



Policy:	HARASSMENT, SEXUAL HARASSMENT, RACISM AND DISCRIMINATION PREVENTION
Issue Date:	September 2021
Last Review Date:	May 2023
Next Review Date:	May 2024
Approved By:	President, Huron University College

1. OVERVIEW AND PURPOSE

- 1.1. Huron University College (“Huron”) is committed to providing and maintaining an environment in which harassment, sexual harassment, racism and/or discrimination are not tolerated. All members of the Huron community have a right to work and study in an environment that is free from harassment, sexual harassment, sexual misconduct, racism and/or discrimination. As part of this commitment, Huron has prepared this prevention policy.
- 1.2. This policy shall provide all members of the Huron community with a clear definition of what constitutes harassment, sexual harassment, sexual misconduct, racism, and/or discrimination pursuant to the *Ontario Human Rights Code* (OHRC), the *Ontario Occupational Health and Safety Act* (OHSA), and the *Ministry of Training, Colleges and Universities Act* and describes internal processes available to deal with allegations of harassment, sexual harassment, sexual misconduct, racism and/or discrimination. Huron believes that the assessment and early intervention are key in preventing situations from escalating.
- 1.3. Members of the Huron Community have the right to participate in Huron’s activities – whether for academic reasons, for working purposes, or living accommodations – in an environment which is free of harassment, sexual harassment, sexual misconduct, racism and/or discrimination.
- 1.4. In order to create and maintain an environment respectful of individual differences, which attempts to provide fair equality of opportunity with respect to education, employment, services, goods, facilities, and accommodation, harassment, sexual harassment, sexual misconduct, racism and/or discrimination is strictly prohibited and will not be tolerated by Huron.

2. SCOPE

- 2.1. This policy applies to all members of the Huron community. The Huron community includes staff, students, faculty (including contract faculty), instructors, members of the Board of Governors, volunteers, contractors and other individuals who work, study or carry on the business of Huron. The obligation to provide and maintain an environment free of harassment, sexual harassment, racism and/or discrimination is the shared responsibility of all members of the Huron community.
- 2.2. For the purpose of this policy, the workplace and Huron campus includes, but is not limited to, all Huron facilities and worksites, classrooms, offices, residences, cafeterias, training sessions, business travel, conferences, virtual classrooms, video-conferencing, and

electronic communication. This policy also applies to all Huron-sanctioned social functions or business performed at any location away from Huron, whether performed during or outside of normal working hours.

- 2.3. This policy is to be construed and applied in accordance with Huron's policy on [Academic Freedom](#), the [Ontario Human Rights Code](#) and the [Ontario Occupational Health and Safety Act](#). Nothing in this policy prevents Huron from implementing further equity measures or programs. Huron recognizes and acknowledges its responsibility to deal fairly and effectively with harassment, sexual harassment, sexual misconduct, racism and/or discrimination should they arise. In such an event, both the rights of the individual(s) bringing the complaint (Complainant) and those of the individual(s) about whom the complaint is made (Respondent) will be safeguarded. To this end, Huron will ensure that the members of the Huron community are aware of this policy.
- 2.4. This policy, definitions and examples provided are not intended to preclude legitimate classroom discussions on issues related to the prohibited grounds under the OHRC, OHSA or on topics of a sexual nature.
- 2.5. This policy is not intended to inhibit interactions or relationships based on mutual consent or normal social contact between staff, faculty or other members of the Huron community, where permitted at law.

3. DEFINITIONS AND PRINCIPLES

The following definitions shall apply to this policy:

- 3.1. **Complaint:** The sharing of information concerning an act of harassment, sexual harassment, racism, and/or discrimination with the intention of initiating either the informal or formal complaint processes for under this policy.
- 3.2. **Complainant:** An individual who has filed a Complaint under this policy.
- 3.3. **Discrimination:** Discrimination can be defined as actions or behaviour that promote the differential treatment of an individual or group solely based on prohibited ground(s) as outlined below in Section 3.8. These can be intentional or unintentional including systemic discrimination resulting from policies, practices, procedures, actions or inactions that appear neutral but have an adverse impact. Rights protected under the OHRC are not infringed by special programs designed to benefit disadvantaged groups or individuals to achieve or attempt to achieve equal opportunity. Huron may also apply existing exemptions under the OHRC such as the ability to set bona fide job requirements – if these requirements are essential to the performance of the job.

In addition, the OHRC further outlines that every member of the Huron community has the right to freedom from harassment and discrimination because of sex, sexual orientation, gender identity and gender expression. Every person has the right to be free from:

- i. Sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- ii. A reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

- 3.4. **Employee:** Any individual who is employed by Huron, including staff, faculty, and student employees.
- 3.5. **Harassment:** Harassment can be defined broadly as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.
- 3.6. **Huron community:** Includes, without limitation, staff, students, faculty (including contract faculty), instructors, members of the Board of Governors, volunteers, contractors and other individuals who work, study or carry on the business of Huron.
- 3.7. **Huron Leadership:** Includes, but is not limited to, the President, Deans, Vice-Presidents, Associate Vice-Presidents, Directors and Managers.
- 3.8. **Ontario Human Rights Code:** The *Ontario Human Rights Code* (OHRC) stipulates that every person has a right to equal treatment with respect to services, goods, facilities, accommodation and employment, without discrimination. The members of the Huron community are bound by the OHRC. In addition, Huron has developed this policy to complement rights provided under the OHRC and to confirm that Huron's commitment to equal treatment without discrimination exists independently of the OHRC. Any member of the Huron community has the right to seek redress pursuant to the provision of the OHRC whether or not they are also taking steps under this policy.

