

# HUMAN RESOURCES GUIDELINE ON WORKPLACE HARASSMENT AND CIVIL CONDUCT ("CIVILITY GUIDELINE")

Updated November 30, 2018

*This Guideline sets out the expectations of the University, through its Vice-President, Human Resources & Equity on behalf of the President, regarding the standard of civil conduct that it expects and requires all employees to maintain in dealings with each other. It is intended to guide central and divisional Human Resources Offices throughout the University as they respond to situations where the standard of civility does not appear to be maintained, and also to assist them work with managers and others in communicating expectations.*

*This Guideline constitutes part of a Workplace Harassment Program as required by the Occupational Health and Safety Act. The University's Workplace Harassment Program also includes another document called the Guideline for Employees on Concerns and Complaints Regarding Prohibited Discrimination and Discriminatory Harassment, which deals with allegations of workplace harassment that are based upon the prohibited grounds set out in the Human Rights Code (the "Code").<sup>1</sup>*

*In the case of any inconsistency between a collective agreement and this Guideline, the collective agreement provisions govern to the extent of the inconsistency.*

## **Introduction and Definitions**

This Guideline describes what constitutes civil and uncivil conduct and sets out a general framework for staff members who are concerned that they have experienced such conduct. The University wishes to maintain a collegial work environment in which all employees behave in a civil manner and treat each other with respect and civility regardless of position or status in the organization. The University will not condone uncivil conduct.

Workplace harassment constitutes uncivil conduct within the meaning of this Guideline. Workplace harassment is defined in the *Occupational Health and Safety Act* as follows:

"workplace harassment" means,

- (a) 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
- (b) workplace sexual harassment.

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<sup>1</sup> The grounds listed under the *Human Rights Code* are: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status, and disability

“workplace sexual harassment” means,

(a) 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

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

This Guideline applies to all employees of the University of Toronto while in the course of their duties or at work-related events, whether on or off University property. For clarity, this Guideline also applies to communications in whole or part through electronic means, such as e-mail, web postings, text messaging and other forms of electronic behaviour.

If your allegations relate to uncivil conduct that is not sexual harassment and is not based upon any other prohibited ground under the Code your allegations fall within the scope of this Guideline.

If your allegations relate to conduct that is based upon prohibited grounds under the Code, please refer to the *Guideline for Employees on Concerns and Complaints Regarding Prohibited Discrimination and Discriminatory Harassment* (“Discrimination Guideline”).

If your allegations relate to conduct based upon sex, sexual orientation, gender identity or gender expression, including workplace sexual harassment, please also refer to the University’s [Policy on Sexual Violence and Sexual Harassment](#).

### **Examples of Civil and Uncivil Conduct**

In many cases, the determination of whether conduct is civil or uncivil depends on the context. Context can include the activities occurring at the time of the conduct. In an environment as diverse as the University, we must also be mindful of cultural differences that influence behaviour and the interpretation of that behaviour. We must also appreciate that all members of the University community have a right to freedom of speech and expression, in accordance with the University’s Policy on Freedom of Speech. The Guideline is not intended to infringe on academic freedom including the academic freedoms and responsibilities articulated in article 5 of the Memorandum of Agreement between the University and its faculty members and librarians. Instead, this Guideline describes the conduct expected of all members of the University community including when exercising their academic freedom.

Civil conduct includes:

- Treating others with dignity, courtesy, respect, politeness and consideration
- Speaking in tones of voice that are appropriate for the circumstances
- Being respectful of others’ right to express their views, even if you disagree
- Managing conflict with others in a respectful way rather than a confrontational way

Some examples of behaviour that will generally not be viewed as civil are set out below. Generally, these behaviours will only be in breach of this Guideline if they are part of a pattern of conduct, as opposed to isolated events. Depending upon the context, some of these examples may also constitute workplace violence within the meaning of the University of Toronto Policy with respect to Workplace Violence and related Workplace Violence Program.

- Shouting
- Profanity, abusive, aggressive or violent language directed at an individual or individuals
- Using props suggestive of violence
- Slamming doors
- Throwing objects
- Humiliating, degrading, demeaning, belittling, insulting, frightening or intimidating another person
- Distributing comments about an individual, whether verbally or in writing, including online, that are unjustified and are likely to have a negative impact on the individual if he/she were to see them
- Telling inappropriate jokes

The following are examples of behaviours that are NOT considered uncivil conduct:

- Reasonable management action, taken in accordance with the relevant collective agreement or employment contract where applicable, such as:
  - Meetings, letters or conversations dealing with performance management, attendance management, coaching
  - Instructions given by a supervisor/manager such as what to do, how to do it, the expected standard of performance

- Disciplinary action
- Denial of leave requests
- Requests for documentation to substantiate requests for leave
- Evaluative comments made in the context of peer review processes
- Differences of opinion or debate conveyed in a respectful manner
- Interpersonal conflicts where the parties remain respectful of one another

### **Where to Go with a Concern/Complaint about workplace conduct**

The first step, whenever possible, is to approach the person whose conduct is at issue. That person may not be aware of how his/her behaviour is affecting you or others and should be given an early opportunity to change his/her behaviour.

