise the parties that reprisals are prohibited and will result in disciplinary action.

Due to the sensitive nature of a harassment or violence allegation, the investigator will only interview witnesses if necessary to corroborate facts or to establish a pattern of behaviour to help assess whether harassment or violence occurred on the balance of probabilities. Witnesses will be advised that their names will not be released to the complainant or respondent unless necessary to provide the context needed for the respondent to fairly answer a question or as required by legal proceedings. The content of witness statements will be protected to the extent required by, or permitted by, freedom of information and privacy legislation.

The investigator will advise all parties to the investigation that, while the investigation is on-going, the individual who has allegedly experienced harassment or violence, the alleged offender(s) and any witnesses shall not discuss the complaint, incident or the investigation with other individuals or witnesses with the exception of their bargaining unit representative or legal counsel, with their medical care-providers, including therapists, with their supporting person, or unless required by law.

3.2.12 Written Report of Investigation Findings

Once the investigator has completed the fact-finding investigation, they will prepare a written report of their factual findings. The report shall be provided along with recommendations, if requested, to the University agent.

The report shall normally be provided within thirty (30) working days of the filing of the written complaint.

3.2.13 Determination of Breach of Policy

The University agent shall review the investigation report for completeness. If the findings are not conclusive, the person receiving the complaint may ask the investigator to extend and expand the investigation. The complainant and respondent will be advised that the investigator has five additional working days to complete the report.

Once the report is complete, the University agent shall review it and determine whether a University policy has been breached based on a balance of probabilities.

If the allegations are determined to be unfounded, the University agent may make a further finding as to whether the allegations constituted a vexatious complaint.

3.2.14 Determination of Corrective Action

If the University agent determines that corrective action is warranted, they will consult with the relevant employment supervisor(s), Human Resources, or Student Affairs as appropriate to consider possible corrective action(s) and how best to resolve the situation. In doing so, they will consider:

- The remedies sought;
- Whether the respondent has any previous history of harassment or violence;
- In the case of a vexatious complaint, whether the complainant has any previous history of vexatious complaints or harassment;
- The provisions of the applicable Collective Agreement or Human Resources Policies (employees) or the Student Charter of Rights and Responsibilities and/or Sexual Violence Prevention and Response Policy (Students);
- Whether there is any indication of a medical reason for the behaviour, or whether any other accommodation is required in accordance with the applicable human rights legislation and policies;
- Whether the respondent poses a threat to themselves or others; and
- Any other mitigating factors, such as provocation.

Corrective action may include training, but any disciplinary actions resulting from a complaint under this policy must be handled in accordance with Trent Human Resources policies, the relevant Collective Agreement (for unionized employees) and/or the Student Charter of Rights and Responsibilities and/or Sexual Violence Prevention and Response Policy (for students).

Should an employee of the University be terminated as a result of being found to have engaged in sexual misconduct in relation to a student, the termination shall be considered to be with just cause, and the employee shall not be eligible for pay in lieu of notice or severance, nor shall they be eligible for re-employment at the University.

3.2.15 Summary of Findings

The University agent will meet separately with the respondent and complainant and their respective supervisors as warranted to advise them of the outcome of the complaint and that any reprisals will result in disciplinary action. The University agent's decisions will also be provided to the complainant and respondent in writing following that meeting.

3.3 Appeal on grounds of Procedural Error or New Evidence

Either the complainant(s) or respondent(s) may appeal the outcome of an investigation on the grounds of procedural error or if significant new evidence has become known after the final report but before the expiry of the appeal period. Appeals must be submitted in writing, within ten (10) working days of receiving the decision, to the University agent who will refer the appeal to the Vice President, Human Resources. If the Vice President, Human Resources, or the President, was a party to the complaint process, the appeal will be referred to the Chair or Vice-Chair of the Board of Governors which is substituted accordingly.

3.3.1 Review of Appeal

The Vice President, Human Resources receiving the referral will review the appeal submission, the investigation report and the decision, and will issue a decision on the appeal within fifteen (15) working days of receipt.

3.3.2 Extension of timelines

Timelines under this appeal procedure may be extended in good faith by the Vice President and such extension will be communicated in writing to the appellant(s), all other parties to the complaint, and the person receiving the complaint.

3.4 Monitoring the Effectiveness of Corrective Action

The relevant employee supervisor(s), Human Resources, and/or Student Affairs will monitor the effectiveness of any corrective actions imposed, and may take additional actions should any behaviours identified in the process as inappropriate continue.

3.5 Retention of Records

The following documents will be retained in a central Human Resources file for two years. They will not be disclosed unless necessary to investigate an incident of harassment or violence, take corrective action or as otherwise required by law:

1. a copy of the complaint or details about the incident;
2. a record of the investigation including notes;
3. copy of witness statements, if taken;
4. a copy of the investigation report, if any;
5. a copy of the results of the investigation that were provided to the worker who reported workplace harassment and the alleged harasser; and
6. a copy of any corrective action taken to address the complaint or incident of workplace harassment.

Where a complaint has not been substantiated, no reference will be placed in any personnel or student file.

Notes and reports relating to informal complaints and mediations will be retained in a central file for two years.

Where a formal investigation results in disciplinary sanctions for an employee or student, documentation will be placed in the personnel or student file.

3.6 Reprisal

Retaliation and reprisal are strictly prohibited. Any retaliation against the complainant will be treated as a new incident of harassment and may be subject to disciplinary action, up to and including termination, in accordance with the relevant policy or Collective Agreement.

3.7 Confidentiality

The University and all parties to a complaint will treat all information relating to a complaint as confidential, subject to the following exceptions: where disclosure is required to investigate and/or resolve a complaint consistent with this policy, where disclosure is made to the complainant's or

respondent's bargaining unit, or where disclosure is otherwise required by law or under Trent's Campus Violence and Harassment Policy or Discrimination and Harassment Policy.

Date for Next Review:

July 2025