



## Policy: Harassment, Discrimination and Abuse Prevention Policy

**Effective Date:** February 15, 2022

**Function:** Renison University College Community

**Authorized By:** Board of Governors

**Prescribed Review Date:** June 30, 2027

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# PART I: POLICY

## Policy Statement

Renison University College (“RUC” or “Renison”) is committed to maintaining a work, learning, and living environment that is free of Harassment, Discrimination, and Abuse. RUC believes that all persons deserve to be treated with respect, dignity, and compassion. Harassment, Discrimination, and Abuse undermine RUC’s mission to foster an inclusive community of learners empowered through excellence in teaching and scholarship, and to contribute positively in a diverse and complex world.

Accordingly, Harassment, Discrimination, and Abuse are not tolerated at RUC. RUC affirms its obligations under the Ontario *Human Rights Code* (“Code”) with respect to harassment and discrimination, the *Occupational Health and Safety Act* with respect to workplace harassment, and the *Strengthening Post- secondary Institutions and Students Act, 2022*, with respect to sexual misconduct in relation to a student.

RUC will act promptly and efficiently to deal with conduct which may violate this Policy. RUC will strive to ensure that each individual from the RUC community (“RUC individual”) who believe they have been subjected to Harassment, Discrimination, and/or Abuse are able to bring a complaint forward without fear of reprisal.

Moreover, RUC believes that preventing and responding to Harassment, Discrimination, and Abuse are joint responsibilities of the organization, those who work, learn, and live within it, and those who lead it as Board Members. Everyone is responsible for helping to create a safe, healthy, and supportive work, learning, and living environment.

## Purpose

The purpose of this Policy is to:

- Communicate RUC’s policy on preventing Harassment, Discrimination, and Abuse (as defined in this Policy), including setting the expected standards for behaviour for those subject to this Policy;
- ensure the safety of all students against sexual misconduct by employees of Renison and articulate Renison’s compliance with and commitment to the *Strengthening Post- Secondary Institutions and Students Act, 2022*;
- Set out the procedure for responding to and resolving incidents involving Harassment, Discrimination, Abuse, or sexual misconduct in relation to a student; and,
- Promote a respectful and inclusive work, learning, and living culture by defining roles and responsibilities and providing for education and training initiatives;.

## Scope & Application

This Policy applies to individuals who belong to the RUC community (“RUC individual”) in their interaction with one another during RUC-related activities, whether on or off campus, in-person or online. This Policy may also apply where the RUC individual is alleged to have committed Harassment, Discrimination, and/or Abuse or experienced Harassment, Discrimination, and/or Abuse by those outside of the RUC community.

The RUC community includes:

1. RUC Faculty and Staff;
2. RUC Students (including both degree students and students taking non-degree Community and Professional Education (CAPE) courses;
3. RUC Board Members;
4. RUC volunteers;
5. Contractors; and,
6. Any visitors to RUC, including individuals who attend on campus or otherwise participate in RUC- related events, activities, and operations.

Application of this Policy is subject to the Ontario *Occupational Health and Safety Act*, the *Code*, the *Criminal Code* of Canada, and any other applicable legislation. Nothing in this Policy prevents an individual from exercising their rights under any other statute or in any other forum within the time limits specified by that legislation.

## Relation to Other RUC Policies

Some behaviours covered by this Policy may also constitute workplace, domestic, or sexual violence or other conduct also covered under another RUC policy. For issues related to Workplace or Domestic Violence, please refer to <https://uofwaterloo.sharepoint.com/sites/Renison>, located in the Policies folder found in the Renison SharePoint Intranet: <https://uofwaterloo.sharepoint.com/sites/Renison>

Behaviour which would not constitute Harassment, Discrimination, and/or Abuse under this Policy may still be dealt with under the ***Conflict Management Policy***.

Where multiple policies might apply, those responsible for managing the processes will confer to determine which policy should be applied, whether multiple processes are required and/or which takes precedence. Individuals may have multiple relationships with RUC, (e.g. simultaneously a student and an employee). The facts of the situation and/or the context of the behaviour will determine which policy(ies) and related processes shall be applied and in what order.

## Guiding Principles

The following Principles provide guidance on decision-making with respect to how the Policy and Procedures will be understood and implemented, and apply in all circumstances:

1. The rights and dignity of every person must be respected.
2. Complaints must be taken seriously and dealt with promptly in a manner proper under the circumstances, in accordance with the Procedures;
3. Complainants should not be penalized for bringing a Complaint in good faith;
4. The Procedures are to be interpreted, administered, and applied in conformity with the principles of procedural fairness and natural justice;
5. Wherever possible and appropriate, conflict should be resolved at the earliest possible stage through informal resolution;
6. Confidentiality must be maintained by those involved in the complaint resolution process, in accordance with the Confidentiality and Record Keeping requirements set out in this Policy.
7. The Procedures are remedial in nature; conduct constituting Harassment, Discrimination, and/or Abuse are to be resolved in a manner intended to prevent any further continuation or repetition of violation(s) of this Policy and to ensure that positive and respectful working and learning relationships are restored. This may involve imposing discipline in accordance with applicable collective agreements, terms and conditions of employment, and other RUC policies, Codes of Conduct, or procedures.
8. In the case of Sexual Misconduct by an Employee Toward a Student, Renison will impose disciplinary measures which may range up to and including the termination of employment for just cause. Where the termination of employment or where resignation occurs as a result of a finding of Sexual Misconduct by an Employee Toward a Student, the employee shall not be entitled to notice of termination, termination pay, or other compensation or restitution as a result of the discharge or disciplinary measure, and the employee shall not be subsequently re-employed by Renison. Disciplinary measures resulting from a finding of Sexual Misconduct by an employee toward a student are final.

