



STATEMENT ON **PROHIBITED DISCRIMINATION**



**DALHOUSIE
UNIVERSITY**

Inspiring Minds

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PREPARED BY

**Office of Human Rights,
Equity & Harassment Prevention**

Dalhousie University is committed to safeguarding its students and employees against all forms of prohibited discrimination in the course of work or study or participation in University-sponsored organizations, activities and programs.

The University operates in accordance with the *Nova Scotia Human Rights Act*. The *Act* prohibits discrimination in certain activities including the provision of or access to services and facilities, accommodation, publications and employment. Discrimination is defined as making “a distinction, whether intentional or not, based on a characteristic, or perceived characteristic . . . [see list below] that has the effect of imposing burdens, obligations or disadvantages on an individual or class of individuals not imposed upon others or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society.” The *Act* prohibits discrimination based on the following grounds or characteristics:

- (i) age
- (ii) race
- (iii) colour
- (iv) religion
- (v) creed
- (vi) sex
- (vii) sexual orientation
- (viii) physical disability or mental disability
- (ix) an irrational fear of contracting an illness or disease
- (x) ethnic, national or aboriginal origin
- (xi) family status
- (xii) marital status
- (xiii) source of income
- (xiv) political belief, affiliation or activity
- (xv) association with an individual or a class of individuals having characteristics referred to in (i) to (xiv)

The *Human Rights Act* contains provisions which exempt the application of the *Act* in certain circumstances; these exemptions include bona fide qualifications, reasonable limits prescribed by law, mandatory retirement, affirmative action programs and other exemptions stated in the *Act*. These exemptions apply at Dalhousie and are reflected in collective agreements, the Federal Contractors' Program, affirmative action programs approved by the Nova Scotia Human Rights Commission and other University policies and initiatives.

Some Dalhousie collective agreements define additional characteristics, on the basis of which members of the employee group in question shall not be subject to discrimination.

Harassment based on any of the above grounds is considered a form of discrimination and therefore is prohibited under the Act. In the case of employees, this will normally fall under the prohibition of discrimination in employment. With respect to students, the applicable provision of the Act is that which prohibits discrimination in the provision of access to services or facilities. The Act also explicitly prohibits sexual harassment, and Dalhousie University has a separate policy on sexual harassment.

Dalhousie is committed to addressing complaints of discrimination at the University. Students and employees who experience prohibited discrimination in the course of work or study or participation in University-sponsored organizations, activities and programs are encouraged to bring forward complaints as soon as possible after the events which gave rise to the complaints. Employees should make their complaints known to the Administrative Head of their unit or to the Human Rights & Equity Advisor. Students should make their complaints known to the Dean of the Faculty in which they are enrolled or to the Vice-President (Student Services). Complaints against employees of the University will be addressed according to the Statement on Prohibited Discrimination Complaints Procedure using informal resolution alternatives or a formal process. Complaints of discrimination by students will be addressed through the Code of Student Conduct. Where it is determined that prohibited discrimination has occurred, appropriate remedial or disciplinary action will be implemented in accordance with any relevant collective agreement, policy handbook, Code of Student Conduct or other applicable process for employees and students.

Should a complainant not be satisfied with the way his or her complaint has been addressed by the University, he or she can utilize the complaint procedures of the Nova Scotia Human Rights Commission.

Complaints of sexual harassment should be addressed to the Advisor, Harassment Prevention/Conflict Management in accordance with the provisions of the University's Sexual Harassment Policy.

Notwithstanding the existence of this policy, every person has the right to seek assistance from the Human Rights Commission or when a criminal act is involved, the police, even when actions are being taken under this policy.

Statement on Prohibited Discrimination Procedure for Complaints against an Employee of the University

1. This procedure applies in any case where the respondent is an employee of the University.
2. If a complaint relates in whole or in part to the complainant's Administrative Head, all functions and responsibilities otherwise assigned to the Administrative Head under this complaints procedure shall be discharged by the relevant Vice-President. If the complaint relates in whole or in part to the relevant Vice-President, all functions and responsibilities otherwise assigned to the Administrative Head under this complaints procedure shall be discharged by the President. If the complaint relates in whole or in part to the President, all functions and responsibilities otherwise assigned to the Administrative Head under this complaints procedure shall be discharged by the Chair of the Dalhousie Board of Governors.

Initial Allegations

3. A student or employee who believes that s/he has been discriminated against by an employee in violation of the University's Statement on Prohibited Discrimination should raise her/his allegations of discrimination (including harassment) with either (a) the Administrative Head (Dean/Administrative Director) responsible for her/his work or study unit, or (b) the Human Rights & Equity Advisor. If the Administrative Head is the point of first contact, s/he shall immediately advise the Human Rights & Equity Advisor of the informal complaint. If the Human Rights & Equity Advisor is the first point of contact, s/he shall advise the Administrative Head. [The Vice-President Student Services shall be advised when the complainant is a student.]
4. The Human Rights & Equity Advisor shall determine whether the allegations are
 - (a) within the jurisdiction of the Statement of Prohibited Discrimination and its related process,
 - (b) provide a cause for action if the facts as stated are correct,
 - (c) whether the substance of the complaint is being heard, or has already been heard by another University Officer, or through another University procedure, or
 - (d) not supported by any evidence.

5. Provided the Human Rights & Equity Advisor agrees that the matter may proceed further, having considered the factors in paragraph 2, the Human Rights & Equity Advisor will then advise the complainant of the procedural options available to her/him to resolve the complaint informally. Where the Human Rights & Equity Advisor considers it to be appropriate in the circumstances, s/he will make recommendations to the responsible University official for the temporary relocation of any party to a complaint pending final resolution. Any appeal of the Human Rights & Equity Advisor's decision that a matter may not proceed further shall be referred to and decided by the appropriate Vice-President.