In accordance with the OHRC, every member of the Huron community has the right to freedom from harassment and discrimination while on Huron campus, whether for employment, educational or other purposes because of: Age; Ancestry; Citizenship; Colour; Creed; Disability; Ethnic Origin; Family Status; Gender Expression; Gender Identity; Marital Status; Place of Origin; Race; Receipt of Public Assistance (housing only); Record of Offence; Sex; and Sexual Orientation (henceforth, these shall be referred to as "prohibited grounds").

- 3.9. **Racism:** Racism can be understood as an ideology that either directly or indirectly asserts that one group is inherently superior to others. Huron is committed to addressing racism on its campus through education and other initiatives. While racism is a broad concept, for the purpose of this policy, racism should be understood as discrimination or harassment based on race. Huron is committed to ensuring that all members of the Huron community are able to enjoy their right to work, live, and attend school free of racial discrimination or harassment.
- 3.10. **Respondent:** The person(s) against whom a Complaint has been filed under this policy. The Respondent(s) are individual(s) who have allegedly engaged in harassment, sexual harassment, racism, and/or discrimination against the Complainant(s) and will be responding to the allegations as part of an intervention to resolve the Complaint.
- 3.11. **Sexual Misconduct:** Sexual misconduct means, in relation to a student,
- i. physical sexual relations with the student, touching of a sexual nature of the student or behavior or remarks of a sexual nature toward the student by an Employee where,
 - i. the act constitutes an offence under the *Criminal Code* (Canada);
 - ii. the act infringes the right of a student under clause 7(3)(a) of the *Human Rights Code* to be free from a sexual solicitation or advance;

- iii. the act constitutes “workplace sexual harassment” as defined by this policy;
 - iv. the act constitutes “sexual violence” as defined by the Gender-Based Sexual Violence Policy; or
 - v. the act otherwise violates this policy or the Gender-Based Sexual Violence Policy.
- ii. any conduct by an Employee that infringes the right of a student under clause 7(3)(b) of the *Human Rights Code* to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.
- 3.12. **Student:** Any individual who is registered, full-time or part-time, in a course or program of study, including a non-degree diploma or certificate (whether for credit or not), offered through Huron. "Student" also means persons registered at Huron on a letter of permission and persons on exchange at Huron.
- 3.13. **University Officer:** Director of Human Resources and Director of Community Safety.
- 3.14. **Workplace harassment:** The OHSa defines workplace harassment as:
- i. Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome; or
 - ii. Workplace sexual harassment.

Harassment is any behaviour that demeans, humiliates, embarrasses, intimidates, or threatens a person; creates a hostile working environment; and that a reasonable person should have known to be unwelcome. Harassment may result from one incident or a series of incidents. Examples may include, but are not limited to:

- Making remarks, jokes or innuendoes that demean, ridicule, intimidate or offend;
- Displaying or circulating offensive pictures or materials in print or electronic form, including through social media;
- Bullying;
- Repeated offensive or intimidating phone calls, texts, e-mails or electronic communication, including through social media;
- Workplace sexual harassment;
- Spreading malicious rumours; or
- Belittling another person’s options or actions.

Harassment does not include any reasonable and valid action taken by Huron, or a leader related to the direction and/or supervision of staff (including student employees) and faculty that is part of the normal job function, even if there are unpleasant consequences for the staff or faculty member. Example may include, but are not limited to:

- Changes in work assignments or scheduling of work;
- Job assessment and evaluation processes;
- Workplace inspections;
- Implementation of Health and Safety measures; or
- Disciplinary action.

Differences of opinion or minor disagreements between co-workers would also not generally be considered workplace harassment.

3.15. **Workplace sexual harassment:** The OHSA further defines/outlines workplace sexual harassment as:

- i. engaging in a course of vexatious comment or conduct against a worker, in a workplace 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
- ii. 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 worker and the person knows or ought reasonably to know the solicitation or advance is unwelcome.