**Note:** In the case of Sexual Misconduct by an Employee Toward a Student, as with all cases requiring investigation, Renison University College is committed to affording procedural fairness and natural justice to all individuals involved, both complainant and respondent. Any imposed sanctions, to the extent that we are able, will be commensurate to the severity of the infraction.

## Key Definitions

No policy document can give a full and complete description and definition of behaviours that fall within the meaning of Harassment, Discrimination, and/or Abuse. However, the following definitions will serve as a guide.

Additional terms helpful for the Procedures are defined in the Glossary of Terms at **Appendix A – Glossary of Terms**. Educational opportunities are available within the RUC community to explore in more depth examples of unacceptable behaviour that could violate this Policy and the process for addressing complaints.

### The following behaviour is prohibited and would constitute a violation of this Policy:

#### Discrimination

Differential treatment based on a ground protected under the *Code* of that individual or group and which has an adverse impact on them, such as imposing a disadvantage, withholding an advantage, or otherwise disadvantaging the individual or group.

This Policy prohibits discrimination in the social areas protected by the *Code* (accommodation/housing; contracts; employment; goods, services, and facilities; and membership in union, trade or professional associations), based on the following *Code* grounds or any combination of these grounds:

- Age
- Creed (religion)
- Sex (including pregnancy and breastfeeding)
- Sexual orientation
- Gender identity
- Gender expression
- Family status (such as being in a parent-child relationship)
- Marital status (including married, single, widowed, divorced, separated or living in a conjugal relationship outside of marriage, whether in a same-sex or opposite-sex relationship)
- Disability (including mental, physical, developmental or learning disabilities)
- Race
- Ancestry
- Place of origin
- Ethnic origin
- Citizenship
- Colour
- Record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been received)
- Association or relationship with a person identified by one of the above grounds
- Perception that one of the above grounds applies.

## Harassment

Engaging in a course of vexatious comment or conduct against an individual that is known or ought reasonably to be known to be unwelcome, whether or not it is based on a protected ground; or sexual harassment.

For the purposes of this Policy, any vexatious, objectionable, or unwelcome conduct or comment that serves no legitimate work or learning-related purpose and has the effect of creating an intimidating, humiliating, threatening or hostile work or learning environment will be considered Harassment. Harassment may occur over a single significant incident but more often occurs over a series of related or unrelated incidents.

Examples of Harassment could include, but are not limited to:

- persistent bullying, threatening; intimidating, insulting, or other behaviour that belittles, degrades, frightens, or causes embarrassment;
- persistent unjustified threats of discipline or sanctions;
- display or circulation of offensive pictures, graphics, or materials;
- unwelcome gifts or attention;
- malicious gestures or actions, including shouting at another;
- sabotaging another's work or property; or,
- offensive jokes, innuendos, or spreading malicious rumours.

Harassment does not include reasonable challenges to work performance, negative job-related feedback that is meant to improve performance to an acceptable standard, classroom assignments, or other reasonable action taken by an RUC individual when exercising their supervisory rights and responsibilities in good faith.

## Sexual Harassment

Engaging in a course of vexatious comment or conduct against an individual because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or, making a sexual solicitation or advance 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 Harassment is a form of discrimination and some forms of sexual harassment (e.g., sexual assault) are also criminal offences. Sexual Harassment can occur between individuals of the same or different status or gender identity, and any gender/gender identity can be the subject of Harassment.

## Sexual Misconduct by an Employee Toward a Student

1. Physical sexual relations with the student, touching of a sexual nature of the student or behaviour or remarks of a sexual nature toward the student by an employee of Renison where:
  - (a) The act constitutes an offence under the Criminal Code (Canada) (including, but not limited to sexual assault, aggravated sexual assault, sexual assault with a weapon, voyeurism, sexual exploitation, sexual exploitation of a person with a disability, sexual

- interference, child pornography, criminal harassment/stalking, and invitation to sexual touching as examples);
- (b) The act infringes the right of the student under clause 7(3)(a) of the Human Rights Code to be free from a sexual solicitation or advance; or
  - (c) The act constitutes sexual misconduct as defined in this policy or contravenes the policy or any other policy, rule or other requirement of the institution respecting sexual relations between employees and students, or
2. any conduct by an employee of the institution that infringes the right of the 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.

## Abuse

The systemic destruction of a person's self-esteem and/or sense of safety, often occurring in relationships where there are differences in power and control. It includes threats of harm or abandonment, humiliation, deprivation of contact, isolation and other psychologically abusive tactics and behaviours which may escalate and/or change in pattern over a period of time. Abuse may be physical, sexual, emotional, verbal, psychological, or neglect and may be conveyed directly or indirectly, by telephone, writing, or electronic means, for example. Types of Abuse include:

**Physical Abuse:** single or repeated instances of deliberately using force against an individual in such a way that the individual is either injured or is at risk of being injured. It can include slapping, hitting, punching, shaking, pulling, throwing, kicking, biting, choking, strangling, or the unwarranted or excessive use of restraints.

**Verbal and Psychological Abuse:** repeated and hostile unwanted conduct, comments, actions or gestures, that destabilize an individual's dignity, psychological integrity, and which results in a harmful work, learning, or living environment for the individual. Such conduct might include demoralizing a person by ridiculing their beliefs, values, political and/or religious choices, humiliating remarks, name calling, swearing at, taunting, and/or behaviour that threatens personal safety, security, and/or property.

## Reprisal

A Reprisal, or threat of Reprisal, against an individual is prohibited and will be treated as a violation of this Policy. A Reprisal is any act against an individual, including Complainants or their support person, witnesses, investigators, decision-makers/management, for having:

- (a) invoked this Policy in good faith (whether on behalf of oneself or another individual);
- (b) participated or cooperated in any process or procedure under this Policy; or
- (c) been associated with a person who has invoked this Policy.