Informal Resolution Alternatives

6. The Human Rights & Equity Advisor will advise the complainant of the following informal resolution options:
 - (e) The complainant may wish to directly advise the respondent that her/his behavior is unwelcome and unwanted, and that the behavior must stop;
 - (f) The complainant may wish to write a letter to the respondent describing the offending behavior, the impact of the behavior and the complainant's request the behavior stop;
 - (g) The complainant may wish to pursue informal mediation or the use of neutral intervenors who will attempt to bring the parties to a mutual resolution of the matter, either as a go-between facilitator or possibly, with the agreement of both parties, by facilitating a face-to-face meeting between both parties;
 - (h) A referral for counseling and advice for either or both parties.
7. If the complainant wishes to pursue informal mediation or the use of neutral intervenors, the Human Rights & Equity Advisor will arrange a meeting with the alleged respondent and will make her/him aware of the complainant's allegations and desire that any such behaviour stop. The Human Rights & Equity Advisor shall then seek the cooperation of the respondent in attempting to resolve the concerns through informal mediation/intervention.
8. The Human Rights & Equity Advisor may act as mediator/intervenor. Where the matter involves an employee-employee relationship, the parties to the informal complaint shall have the option of selecting an employee mediator/intervenor to assist them resolve the complaint. Where the matter involves a student-employee relationship, the parties may agree on a single employee mediator or may opt to involve two mediators, one from an employee list of mediators and the other from a student list of mediators.

9. A pool of trained mediators (both student and employee) shall be appointed from time to time by the President.
10. The Human Rights & Equity Advisor will coordinate the involvement of the mediators and monitor the progress towards final resolution of the informal complaint.
11. Where the matter cannot be resolved informally, or where the complainant does not wish to avail himself or herself of the options listed in paragraphs 6 – 10 above, then the complainant may decide to pursue the formal complaint process.

Formal Complaint Process

12. The formal complaint should be lodged with the Administrative Head responsible for the area in which the alleged discrimination is occurring. The Administrative Head should then notify and consult with the Human Rights & Equity Advisor.
13. An investigation will then be undertaken.
14. “Normally within 10 working days of receiving a complaint the Administrative Head shall deliver a copy of the statement of complaint and a copy of this policy to the employee(s) against whom the allegations were made (respondent(s)). The respondent(s) shall then have 10 working days to respond in writing. If there is no action on the respondent’s part then the complaint process will still proceed. The time limits may be extended by the Administrative Head where circumstances warrant, having regard to the severity of the allegation(s).
15. A complaint must be filed within twelve months of the last alleged instance or the action or conduct. An additional period of not more than twelve months may be granted in exceptional circumstances by the Office of Human Rights, Equity and Harassment Prevention.
16. For each case, there will be an investigator. The administrative Head shall confer with the appropriate Vice-President about the appointment of the investigator. The Vice-President shall appoint the investigator. In some instances, an external investigator may be appointed. External investigators will normally have legal training and be experienced in conducting workplace investigations, particularly in response to allegations of discrimination.

The purpose of any investigation is to provide information to the responsible Administrator(s) charged with making sound institutional decisions about issues arising under the Statement on Prohibited Discrimination.

17. The investigator will prepare a written report that includes an opinion on the facts of the case (disputed and undisputed) and an opinion on whether there has been a violation of the Statement on Prohibited Discrimination. No recommendation is to be made as to any action that should be taken by the Administrative Head.

18. The investigator's report will be submitted to the responsible Vice -President who shall ensure copies are provided to the Administrative Head, the Human Rights & Equity Advisor (for information and co-ordination), and the complainant and respondent. The report shall be confidential unless and until any specific disclosure is required by law in a subsequent proceeding. However, the complainant, the respondent or the Administrative Head shall be free to provide the report on a confidential basis to their respective advisors.
19. The Administrative Head shall then seek whatever advice s/he normally seeks when dealing with employment matters (e.g., Faculty Relations, Staff Relations). The Administrative Head shall seek submissions from the complainant and the respondent, including submissions with respect to remedies, before making a decision on the complaint and/or regarding any remedial or disciplinary action.
20. The Administrative Head shall then make a decision as to whether there has been a violation of the Statement on Prohibited Discrimination and the appropriate remedial or disciplinary action in the circumstances. Where appropriate in employee-related situations, the Administrative Head will implement any disciplinary decision in accordance with any procedures provided for in any applicable collective agreement or policy handbook and the employee would have the option of contesting that action through the applicable grievance or other complaint procedures.
21. There shall be no retaliation against any person on account of a complaint or an expressed intention to complain under this Procedure or on account of evidence or assistance given with respect to a complaint or a proposed complaint under this Procedure. Such retaliation shall be grounds for a complaint under this Procedure.

If the respondent's Administrative Head of Unit has reasonable cause to believe that the complaint was made in bad faith, she/he shall, where appropriate, report the matter to the complainant's Administrative Head of Unit. A complaint made in bad faith shall constitute grounds for disciplinary action against the complainant, which shall be commenced in accordance with existing collective agreements or other applicable disciplinary processes. A bad faith complaint is a complaint that is made with a conscious design to mislead or deceive, or with a malicious or fraudulent intent.

The Employment Equity Council shall undertake a review of this Complaints Procedure after it has been in operation for at least two years but not more than four years.



ISSUED BY

Dr. Tom Traves

President and Vice-Chancellor

July 28, 1999

Revised January 2001, November 2008, August 2009

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