Sexual harassment involves unwelcome words or actions associated with sex, sexual orientation or gender that are known or ought reasonably to be known to be offensive, embarrassing, humiliating or demeaning to a worker or group of workers, in a workplace. It can also include behaviour that intimidates or isolates individual(s). Examples of sexual harassment may include, but are not limited to:

- asking questions, talking, or writing about sexual activities;
- rough or vulgar humour or language related to sexuality, sexual orientation or gender;
- displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form, including through social media;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, including inappropriate touching;
- demanding hugs, dates, or sexual favours;
- making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening or taunting someone based on gender or sexual orientation; or,
- threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

4. RESPONSIBILITIES

4.1. All members of the Huron Community share the responsibility to create a workplace/academic environment that is free from harassment, sexual harassment, sexual misconduct, racism and/or discrimination. All members are responsible for understanding what constitutes harassment, sexual harassment, sexual misconduct, racism and/or discrimination and conducting themselves in accordance with the spirit and intent of this policy. All members of the Huron community are expected to:

- i. Learn about harassment, sexual harassment, sexual misconduct, racism and/or discrimination and attend and/or participate in Huron sponsored educational programs and campaigns;
- ii. Demonstrate professional and respectful behaviour;
- iii. Speak out against behaviour that encourages harassment, sexual harassment, sexual misconduct, racism and/or discrimination; and

- iv. Intervene to prevent situations of harassment, sexual harassment, sexual misconduct, racism and/or discrimination or where a person is vulnerable to harassment, sexual harassment, sexual misconduct, racism and/or discrimination, where it is safe to do so.
- 4.2. Members of the Huron community that believe they have been subjected to or have witnessed harassment, sexual harassment, sexual misconduct, racism and/or discrimination are encouraged, where appropriate, to speak directly to the person(s) responsible for the offending comment, conduct or behaviour. Members of the Huron Community are encouraged to make it known that the offender's comment, conduct or behaviour is inappropriate, unwelcome and that it should stop immediately. Individuals are encouraged to make notes of the offensive behaviour, the date it happened, feelings it created, what was done about it, and who else was present.
- 4.3. If members of the Huron community feel uncomfortable speaking to the offender directly and/or wish to seek the support of other or additional resources prior to engaging the informal or formal resolution processes set out in this policy, these individuals are encouraged to seek assistance from the following resources:
- i. Human Resources;
 - ii. Employee and Family Assistance Programs (EFAP) and supports;
 - iii. Union / Faculty Association Representatives;
 - iv. Huron Student Support Services, namely:
 - i. Student Wellness;
 - ii. Community Safety; and
 - iii. Academic Advisors.
 - v. Other external resources such as the [Human Rights Legal Support Centre](#)

5. PREVENTION & EDUCATION

- 5.1. Huron is committed to providing and supporting on-going education and awareness initiatives about harassment, sexual harassment, racism and discrimination. Huron will provide information and education to the community on harassment, sexual harassment, sexual misconduct, racism and discrimination by developing and implementing an awareness program which may include:
- i. Providing staff, faculty, student, volunteer, and other individuals associated with Huron on a long-term or continuing basis with a copy of this policy;
 - ii. Informing and educating Huron Leadership and others in authority of their responsibilities and rights under this policy, the *Ontario Human Rights Code*, and the *Occupational Health and Safety Act* specifically, to foster and maintain a work and educational environment that does not tolerate harassment, sexual harassment, sexual misconduct, racism and/or discrimination; and,
 - iii. Familiarizing Huron Leadership and others in authority with the complaint procedures so that they may appropriately direct complaints of harassment, sexual harassment, sexual misconduct, racism and/or discrimination to the most appropriate and responsible person at Huron.

6. CONFIDENTIALITY

- 6.1. Huron understands that it is difficult to come forward with a complaint of harassment, sexual harassment, sexual misconduct, racism and/or discrimination and recognizes the individual's interest in keeping the matter confidential. To protect the interest of all involved, confidentiality will be maintained throughout any informal or formal resolution

process as much as possible, to the extent that it does not hinder an adequate investigation. Information will be disclosed only on a “need to know” basis; however, it is important for Complainants and witnesses to understand that Huron may be required to disclose some information to Respondent(s) in order to fairly investigate and resolve Complaints initiated under this policy. A Complaint may be made anonymously or by someone other than the effected individual; however, Huron’s ability to respond may be limited by the information available or its ability to provide a fair process to the Respondent.

6.2. It is essential to the successful operation of this policy and procedure that all matters arising from any processes outlined in this policy be held in the strictest confidence. All participants and witnesses will be bound to confidentiality and must keep names and content of the proceedings confidential, unless otherwise specified by any resolution agreement. All notes, records, summaries and reports of other documentation produced in connection with the complaint will be kept in a confidential file in accordance with this paragraph (except where disclosure is required by law). Specifically, all records pertaining to Complaints will be subject to the following policies:

- i. Records shall be maintained in a locked area for ten years unless otherwise specified by law, and will be destroyed thereafter;
- ii. No disclosure may be made of any record pertaining to Complaints, except under the following circumstances:
 - i. When disclosure is consented to by all persons affected by the disclosure;
 - ii. When disclosure is required under this policy or any other applicable policies, or as may be required by law.

6.3. In some cases, Huron may be required to take investigative steps or other action independently of the intentions of the parties. If this becomes necessary, affected individuals will be kept fully informed at every step of the process.

6.4. Complainants and witnesses should be aware that, where a formal investigative process is requested or required, Huron is required to disclose information regarding the complaint to Respondents in order to fairly investigate and seek resolution of the same under this policy.

7. GENERAL

7.1. Allegations of harassment, sexual harassment, sexual misconduct, racism and/or discrimination reported to, or made known to Huron, within the scope of its responsibilities and powers to act, shall normally be processed and/or acted upon in accordance with this policy and the procedures established under it.