Any claims of Reprisal will also be investigated and responded to in accordance with the Procedures.



## Roles and Responsibilities

Ensuring and promoting a safe and respectful work, learning, and living environment that is free from Discrimination, Harassment, and Abuse is a responsibility shared among the entire RUC community. In addition, RUC will take appropriate preventative and corrective action where Harassment, Discrimination, and/or Abuse occurs and will, where warranted, hold individuals responsible in accordance with applicable collective agreement provisions, terms of employment or other University policies, procedures, or regulations.

### RUC Harassment and Discrimination Officer

The RUC Harassment and Discrimination Officer (HDO) and/or a member of the Human Resources department will, as applicable:

- Post this Policy on the RUC website to ensure its accessibility;
- Conduct regular cultural audits/reviews and/or risk assessments of the workplace, learning, and living environments to establish control measures to minimize identified risks or otherwise monitor and maintain safe and healthy environments and operations;
- Train and educate Staff and Faculty on this Policy at the time of their initial orientation, and on an ongoing basis, for greater understanding and awareness with regard to maintaining an environment free of Harassment, Discrimination, and Abuse;
- Review this Policy on a regular basis ( ) and, if necessary, make recommendations to the RUC MDG group and ultimately to the Board of Governors for changes in the Policy; and
- Endeavour to ensure the RUC community is informed about Harassment, Discrimination, and Abuse and their consequences by:
  - ensuring this Policy is available in written form and posted in a prominent place accessible to students, staff, faculty, and Board Members;
  - organizing workshops and other events designed to educate the RUC community about Harassment, Discrimination, and Abuse; and
  - ensuring that managers, supervisors, instructors, Board Members, and other individuals in positions of authority are aware of their rights and responsibilities under this Policy.

## The Renison Community

All RUC individuals are expected to:

- Conduct themselves in accordance with this Policy and refrain from any form of Harassment, Discrimination, Abuse, or Reprisal;
- Promote respectful behaviour;
- Attend training sessions offered by RUC;
- Support awareness and prevention efforts;
- Take prompt action to bring potential violations of this Policy to the attention of the HDO or other appropriate RUC authority;
- Adhere to the **Confidentiality** and **Record Keeping** requirements of this Policy; and
- Co-operate fully in any investigation of a Complaint brought under this Policy.

## Managers and Supervisors

In addition to the responsibilities expected of all RUC individuals, Managers and Supervisors are expected to:

- Communicate to the RUC community that Harassment, Discrimination, and Abuse are not permitted and will not be condoned or ignored;
- Encourage participation in relevant education and training programs provided by RUC;
- Make every effort, wherever possible, to put a stop to any Harassment, Discrimination, or Abuse of which they become aware and direct RUC individuals to the Policy and its Procedures upon receiving reports or inquiries related to Harassment, Discrimination, and/or Abuse; and,
- Carry out functions under the Procedures when requested by the President or Designate and where appropriate to do so.

## Alternative Options Outside This Policy

Nothing in this Policy is intended to prevent an RUC individual from pursuing potential alternative avenues for redress, such as through the *Code*, *Occupational Health and Safety Act*, the police, the courts, and/or a collective agreement, for example. If an RUC individual pursues an alternative avenue, a Complaint submitted under this Policy may be held in abeyance until the other process has been abandoned by the Complainant or brought to a formal conclusion

## Confidentiality

RUC understands that it may be difficult to come forward with a Complaint and recognizes that individuals may wish to keep a Complaint confidential. Confidentiality will be maintained

throughout the investigatory process to the greatest extent practicable and appropriate under the circumstances.

However, confidentiality does not mean anonymity. In respecting procedural fairness, a fundamental principle is that the Respondent must be informed of who has made the allegation and the specific nature of the allegation at the earliest possible point in the process.

The Complainant(s), Respondent(s), those who report incidents of Harassment, Discrimination, or Abuse, and those directly involved in managing and/or resolving a Complaint must not discuss the Complaint outside of what is provided for in the Procedures. Wherever possible, the Parties will be consulted before any disclosure of information is made. The importance of confidentiality will be stressed to all those involved in an investigation and those involved will be strictly required not to discuss the Complaint with colleagues or friends, except for those individuals participating in the process as **Support Persons**, as set out in this Policy.

All records of complaints will be kept confidential in accordance with the **Record Keeping** requirements except to the extent that disclosure is provided for under this Policy, is necessary to conduct an investigation, to take corrective action in relation to the Complaint, or required by law.

Breaches of confidentiality may give rise to investigation under this Policy and Procedures and to disciplinary action up to and including termination of employment or expulsion.

## Record Keeping

Any record of information developed or obtained under the Procedures will be retained in a sealed file kept by the Office of the President. Where a disciplinary letter and supporting documentation is retained in these records as a result of an investigation, the file shall have a code on its exterior to identify the contents. The President shall maintain a separate secure confidential file, which relates the code to a description of the contents of the sealed file in sufficient detail to identify the nature of the Complaint that led to the creation of the file. No person other than the President, the Complainant, or the Respondent, as applicable, shall have access to the sealed file.

The sealed file and its contents will not be disclosed unless disclosure is:

- necessary to investigate another incident or Complaint;
- otherwise required by law; or
- necessary to take disciplinary action on the basis of evidence contained in the sealed file. In which cases, the evidence in the file may be reviewed by the Parties to the disciplinary process and the parties to any grievance or arbitration proceedings challenging such actions.

No copies of any document contained in the sealed file may be made, except for the purpose of disciplinary actions taken or for the purposes of grievance or arbitration proceedings challenging such actions.

Notwithstanding the above, any disciplinary letter and supporting documents retained by RUC shall be removed from the sealed file and destroyed if no further disciplinary measures have been imposed on the Respondent on grounds of Harassment, Discrimination, or Abuse for a period of ten years subsequent to the date of such letter.

## Conflict of Interest

In accordance with the principles of procedural fairness and natural justice, either party may object to the participation of a person in the complaint resolution process as set out in the Procedures on the grounds of conflict of interest or reasonable apprehension of bias. If the objection is not resolved by those managing the Complaint, it may be referred in writing to the President or their Designate, whose decision will be final.

If any person carrying out functions under the Procedures has been removed from the process due to a conflict of interest or bias, including being named as a Respondent to a Complaint, the President or Designate will, as appropriate, substitute other person(s) able to carry out the functions in an impartial manner.

Furthermore, in the case of a conflict for the following persons:

- The function(s) carried out by the Harassment and Discrimination Officer (HDO) under the Procedures would be executed by the Director of Human Resources and Infrastructure (“HR Director”);
- The function(s) carried out by the HR Director under the Procedures would be executed by the President; and,
- The function(s) carried out by the President or Designate under the Procedures would be executed by the Board Chair.

## Support Persons

At any stage of the proceedings the Complainant and Respondent may be accompanied by a support person of their choice. The support person must not otherwise be involved in the process, such as another Complainant, Respondent, or someone who may be a witness during the investigation, for example. The support person may include a RAAS Executive member, colleague, or family member to the Party and will be subject to the same **Confidentiality** requirement as all others involved in the complaints process.

The role of a support person is to provide moral support. During an investigative interview, a support person will not be permitted to make legal submissions or arguments on behalf of the Party, or to disrupt the interview. The Party being interviewed must answer the interview questions themselves.

Prior to interviews as part of an investigation, the Party to be interviewed must disclose if they plan to have someone accompany them; and, if so, the name of the support person and the support person’s relation to the Party. The Investigator may decide to exclude from any investigative interview any support person who may be directly involved in or have direct knowledge of the matters under investigation, as they may need to be called on as a witness.

Parties will bear their own costs related to the participation of their support person.

## Counselling

At a Party's request, RUC may advise a Party of their options to accessing counselling, or otherwise support a Party to access to counselling in a manner RUC deems reasonable and appropriate in the circumstances.

## Exceptions to Procedural Timelines

The President and HR Director, in consultation with the HDO, will determine whether extenuating circumstances warrant the acceptance of a Complaint/Report submitted beyond the one (1) year time limit provided in the Procedures. Examples of extenuating circumstances may include:

- Illness
- Circumstances outside the control of the Complainant (e.g. administrative delays/error)

All other timelines in the Procedures may be adjusted, where warranted and respecting procedural fairness, for individuals involved in a complaint resolution process who require accommodation due to scheduling demands, leaves of absence, unforeseeable events, or for those seeking accommodation under the *Code*.

## PART II: PROCEDURES

### STEP 1: Personal/Direct Action

Where an RUC individual (the "Complainant") believes that another RUC individual (the "Respondent") is harassing, discriminating against and/or abusing them in violation of this Policy, or where an RUC individual has witnessed a potential violation of this Policy (a "Reporter"), they are encouraged to take direct action – that is, advise the Respondent that such conduct is unwelcome and unacceptable and ask the Respondent to immediately stop such conduct.

The Complainant, and any Reporters, are encouraged to approach the Respondent directly and/or with the assistance of an RUC individual in a position of authority, such as an employee's supervisor or a student's professor, in an attempt to resolve the situation as constructively as possible.

A Complainant and/or Reporter may choose not to approach the Respondent directly if they believe this may be inappropriate or risk personal safety. In these situations, or in cases where direct action was unsuccessful, individuals are encouraged to act as outlined in **STEP 2: Complaints Process**.

## STEP 2: Complaints Process

### 2.1 Submitting a Complaint or Report

A Complainant or Reporter should contact the Harassment and Discrimination Officer (HDO) for assistance in resolving a potential violation of this Policy. Where an allegation of a violation of this Policy has been disclosed or reported to an RUC individual in a position of authority, such as an employee's supervisor or a student's professor, the authority is expected to inform the Complainant/Reporter of this Policy and direct them to the HDO, especially if the authority is unable to assist in resolving the matter under **STEP 1: Personal/Direct Action**.

Upon contacting the HDO, the HDO will invite the Complainant/Reporter to prepare a written version of the allegations by submitting a written Complaint/Report, if one has not yet been submitted. The Complaint/Report will assist the HDO in making a preliminary assessment of the alleged violation and determining next steps, in accordance with section **2.7 - HDO Screening of the Complaint/Report**.

The onus is on the Complainant/Reporter to provide sufficient information and be as precise and concise as possible regarding the allegations. The Complaint/Report should include the following information:

- (a) Name of the person completing and submitting the Complaint/Report, contact information, and their relation to the RUC community;
- (b) Name of the person(s) alleged to have experienced Harassment, Discrimination, and/or Abuse (Complainant), their contact information, and their relation to the RUC community;
- (c) Name of the persons alleged to have breached the Policy (Respondent), contact information, their relation to the RUC community, and any known relation between the Complainant and Respondent (ex. colleagues, classmates, etc.);
- (d) Name of any witness(es) or other person(s) with relevant information about the alleged incident(s) and contact information;
- (e) Details of what happened, including date(s), frequency, and location(s) of the alleged Incident(s);
- (f) Any supporting documents the Complainant/Reporter has in their possession that are relevant to the alleged incident(s);
- (g) List of any documents relevant to the alleged incident(s) that a witness, other person, or the Respondent may have in their possession; and,
- (h) Reasons for delay, if the Complaint is being made beyond the one (1) year timeline provided for in the Policy.