7.2. Upon becoming aware of any incident which may fall under the definition of harassment, sexual harassment, sexual misconduct, racism and/or or discrimination, nothing precludes Huron from deciding it may be necessary to take appropriate action even in the absence of a formal complaint. In this regard, Huron retains discretion to initiate proceedings under this policy upon becoming aware of alleged incidents of harassment, sexual harassment, sexual misconduct, racism and/or discrimination.

7.3. Similarly, nothing in this policy is intended to prevent a Complainant from using an alternative procedure such as the *Ontario Human Rights Code*, *Occupational Health and*

Safety Act, other policies, procedures outlined in any applicable collective agreement(s) or other legal action. If the Complainant(s) chooses one of the alternative forms, a Complaint under this policy may be held in abeyance until the alternate form has been abandoned by the Complainant(s) or brought to a formal conclusion. Complainant(s) are encouraged to utilize the processes outlined within the policy before commencing legal or such similar action.

- 7.4. Complainant(s) or Respondent(s) may seek assistance from a support person or union representative during the informal and/or formal resolution processes described below.

Retaliation/Reprisals and Vexatious Complaints

- 7.5. Retaliation / reprisals against a member of the Huron community for filing a complaint, participating in any procedures or being associated with a person who filed a complaint under this policy shall be treated as harassment and is strictly prohibited and will not be tolerated. Anyone found through investigation to have participated in a reprisal will be subject to discipline up to and including termination of employment or expulsion.
- 7.6. It is also recognized that frivolous or vexatious complaints are themselves a form of harassment, and the Respondent(s) may have recourse under this policy should they choose to pursue the matter. Huron reserves the right and may take disciplinary action where it finds that individuals have made allegations of harassment or discrimination which are reckless, malicious, or not in good faith.

Procedural Rights / Fairness

- 7.7. Investigators, adjudicators and other decision-makers will follow this policy and, when exercising their discretion, employ a decision-making process that meets the requirements of procedural fairness. This includes, but is not limited to:
- i. Ensuring that the Respondent(s) understand(s) the allegations and is given a meaningful opportunity to respond;
 - ii. Ensuring that the Complainant(s), Respondent(s) and University Officer(s) are aware of their entitlement to be accompanied by a support person (as defined below) throughout the Complaint process; and
 - iii. Providing the Complainant(s) and Respondent(s) with written notice of the results of the investigation as well as any corrective and/or remedial action resulting from the investigation.
- 7.8. Huron will ordinarily address Complaints by following the procedures set out below; however, Huron may depart from any such procedures where fair, appropriate and/or as required by applicable Collective Agreements.

8. PROCEDURE FOR REPORTING INCIDENTS AND COMPLAINTS OF HARASSMENT, SEXUAL HARASSMENT, RACISM AND/OR DISCRIMINATION

- 8.1. Members of the Huron community that believe they have been subjected to, or have witnessed, harassment, sexual harassment, sexual misconduct, racism and/or discrimination, should report their concerns to Huron's Director of Human Resources or Huron's Director of Community Safety. Individuals may also report their concerns using the [online reporting tool](#). The online reporting tool will alert Human Resources and

Community Safety and the appropriate authority will put the individual in contact with either the Director of Human Resources or Director of Community Safety.

- 8.2. The Director of Human Resources or Community Safety, as the case may be, will provide a confidential consultation to discuss the concerns and/or incidents which may be encompassed by this policy and will ensure that the individual receives a copy of this policy and is aware of the processes available to them, including the informal and formal processes described below.
- 8.3. The Director of Human Resources or Community Safety, as the case may be, will assess the facts alleged, and determine whether, if proven, would constitute harassment, sexual harassment, sexual misconduct, racism and/or discrimination under this policy. If the Director of Human Resources or Community Safety, as the case may be, determines that the facts alleged, if proven, would constitute harassment, sexual harassment, sexual misconduct, racism and/or discrimination under this policy, they will advise the individual(s) that the following two options are available to them under this policy:
 - i. Informal Resolution Process; and/or,
 - ii. Formal Investigation Process.
- 8.4. Huron encourages members of the Huron community to report instances of harassment, sexual harassment, sexual misconduct, racism and/or discrimination as soon as reasonably possible in order to ensure a timely investigation.

Informal Resolution Process

- 8.5. The informal resolution process refers, generally, to options other than a formal investigation process. The informal resolution process is completely voluntary and must be agreed to by all parties. The Complainant(s) and/or Respondent(s) may withdraw from an informal resolution process at any point.
- 8.6. The purpose of the informal resolution process is to seek a mutually satisfactory resolution of the issues between the parties. The informal resolution process is generally not appropriate where one of the parties desires a formal procedure which may result in a decision imposing corrective and/or remedial action against the offending party.
- 8.7. There may be circumstances where Huron determines that an informal resolution may not be a viable option or that a formal investigation is required given Huron's overarching legislative or policies obligations. Examples of such circumstances may include, but are not limited to, situations where there is a safety risk to one or both parties or others, there is a significant power imbalance between the parties or, the prospect of resolution appears to be unlikely. Huron retains the right to initiate a formal investigation process if they believe the informal resolution process is not a viable option in the circumstances.
- 8.8. Each situation is unique and it is necessary for Huron to have flexibility in determining the most appropriate options to attempt to reach a resolution. Some examples of informal resolution processes include, but are not limited to:
 - i. Facilitated discussions;
 - ii. Education; and,
 - iii. Mediation.