## **2.2 Timeline for Complaints**

Immediate reporting of potential violations of this Policy is important, as delay in reporting can have a negative impact on the Complainant, Respondent, and/or others involved and can also negatively impact RUC's ability to adequately investigate a matter, as evidence may become stale or irretrievable in cases where there is a delay. As such, RUC strongly recommends submitting a Complaint/Report as soon as possible after the alleged incident occurs.

In any event, Complaints/Reports must be submitted no later than one (1) year after the last incident of the alleged conduct.

## **2.3 Anonymous Complaints, or no Complainant**

Where a Complaint/Report is made anonymously, this may limit the ability of the HDO and/or RUC to respond or take further action. Individuals are encouraged to share contact information so the HDO can follow up with the Complainant/Reporter to discuss possible next steps and supports.

The HDO may, on its own initiative, initiate a Report when they receive information regarding an alleged violation of this Policy, where they have sufficient information to proceed.

While a Complainant/Reporter has the right to withdraw their Complaint/Report at any stage in this process, Renison may have a responsibility to continue to act on the issue identified in a Complaint/Report in the absence of a Complainant to comply with its legal obligations. This responsibility may include investigating information which comes to its attention regarding a potential violation of this Policy. The President and/or HR Director, as appropriate, in consultation with the HDO, will decide what process is appropriate in the circumstances for addressing the issue.

## **2.4 Multiple Complaints**

When two or more Complaints have been submitted against the same Respondent arising out of essentially the same conduct or incident, these Complaints can be handled at the same time and by the same Mediator and/or Investigator, unless the HDO, HR Director, and/or President concludes that prejudice might result to one or both Parties. Reference to "Complaint" and "Complainant" under this Policy will be read to include more than one where multiple Complaints/Complainants are involved.

If a Respondent, upon receiving notification of a Complaint against them believes they have experienced Harassment, Discrimination, and/or Abuse by the Complainant and wishes to submit their own counter- Complaint, they must do so within ten (10) working days of receiving notice of the Complaint.

## 2.5 Bad Faith Complaints/Reports

A Complainant/Reporter may be subject to disciplinary action where their Complaint/Report is found to be frivolous, vexatious and/or made in bad faith. False and frivolous accusations of Harassment, Discrimination, and Abuse are serious offences because they may have serious consequences for a Respondent. However, the insufficiency of evidence to prove a Complaint does not mean that the Complaint was submitted in bad faith. A malicious or bad faith complaint means that a person who has made a complaint did so when they knew or should clearly have known that it was untrue. An individual who makes a false complaint or otherwise abuses this Policy may be disciplined up to and including dismissal from employment or expulsion. Discipline imposed in that situation would not amount to Reprisal or breach of this Policy.

## 2.6 Standard of Proof

For a Complaint to be accepted by the HDO, a Complainant must establish a *prima facie* case of Harassment, Discrimination, Abuse or Reprisal. A *prima facie* case is established where on the fact of the allegations and in the absence of a defense or a justification from the Respondent, one could reasonably conclude that Harassment, Discrimination, Abuse or Reprisal occurred.

The onus is on the Complainant to provide evidence that the Respondent violated the Policy. In assessing evidence collected during an investigation, the civil standard of proof is used. This involves evaluating the evidence and the allegations on a Balance of Probabilities.

## 2.7 HDO Screening of the Complaint/Report

Upon receipt of a Complaint/Report, the HDO will review the Complaint/Report to determine whether, on its face:

- the Complaint/Report contains enough information and clarity to be considered ;
- the person(s) involved fall within the scope of the Policy;
- the allegations contained in the Complaint, if true, would constitute a violation of the Policy;
- the alleged incident occurred within the past 12 months;
- the allegation has not been, is not currently, or should not be the subject of another complaint, discipline, or legal process including criminal charges;
- the Complaint/Report is not one that should more appropriately be dealt with through other RUC or University of Waterloo (“UW”) procedures or mechanisms; and,
- the Complaint does not appear to be trivial, frivolous, vexatious or made in bad faith.

Upon screening the Complaint/Report, the HDO will acknowledge in writing to the Complainant/Reporter receipt of the Complaint/Report and will provide them with a copy of this Policy and its Procedures. If the Complaint/Report is incomplete, the HDO will request clarification or rectification of the Complaint/Report within five (5) working days in order to be properly considered.



The HDO will reconsider a decision not to proceed with a Complaint where a Complainant submits significant new information within five (5) working days. Otherwise, where a Complaint/Report is not capable of proceeding under this Policy, the HDO may refer a Complainant to other relevant RUC offices or services.

Where a Report is submitted and an individual has been identified on the Report as the one experiencing the Harassment, Discrimination, and/or Abuse, the HDO will inquire with the individual if they intend to submit a Complaint, if they haven't already done so.

## **2.8 Notification of Complaint/Report**

Where the HDO is in receipt of a complete Complaint/Report, or after expiry of the time given to the Complainant/Reporter to rectify an incomplete Complaint/Report, within five (5) working days of receiving a complete Complaint/Report the HDO will:

- (a) notify the Complainant in writing of receipt of the Complaint and include a copy of this Policy and its Procedures, if not already done so; advise the Complainant that the Respondent will be notified of the Complaint and of the HDO's decision to proceed or not with the Complaint and the reasons for the decision; and, advise the Complainant that the Respondent has a right, under the Procedures, to submit a counter-Complaint against the Complainant where the Respondent believes the Complainant has engaged in Harassment, Discrimination, and/or Abuse in relation to the incident(s) that formed the basis of the Complaint;
- (b) notify the Respondent in writing of receipt of the Complaint and include a copy of this Policy and its Procedures, along with the complete allegations contained in the Complaint, including any supporting documents provided with the Complaint. Advise the Respondent of the HDO's decision to proceed or not with the Complaint and the reasons for the decision. Give the Respondent an opportunity to provide a written response to Complaint within ten (10) working days of notification of the Complaint;
- (c) provide the Complainant with the Respondent's written response to the Complaint, if any, and ask the Complainant in writing to provide to the HDO, within five (5) working days, any written reply to the Respondent's response;
- (d) provide the Respondent with the Complainant's written reply, if any; and,
- (e) notify the HR Director and/or President, as appropriate, that a Complaint has been received.

## STEP 3: Informal Resolution

### 3.1 Complainant Options

Where the HDO has determined that a Complaint may proceed under these Procedures and the proper individuals have been notified under section 2.8, within five (5) days of the HDO sending the Complainant the Respondent's response to the Complaint, the Complainant may elect to either:

- (a) withdraw the Complaint and take no further action under this Policy;
- (b) attempt to resolve the matter according to Conflict Management Procedures;
- (c) request the matter be resolved through Facilitated Discussion or Mediation set out in these Procedures; or,
- (d) request in writing that the matter be resolved through the Formal Resolution process in **STEP 4: Formal Resolution – Investigation**.

The Complainant can choose to withdraw the Complaint at any time. Similarly, the Parties can engage in Informal Resolution, at any step in these Procedures. However, even where the Complainant withdraws their Complaint or where the Parties resolve the Complaint informally, the HDO may still be required to initiate an investigation appropriate in the circumstances. That is, RUC maintains the right to continue to proceed with a Complaint where there are safety concerns, legal or reputational implications, repeated offences, a pattern of behaviour, or at RUC's discretion in order to meet any legal obligations it may have.

Facilitation may not be appropriate if concerns have been raised about personal safety or intimidation or if there is a belief that a situation will escalate as a result of any direct communication between the Parties. Other than situations where the allegations raise a safety risk, Complainants will be encouraged by the HDO to explore the possibility of informal resolution.

### 3.2 Facilitated Discussion or Mediation

Where a Complainant has requested informal resolution, the HDO will promptly inform the Respondent in writing of the Complainant's request and will confirm the Respondent's willingness to participate in informal resolution. As informal resolution is voluntary, a Complainant and/or the Respondent may choose not to participate. Where a Complainant and Respondent choose to participate in informal resolution, the HDO will make the necessary arrangements depending on the type of informal resolution agreed upon. The Parties may be accompanied by **Support Persons**, as described in the Policy. [Note: This avenue is not available in cases of Sexual Misconduct by an Employee Toward a Student].

The Parties may decide to participate in a facilitated discussion directly with each other and assisted by a Facilitator or indirectly with each other, through a Mediator. A supervisor, Human

Resources representative, the HDO, or other neutral party as appropriate may act as Facilitator or Mediator, in which case, the Facilitator/Mediator may not thereafter conduct any investigation into the Complaint and must comply with the **Confidentiality** requirements of this Policy.

The Facilitator/Mediator will be responsible for structuring the informal resolution process and arranging for a time mutually agreed upon by the Parties to resolve the Complaint. Their mandate is to bring the Complainant and the Respondent together to explore each other's point of view and to assist the parties in reaching a solution.

Informal Resolution is terminated when:

- i. the Complainant and Respondent reach a mutual agreement to resolve the Complaint, as per section **3.3**;
- ii. the Complainant and/or Respondent decide not to pursue informal resolution any further; or,
- iii. the Facilitator/Mediator determines that the process has been exhausted.

### **3.3 Informal Resolution Agreement**

Informal Resolution will normally be completed within eight (8) weeks (40 working days) of the HDO contacting the Respondent inviting them to engage in Informal Resolution.

If an Informal Resolution is reached between the Parties, the Facilitator/Mediator will formalize the terms of the resolution in writing, to be confirmed in writing by the Parties. The Facilitator/Mediator will inform the HDO (where separate individuals) of the Resolution Agreement. The HR Director and President must approve the Resolution Agreement to ensure it aligns with RUC principles and is feasible considering any administrative or other actions that would be needed to implement the resolution.

Failure by either Party to comply with the Resolution Agreement may result in a reopening of the complaints process and proceeding with **STEP 4: Formal Resolution – Investigation**.

### **STEP 4: Formal Resolution – Investigation**

Where the Informal Resolution process is unsuccessful at resolving the Complaint, where the Complainant requests in writing the Formal Resolution process, and/or where the HDO determines the Complaint will proceed to Formal Resolution, the HDO will promptly initiate an investigation.

#### **4.1 Nature of the Investigation**

The type of investigation conducted will be based on the individual circumstances of each case. If following notification of the Complaint/Report pursuant to section **2.8** the HDO is satisfied they have all the facts based on their inquiries and that the Parties have been heard in accordance with the principles of procedural fairness, the HDO may decide not to undertake or initiate a formal

investigation process under this section but instead conduct an investigation reasonable in the circumstances. In this case the HDO will follow the process under **4.6**, except for abridging any timelines as appropriate.

## **4.2 Interim Measures/Personal Safety Considerations**

The HDO will seek direction from the HR Director and President who will determine, in consultation with any RUC individual appropriate in the circumstances, if any immediate action or interim measures are required to protect the RUC community or other individuals. Interim measures take into consideration the severity of the allegations and may be deemed necessary where: an individual poses a safety risk; the continued proximity of the Parties will impair the ability of either party or any other person to function in relation to studies or to work; or there has been a Reprisal or there exists the threat of Reprisal. These measures may include limiting access to facilities, arranging for alternative grading or supervisory relationships, or discontinuing contact between the Complainant and the Respondent during the period of the investigation process. Interim measures are not, nor intended to be, a form of discipline or Reprisal.

## **4.3 Selection of the Investigator**

Where the HDO has not acted as Facilitator or Mediator in a prior stage of the complaint process, the HDO will normally conduct the investigation. Nevertheless, RUC may assign an internal or external individual to investigate and, depending on the nature of the Complaint and where appropriate, more than one Investigator may be assigned to work as a team to conduct the investigation.