- 8.9. If the Director of Human Resources or Community Safety, as the case may be, believes that the proposed resolution is not sufficient for the purpose of ensuring Huron's compliance with this policy, or any other applicable legislation or policies, they may refer the matter to the formal investigation process, as described below.
- 8.10. Any written documentation (except the formal complaint) or information shared as part of an Informal Resolution process cannot be used in a Formal Investigation Process. Neither the Director of Human Resources nor the Director of Community Safety, as the case may be, can appear as a witness in any subsequent dispute resolution process arising from the application of this policy or in any subsequent investigations or proceedings unless compelled by law. This does not preclude the Director of Human Resources or Community Safety, as the case may be, from speaking about the facts arising out of the informal resolution process (other than particulars of any settlement negotiations) to an Investigator appointed under the formal investigation process, set out below.

Formal Investigation Process

- 8.11. The formal investigation process may be invoked in the following circumstances:
- a) If the Complainant(s) chooses to proceed directly to the formal investigation process, or if Huron deems it necessary to do so;
 - b) If the informal resolution process does not resolve the dispute and/or is ended prior to reaching a satisfactory resolution;
 - c) If the Director of Human Resources or Community Safety, as the case may be, believes that the terms of the proposed resolution resulting from the informal resolution process is not sufficient for the purpose of ensuring Huron's compliance with this policy, or Huron's other legislative and policy obligations; or,
 - d) If the terms of the resolution resulting from the informal resolution process have not been met.
- 8.12. The formal investigation process must be initiated within one (1) month of the occurrence of any of the events set out at (b), (c) or (d), above. Where a Complainant is initiating the formal investigation, they must do so by submitting a summary of their complaint and allegations in writing to the appropriate "Designated Authority". Depending on the circumstance of the situation, the appropriate Designated Authorities are as follows:
- I. If the Complainant(s) and the Respondent(s) are both students, to the Dean of Students;
 - II. If Staff and/or Faculty are involved as either a Complainant or Respondent (or both), to the Vice President, Finance & Administration;
 - III. If the Vice President, Finance & Administration is either the Complainant or Respondent, to the President; and
 - IV. If the President is the Complainant or Respondent, to the Chair, Board of Governors.
- 8.13. If the Complainant(s) is unsure who to submit their written Complaint to, they may seek assistance from the Director of Human Resources or Community Safety in this regard. Complainants may also submit their Complaint using the [online reporting tool](#). The online reporting tool will direct the Complaint to Human Resources and Community Safety.

After receiving a Complaint through the [online reporting tool](#), Human Resources and/or Community Safety shall make arrangements with the appropriate Designated Authority to initiate the formal investigation process.

- 8.14. The formal written complaint should contain the following information:
- I. The details of the alleged incident, and names of people involved;
 - II. Date(s), time(s), and location(s) of the events(s) that is being brought forward;
 - III. Any witnesses to the events(s);
 - IV. Steps already taken (if any) to resolve the complaint;
 - V. Any and all supporting documentation to the complaint; and
 - VI. The date the complaint is being submitted and signature of the complainant.
- 8.15. Upon receiving the Complaint, and prior to commencing any investigatory action, the Designated Authority will acknowledge receipt, review the complaint and, if necessary, seek clarification from the Complainant(s) on the information contained within. The Designated Authority will then assess the Complaint and determine:
- I. Whether Huron has jurisdiction to investigate the Complaint, and
 - II. Whether the allegations, if proven to be true, would constitute a violation of this policy.
- 8.16. If the Designated Authority determines that Huron does not have jurisdiction to investigate the Complaint, or that the allegations, if proven to be true, would not constitute a violation of this policy, the Designated Authority may decline to refer the Complaint to investigation.
- 8.17. If the Designated Authority is satisfied that Huron has jurisdiction to investigate the Complaint and the allegations, if proven to be true, would constitute a violation of this policy, the Designated Authority will invoke the formal investigation process and refer the Complaint for investigation. If the Designated Authority refers a Complaint for investigation, the referral decision is final and is not subject to review or appeal. The Designated Authority shall appoint an investigator to conduct an investigation that is appropriate in the circumstances. The Investigator will have experience in investigating harassment, sexual harassment, sexual misconduct, racism and/or discrimination complaints and will be independent, neutral, fair and unbiased. The Investigator will be appointed by Huron for the purposes of conducting a thorough, complete and fair examination of the relevant allegations, documents, witnesses, evidence and facts. The Investigator may be an internal or external resource, including legal counsel.
- 8.18. The Designated Authority may impose interim measures in order to:
- Ensure the personal safety and well-being of anyone involved in the process;
 - Discourage or prevent retaliation;
 - Prevent further instances of harassment, sexual harassment, sexual misconduct, racism and/or discrimination;
 - Protect confidentiality;
 - Minimize disruption to the learning, working or university residence environment; and
 - Preserve Huron's ability to conduct a thorough investigation.

- 8.19. These interim measures may persist until the conclusion of the investigation and decision or for any other period of time determined by Huron. Interim measures may be imposed immediately upon receipt of a Complaint, or at any time during the investigation process.
- 8.20. A Respondent who is subject to interim measures can request (in writing) that the Designated Authority reconsider whether the interim measures are appropriate, in consideration of the factors outlined above in section 8.18. The Designated Authority shall advise the Respondent of the Designated Authority's reconsideration decision verbally and in writing ordinarily within five business days of the Respondent's request for reconsideration. There is no further right of reconsideration or appeal of the decision with respect to interim measures.

Notice to the Respondent

- 8.21. The Respondent will be notified in writing of the investigation by the Designated Authority. The notice will include:
- i. A written summary of all of the allegations;
 - ii. A description of any interim measures that have been imposed and previously communicated; and
 - iii. Potential support resources that a Respondent may wish to consider.

Investigation

- 8.22. Complainants are not required to participate in an investigation or the other aspects of the Complaint process. However, Complainants should understand that a decision not to participate may prevent Huron from investigating a Complaint and making a decision with respect to whether the allegations are in violation of this policy.
- 8.23. Respondents are not required to participate in an investigation or the other aspects of the Complaint process. However, Respondents should understand that a failure to participate could be detrimental to the Respondent and will not deter Huron from proceeding with an investigation or making a decision with respect to the Complaint.
- 8.24. After the Designated Authority has appointed an Investigator and after the Respondent has been properly notified of the Complaint, the Investigator(s) will then conduct an investigation, which ordinarily consists of:
- i. Obtaining a written response and documents from the Respondent;
 - ii. Interviewing the Complainant, Respondent and witnesses;
 - iii. Recording all interviews in writing (i.e. produce witness statements); and
 - iv. Gathering additional relevant documentation.
- 8.25. Both the Complainant(s) and Respondent(s) will be given full opportunity to participate. Follow up may be required at any point during the investigation.
- 8.26. At any interviews or meetings over the course of the investigative process, the Complainant, Respondent, the Designated Authority, and Investigator(s) have the option to be accompanied by a support person. A support person may be a friend, family member, union representative, legal counsel (at the parties own respective expenses) or

another individual of the parties choosing; however, the support person cannot also act as a witness in the subject Complaint.

8.27. At the conclusion of the investigation, the Investigator(s) shall prepare a final written investigation report, which will be forwarded to the Designated Authority. The Investigator(s) will normally complete their report within sixty (60) business days of being appointed. In the event the investigation will not be completed within sixty days (60), the Complainant(s) and Respondent(s) will be notified of the expected timeframe for completion. The Investigator(s) report shall contain the following information:

- i. A summary of the formal Complaint;
- ii. A summary of the investigative process and relevant timelines;
- iii. A summary of the key evidence obtained throughout the investigation;
- iv. An indication of which evidence was considered credible and reliable and the Investigator's rationale for coming to these conclusions;
- v. The Investigator's findings of fact, and their conclusion as to whether, on a balance of probabilities, and based on the disputed and undisputed facts arising out of the investigation, there has been a violation of this policy. If there is insufficient evidence to substantiate the Complaint, the investigator is permitted to make a determination as to whether or not the complaint was vexatious.
- vi. The Investigator will not give a legal opinion, unless professionally qualified to do so, but may provide suggestions for remedial action. The Investigator's opinion and/or suggestions are not binding on Huron but will be considered by the Designated Authority when determining the appropriate action to be taken as a result of the Investigator's findings

Disciplinary Action

8.28. If, after an investigation, the Investigator finds that a Complaint is substantiated, the Designated Authority will determine what corrective and/or remedial action is to be taken, if any, taking into consideration the seriousness of any conduct found to breach this policy. Corrective and/or remedial action will attempt to provide for redress with the possibility of restoring the Complainant(s) to the position they would have been in had the harassment, sexual harassment, sexual misconduct, racism and/or discrimination not occurred and may include, but is not limited to:

- i. A verbal or written apology;
- ii. A directive to cease and desist the behaviour with notice that failure to do so will lead to a further penalty;
- iii. A mandatory program of education or counselling;
- iv. Restriction of access to a physical area of Huron or barring from the Huron Campus;
- v. In the case of a student Respondent, restrictions on services, privileges, or opportunities, non-academic disciplinary probations, or academic consequences up to and including potential suspension or expulsion;
- vi. In the case of an employee Respondent, discipline including suspension with/without pay or reimbursement, or potential termination of employment;
- vii. In the case of a guest or visitor Respondent, restrictions on services, privileges, opportunities or access to Huron Campus and Events; or
- viii. Any and all action available to Huron under any other applicable policies including, but not limited to Huron's Non-Academic Student Code of Conduct and Residence Code of Conduct.

8.29. When imposing sanctions or disciplinary action, the Designated Authority shall consider the following:

- i. The Complainant's and Respondent's submissions on sanctions, if any;
- ii. The principle of progressive discipline;
- iii. Huron's role as an educational institution;
- iv. The nature and severity of the incident(s); and
- v. Aggravating, mitigating, or any other relevant factors.