Any Investigator selected must be capable of conducting an impartial, unbiased investigation in a thorough, timely, and discreet manner and should have skills, training, and experience in harassment, discrimination, and/or abuse investigation techniques.

In selecting the Investigator(s), RUC may consider, among other things:

- the severity or complexity of the allegations;
- timeliness, degree of urgency;
- the number of Parties involved,
- availability of internal investigators; and,
- the severity of the sanctions that may occur in response to the reported allegations, and the appearance or existence of bias or a potential conflict for the Investigator(s) being considered.

The HDO will notify the Parties in writing that an investigation is being initiated and will provide the name of the Investigator(s). The Parties will be given the opportunity to challenge the selection of the Investigator(s) on the grounds of conflict of interest or bias. The President or

Designate will decide on a challenge within five (5) working days of having received the challenge. That decision will be final under this Policy.

#### 4.4 Investigator Duties

The Investigator is responsible for conducting an investigation that is fair, impartial and appropriate given the seriousness and complexity of the allegations raised. A decision will be made only after the Investigator has gathered all the necessary facts and both Parties have had an opportunity to be heard.

The Investigator must advise the HDO (where separate individuals) as to the expected timeframes for completion of the investigation and finalization of the Investigation Report and must keep the HDO informed of the progress for completion of the investigation. The Report should be finalized as promptly as possible without compromising due process.

RUC may provide the Investigator with guidelines or terms of reference for the investigation. In any case, the investigation will normally include:

- reviewing and analyzing relevant documentation such as the written Complaint/Report, the Respondent's response to the Complaint, any reply by the Complainant to the Respondent's response, witness statements or record of interviews, and any other relevant documents or evidence; and,
- meeting separately with the Complainant, witnesses with firsthand knowledge of the situation, and the Respondent. The Investigator should run through their notes with the interviewee at the end of the interview and ask them to correct or clarify any misstatements in the Investigator's notes.

Where needed, the Investigator will be provided with access to facilities/virtual platforms and witnesses to assist the Investigator in the investigation process.

The Investigator must ensure the investigation is kept confidential and identifying information is not disclosed unless necessary to conduct the investigation, in accordance with this Policy, or as required by law. The Investigator must remind the Parties and any other person(s) interviewed or otherwise involved in the investigation process of the **Confidentiality** requirements under this Policy.

#### 4.5 Investigation Timelines

The Investigator may set timelines for individuals to respond to requests for interviews or to produce relevant documents in an effort to ensure the investigation is completed in a timely manner, in compliance with the Policy and these Procedures.

The investigation should normally be completed within forty-five (45) working days of notification to the Parties of the Investigator(s) selected. In the event the Investigation is not completed

within forty-five (45) working days, the Complainant, Respondent, and HDO will be notified of the delay.

The Investigator should be in a position to prepare their Investigation Report no later than sixty (60) days after the commencement of their investigation.

#### **4.6 Investigation Report**

After concluding the investigation, and after having reviewed and analyzed all the evidence, the Investigator must prepare an Investigation Report on the evidence elicited from the investigation that provides their assessment 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 the Policy.

The Investigation Report must include the following:

- a summary of the findings of fact of the investigation based on an analysis of all relevant evidence/information considered;
- the results of the investigation; namely, a determination, on a balance of probabilities, whether there is:
  - sufficient evidence to substantiate a finding of violation of the Policy by either Party; or
  - insufficient or lack of credible evidence to substantiate the alleged violation of the Policy.

For RUC's consideration, if requested by RUC, the Investigator may make general recommendations on action to be taken by RUC to restore the well-being of the RUC environment overall. The Investigator may decline to offer recommendations and, in any event, RUC is not obliged to consider and/or implement any such recommendations.

The Investigator will submit an Investigation Report to the HDO (if separate individuals), who will then promptly review and forward to the HR Director and President.

The Investigation Report is prepared on a confidential basis for RUC; the Investigator's Report is the property of RUC, and the Parties will not be entitled to a copy of the Report, other than as required by law.

### **STEP 5: Formal Resolution – Final Decision and Corrective Action**

#### **5.1 Final Decision**

Upon receipt of the Investigator's Report, the HR Director and/or President, as appropriate ("the Decision-Maker"), will promptly review the Report and consult with any other person deemed

necessary by the Decision-Maker with a view to determining what action is to be taken, if any (the “Decision”).

The Parties will be informed when a Decision has been rendered and will communicate any action to be taken by either Party. The extent of the Decision communicated to either Party, and any other persons deemed necessary for the purposes of implementing and/or monitoring the corrective, remedial, or other action set out in the Decision, will be made on a need to know basis.

Where discipline is contemplated against the Complainant and/or Respondent as part of the Decision, the Decision is subject to the application of any rights the Parties may have under a collective agreement, contract with RUC, or under another applicable RUC or UW policy or procedure.

## **5.2 Corrective and Remedial Action**

- (a) Examples of corrective and/or remedial action include but are not limited to:
  - (i) verbal or written apology, where appropriate;
  - (ii) written reprimand;
  - (iii) barring contractors from future bids;
  - (iv) barring from campus;
  - (v) transfer;
  - (vi) demotion;
  - (vii) suspension (with or without pay);
  - (viii) mandatory training/education;
  - (ix) dismissal or expulsion;
  - (x) restoration of employment position or academic status;
  - (xi) provision of counselling, where appropriate; or
  - (xii) reconsideration of any decision concerning the Complainant which may have been affected by the Incident, for example, a merit increase or a promotion.
  