8.30. The Complainant(s) and the Respondent(s) will be advised, in writing, of the results of the investigation as well as any corrective and/or remedial action resulting from the investigation within ten working days (10) from the date the Investigator provides their report to the Designated Authority.

Malicious, Vexatious and Bad Faith Complaints

8.31. If, as a result of an investigation, it is determined by the Investigator(s) that an otherwise un-founded complaint was intended to be malicious, vexatious and/or made in bad faith, it will be considered a form of harassment and will be dealt with in accordance with the sanctions applicable to the Complainant as defined above.

Appeal

8.32. Appeal process for Employees governed by a Collective Agreement:

- i. Subject to section 9 of this policy, Employees of Huron may grieve the decision of the Designated Authority following the appropriate procedures outlined in the relevant Collective Agreement.

8.33. Appeal process for Huron Community members (other than Employees governed by a Collective Agreement):

- i. If an individual (in their capacity as either a Complainant or Respondent) wishes to appeal the decision of the Designated Authority, they may submit an appeal application to a sub-committee of the Campus Discipline Appeals Committee (CDAC).
- ii. The sub-committee of the CDAC to hear appeals of decisions related to incidences of sexual violence shall consist of the following individuals and shall be referred to as the Harassment, Sexual Harassment, Racism and/or Discrimination Appeal Committee (HSRDAC):
 - i. The appointed Chair of the CDAC;
 - ii. The appointed Staff Representative of the CDAC; and
 - iii. The appointed delegate of the Director, Human Resources.
- iii. This committee shall be chaired by the appointed delegate of the Director, Human Resources and shall report directly to the President.

- iv. The President may also appoint other ad hoc members to the HSRDAC, based on the circumstances contained within the appeal application and where subject matter expertise of another staff or faculty member, or external resource, including legal counsel, would benefit the HSRDAC. If there is a perceived conflict of interest with a standing member of the HSRDAC, the President may appoint another member to the HSRDAC in their place.
- v. An individual may only raise the following issues in their appeal application:
 - i. The appellant believes that the Designated Authority or investigator made a fundamental procedural error in reaching the final decision and as such, that error has caused or will cause actual prejudice to the appellant;
 - ii. There is now, relevant and new evidence that was not available to the Designated Authority at the time of making their decision;
 - iii. The findings or decision of the Designated Authority was unreasonable or unsupportable on the evidence; or
 - iv. The sanction imposed by the Designated Authority was unreasonable or unsupportable on the evidence.
- vi. An appeal application must include the following information:
 - i. A copy of the Notice of Complaint;
 - ii. A copy of the decision from the Designated Authority;
 - iii. A written statement supporting the grounds for appeal, including any new evidence that was not available to the Designated Authority at the time of their decision (using only the grounds outlined in section 8.33(v)); and
 - iv. A description of the relief or resolution sought.
- vii. An appeal must be made within ten (10) business days of receiving the decision and subsequent sanctions of the Designated Authority. The appellant must submit their appeal application to the Executive Assistant, Office of the President, who will provide one (1) copy to the Designated Authority (as the "Respondent") and one (1) copy to the Chair of the HSRDAC.
- viii. While the appeal is being considered by the HSRDAC, any interim measures or disciplinary sanctions will remain in effect, unless explicitly set aside by the HSRDAC upon receiving the appeal. The parties will be notified in writing by the Chair of HSRDAC if any sanctions are being set aside prior to issuing its decision on the appeal.
- ix. During the appeal process, all parties, including the HSRDAC, have a right to be represented by legal counsel. Each party will be responsible for their own respective legal expenses. Processes outlined in the appeals procedure shall not be unreasonably postponed or rescheduled due to the unavailability of legal counsel.
- x. The Designated Authority whose decision the appellant is appealing will have five (5) business days from the receipt of the appeal application from the Executive Assistant, Office of the President to make a detailed response to the appellant's submissions by writing to the Chair of the HSRDAC.

- xi. Following the receipt of the appeal application, and response from the Designated Authority, the Chair of the HSRDAC will convene a meeting of the HSRDAC to consider the appeal application. The right to an appeal is not automatically granted, nor is an appeal the opportunity for the appellant or the Designated Authority to repeat information. The HSRDAC will only proceed with an appeal if the conditions outlined in section 8.33(v) above are clearly met. Simply disagreeing with, or not liking the decision of the Designated Authority, is not grounds for an appeal.
- xii. In most cases, the HSRDAC will consider appeals in writing. However, the HSRDAC reserves the right to request an oral appeal hearing. This will only be done in exceptional circumstances. Should the HSRDAC determine that an oral appeal hearing is necessary, the Complainant may choose not to participate. Furthermore, due to the confidential nature of the issues and impact on the individuals involved, appeal hearings, if granted, shall be closed and not open to the public.
- xiii. After reviewing the written appeal or oral hearing, the HSRDAC will take one (1) of the following actions:
 - i. Dismiss the appeal as having insufficient grounds;
 - ii. Consider the appeal and nevertheless uphold the original findings and sanctions imposed;
 - iii. Consider the appeal and uphold the original findings but not the sanctions imposed, choosing to impose alternative sanctions, if any;
 - iv. Consider the appeal and overturn both the original findings and the original sanctions imposed.
- xiv. The HSRDAC has no authority to make any order for the payment or award of costs.
- xv. The written decision of HSRDAC will be delivered to the parties within fifteen (15) business days of the filing of the appeal. The decision will be filed with the Executive Assistant, Office of the President and copied to any relevant University offices that require such information.
- xvi. The decision of the HSRDAC is final.
- xvii. The appeal process for all Employees is subject to section 9 of this policy.

Record of the Action

- 8.34. Where a complaint of harassment, sexual harassment, racism and/or discrimination is substantiated following a formal investigation there will be a formal record of the action taken on the Respondent(s)'s personnel or student file, if applicable. All other records will be maintained in a secure file kept by the Director, Human Resources or the Director, Community Safety.

9. EMPLOYEE SEXUAL MISCONDUCT

- 9.1. Sexual misconduct between employees and students is prohibited.

- 9.2. Any allegations of sexual misconduct reported to, or made known to Huron, within the scope of its responsibilities and powers to act, shall normally be processed and/or acted upon in accordance with this policy and the procedures established under it or in accordance with the Gender-Based Sexual Violence Policy and the procedures established under it. Huron will determine which policy is most applicable in the circumstances and the process or procedure contained therein shall be followed.
- 9.3. Upon becoming aware of any incident which may fall under the definition of sexual misconduct, nothing precludes Huron from deciding it may be necessary to take appropriate action even in the absence of a formal complaint. Huron retains the discretion to initiate proceedings under this policy or under the Gender-Based Sexual Violence policy upon becoming aware of any alleged incident of sexual misconduct.

Disciplinary Action

- 9.4. If, after an investigation, an Investigator finds that an employee has committed an act of sexual misconduct, the Designated Authority will determine what corrective and/or remedial action is to be taken, if any, in accordance with sections 8.28-8.30.
- 9.5. If an employee is found to have committed an act of sexual misconduct, the discharge or disciplinary measure that is imposed by the Designated Authority is deemed to be just cause for all purposes.
- 9.6. An employee who has been found to have committed an act of sexual misconduct is not entitled to notice of termination or termination pay or any other compensation or restitution as a result of the discharge or disciplinary measure that is imposed by the Designated Authority.
- 9.7. Despite subsection 48 (17) of the *Labour Relations Act, 1995* and subsection 14 (17) of the *Colleges Collective Bargaining Act, 2008*, and despite any provision in any applicable collective agreement or employment contract, no arbitrator, arbitration board, or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure that is imposed by the Designated Authority with respect to an employee who has been found to have committed an act of sexual misconduct.

Student Employees

- 9.8. A student who is also an employee who commits an act of sexual misconduct may be subject to sanctions both as a student and an employee in accordance with the relevant Collective or Employment Agreement and policies.

No Re-Employment

- 9.9. An employee who has been found to have committed an act of sexual misconduct and is discharged for that act or resigns from their employment shall not be subsequently re-employed by Huron.

- 9.10. An employee re-employed by Huron contrary to section 9.9 will be discharged without notice of termination or termination pay or any other compensation or restitution as a result of the discharge or disciplinary measure. Such discharge shall constitute just cause for all purposes and the penalty of discharge shall not be substituted by an arbitrator, arbitration board, or other adjudicator.

Agreements

- 9.11. Subject to section 9.12 of this policy, despite any contrary term in an employment contract or collective agreement, or any contrary rule or principle of common law or equity, Huron shall not enter into any agreement with any person on or after July 1, 2023, that directly or indirectly prohibits Huron or any person related to Huron from disclosing that an allegation or complaint has been made that an employee committed an act of sexual misconduct.
- 9.12. Huron may enter into an agreement described in section 9.11 of this policy if the student requests that Huron do so, provided that,
- i. the student has had a reasonable opportunity to receive independent legal advice;
 - ii. there have been no undue attempts to influence the student with respect to the request;
 - iii. the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and
 - iv. the agreement is of a set and limited duration.

10. RELATIONSHIP TO OTHER POLICIES

- 10.1. Huron recognizes that some behaviours that are defined as harassment, sexual harassment racism and/or discrimination may also apply to other Huron policies, such as:
- i. [Non-Academic Student Code of Conduct Policy](#)
 - ii. [Gender-Based Sexual Violence Policy](#)
 - iii. [Safe Disclosure \(Whistleblower\) Policy](#)
 - iv. [Residence Discipline Code of Conduct](#)
 - v. [Workplace Violence/Safe Workplace Policy](#)

This policy complements other such policies. In cases where multiple policies may be applicable, Huron will determine which policy is most applicable in the circumstances and the process or procedure contained therein shall be followed.

11. POLICY REVIEW PROCESS

- 11.1. This policy will be reviewed on an annual basis, in collaboration with the Joint Health and Safety Committee, to ensure that it conforms to any changes in legislation and any associated regulations and to ensure it continues to address the needs of Huron.