- (b) Examples of other actions to support the Parties and/or restore the well-being of the work, learning, or living environment include but are not limited to:
  - (i) mediation or facilitated discussions;
  - (ii) individual or group leadership and/or conflict coaching;
  - (iii) organizational review and/or organizational development;
  - (iv) policy development and/or revision; and/or
  - (v) education/training.

## STEP 6: Appeal

1. Complainant or Respondent may, within 14 Days of the Decision date (i.e., the date which the decision letter is dated), appeal the Decision by notifying the HDO in writing that they wish to appeal the Decision. The Party bringing the appeal (the “Appellant”) must, within 14 Days of the Decision date, provide the HDO with the grounds for their Appeal and any supporting documentation (“the Appeal”).
2. The Appeal must include a statement of the reasons for appealing the Decision based only on one or more of the following Grounds for Appeal:
  - a) that the investigation was conducted in an unfair or biased manner, which significantly affected the outcome of the investigation and/or Decision;
  - b) that, in the case of the Respondent, the findings of fact made by the Investigator are insufficient to support the determination that a Policy violation has been established;
  - c) that, in the case of the Complainant, the findings of fact made by the Investigator ought to have resulted in the determination that a Policy violation has been established; or
  - d) relevant evidence has emerged that was not available during the investigation or before the decision-making process was completed, which would have significantly affected the outcome of the investigation and/or Decision had it been available.
3. Where the Appeal challenges the investigation and/or its findings, the other Party will be informed that an Appeal has been filed and will be given an opportunity to respond to the Appeal if it appears there are adequate grounds to consider the Appeal. The other Party will be given a set deadline to provide a response, if they choose to do so.
4. The President and Human Resources Director will, within 30 Days of receiving the Appeal from the HDO, appoint an external Arbitrator to consider the Appeal and make a final determination on the Appeal. The Complainant and the Respondent will be given an opportunity to have input in the selection of the Arbitrator; the President and Human Resources Director will make the final selection decision.
5. RUC may provide the Arbitrator with guidelines or terms of reference for conducting the appeal. The Arbitrator may determine that interviewing the Parties or conducting an oral hearing is necessary, which case, the Arbitrator will determine the procedure to be followed at the hearing. Otherwise, the appeal will proceed in writing only and will normally consist of reviewing the Complaint/Report, the Parties’ written submissions and supporting documentation, the Investigation Report, the Appeal, and any additional Party submissions with supporting documentation provided for the



appeal process.

6. The Arbitrator's written decision on the Appeal ("Appeal Decision") will normally be made within 45 days of their appointment. The Parties to the Appeal will thereafter be notified of the outcome of the Appeal as soon as reasonably possible. The Parties will be informed of any remedial actions to be taken, if appropriate.
7. The Appeal Decision is final with respect to the options available within RUC.
8. Nothing in this section is intended to prevent a Party from appealing the Decision using alternate procedures available to them, such as those found in a Collective Agreement, a student Code of Conduct or Discipline Policy, or other processes outside of the University College. In such cases, an Appeal under this procedure may be suspended until another chosen procedure has been completed, or it may be dismissed altogether.

## List of Related RUC Policies, Procedures, Guidelines

- Conflict Management Policy
- Workplace Violence Prevention Policy and Program

## Policy Review / Revision History

Revision No.	Date	Description	Approved By
0	May 29, 2019	Issued	Board of Governors
1	February 15, 2022	Re-ordering of sections with the Policy; additional headings included for easier reference; greater detail provided in Procedures. Updated HDC Terms of Reference. Updated Flowchart in the Appendices; added Glossary of Terms as an Appendix.	MDG
2	May 31, 2023	Addition of language as it relates to newly introduced Bill 26 Legislation	MDG
3	February 26, 2025	Removal of Harassment & Discrimination Committee Updating of Appendices – titles Change of President's Cabinet to MDG	MDG

## Appendix A – Glossary of Terms

**"Authority"** also referred to as **"RUC authority"** refers to, for the purposes of this Procedure, any person who has charge of a workplace, authority over another employee, or authority in the administration of education, including supervisors, managers, senior management and Faculty leadership.

**"Balance of Probabilities"** means an investigative standard that must be met to determine whether a violation of the Policy has occurred based on a finding that "it was more likely than not" that the events at issue was committed. This is a lower standard than beyond a reasonable doubt, but more than mere suspicion.

**"Complainant"** refers to an RUC individual who makes a Complaint under these Procedures. The Complainant may also be Renison University College under certain circumstances.

**"Complaint"** is the written statement submitted to the HDO raising allegations of a potential breach of the Policy (i.e. Harassment, Discrimination, Abuse and/or Reprisal).

**"Day"** means a calendar day, including weekends and holidays.

**"Investigation"** means a part of the complaint resolution process under the Procedures in which Renison University College conducts a systematic inquiry into allegations.

**"Parties"** refers collectively to the Complainant and the Respondent. Similarly, **"Party"** means either the Complainant or Respondent.

**"Procedural Fairness"** means the right to a fair process; the principles of procedural fairness include the individual's right to be given a fair opportunity to be heard, to be given adequate time and sufficient detail to respond, and to be aware of the information held by the decision-maker prior to the decision being made.

**"Report"** refers to a complaint of Harassment, Discrimination, Abuse, and/or Reprisal made by or against an individual belonging to the Renison community.

**"Respondent"** refers to an individual who is alleged in a Complaint or Report to have engaged in Harassment, Discrimination, Abuse, or Reprisal.

**"Witness"** means, a person who has relevant information about a complaint made under this policy.

**"Working Days"** means Mondays to Fridays, excluding Saturdays, Sundays and paid holidays observed by the University. The latest time on a day for action is 4.30 p.m.

**"Workplace"** means any place where a Renison employee engages in employment activity. This includes virtual/online workspace, employment activities outside the normal place of work, and employment activities that occur outside of normal working hours.

## Appendix B – Procedures Flowchart