If discussion with the person in question does not resolve the issue or if such discussion is not appropriate, you are encouraged to discuss concerns regarding uncivil behaviour with the administrative officer responsible for the department or division in which the behaviour is alleged to have occurred. If this is not appropriate (for example, if your concern/complaint is against the administrative officer responsible for the department or division in which your concerns arose), you may wish to speak to someone at a more senior level of the department or division or a human resources representative. Administrators in the department/division should seek advice in a confidential way from their human resources office and/or an equity office to assist in determining the appropriate course of action.

If you require assistance in raising a complaint, you are encouraged to discuss the issue with the manager/director of any human resources office, whether or not it is the human resources office for your own division. The human resources manager/director can assist you in determining whether there is an issue that should be raised, how to raise it, with whom to raise it, and the range of resolutions that might be possible.

If the behaviour that you are concerned about relates to a ground of discrimination under the Ontario Human Rights Code, you should consult the Human Resources Guideline on Complaints Regarding Prohibited Discrimination and Discriminatory Harassment. Similarly, if the behaviour that you are concerned about relates to sex, sexual orientation, gender identity or gender expression, you should also consult the Policy on Sexual Violence and Sexual Harassment. If you require assistance in determining where your complaint falls, you may wish to speak with a human resources manager/director or one of the equity offices listed at

[www.equity.utoronto.ca](http://www.equity.utoronto.ca).

The University makes the following commitments:

- Your concerns will be heard.
- You will be given assistance in determining whether your concerns can be processed under this Guideline or whether some other process is more appropriate.
- If your concerns do not fall under this Guideline, you will be given advice regarding how you might pursue those concerns.
- You will be given assistance in determining whether you wish to pursue a complaint.
- You will be told of other resources that might be of assistance to you in the circumstances.
- You will be told who will have primary responsibility for the complaint if you decide to go forward with it. You will be advised if at any stage responsibility for the complaint is transferred to another party.
- If your complaint alleges a violation of this Guideline, you will be advised of the type of investigation that will be undertaken, the scope of the investigation, and the process that will be followed.
- Information obtained by the University and any investigator about an incident or complaint of uncivil conduct, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.
- Respondents to complaints will be provided with procedural fairness and the University will take their interests into account so as to minimize any risk of reputational or other impact while the complaint is being assessed and dealt with in a confidential manner.
- You and any respondent(s) will be advised in writing in a timely manner of the results of an investigation and any corrective action that has been taken or will be taken as a result of the investigation, although you may not be advised of the details of any sanction against any other party.

### **Responsibility of Complainant**

You have a responsibility to bring your complaint forward as soon as reasonably possible, so that it can be dealt with in a timely manner.

In the event of an investigation, you will have a responsibility to provide sufficient details to allow the person(s) against whom you are making a complaint to be able to respond to the complaint. In most cases where an investigation is to be done, you will be expected to particularize your complaint in writing.

You have a responsibility to respect confidentiality and to respect the other steps taken by the University to assist in maintaining both procedural fairness and a fair working environment for

both you and the respondent while the complaint is being assessed. Please note that your obligation to respect confidentiality does not restrict you from seeking support and discussing your concerns in confidence with one or more support person(s).

### **Responsibility for a Complaint**

Primary responsibility for your complaint will rest with one office. That office will be responsible for tracking your complaint until its resolution. Responsibility for your complaint will initially rest with the office to which you directed the complaint. However, it may ultimately be transferred to another office, such as the division/department in which the complaint arose, an equity office, or your human resources department. If the University is of the view that your complaint more appropriately falls within an existing procedure, responsibility for your complaint will be in accordance with that procedure.

Some employees are covered by collective agreements that deal with the subject of civil conduct. In such a case, the collective agreement provisions govern to the extent of any inconsistency with this Guideline.

Both the complainant and respondent will be kept informed regarding which office has primary responsibility for processing the complaint.

Regardless of who has responsibility for the complaint, departments and human resources offices that receive complaints about uncivil conduct are expected to contact the applicable equity office to discuss the equity considerations, if any, before advising you as to what next steps may be. Departments are also expected to contact their human resources office.

Ultimately, the department/division will need to be involved in the implementation of any resolution. Accordingly, you need to be aware that a complaint can only proceed with the involvement of the department/division.

### **Investigating the Complaint**

The investigation of a complaint under this Guideline may proceed through one of several different mechanisms, depending upon contextual factors such as the subject-matter of the complaint and the parties involved in the complaint.

As described above with respect to protection of information from disclosure, efforts are made to provide appropriate protection of the confidentiality of information obtained during the investigation process. However, anonymity is not possible since in almost all cases the respondent will need to know who is making the allegations, and others will need to know certain basic information in order to process the complaint.

It should be understood that the word “investigation” does not necessarily involve a full-scale, complex inquiry. Often, informal inquiries and discussion, with the views of the parties being

solicited and assessed, will be appropriate.

### **Informal Resolution**

In many cases, concerns of uncivil conduct will be resolved through discussions between the parties with the assistance of a manager.

### **Resolution of Complaint:**

Resolutions to complaints involving uncivil conduct vary greatly, depending on such factors as the subject-matter of the complaint, the part of the University community of which the complainant and respondent are members (*e.g.*, student, staff, visitor, contractor), and the specific policies and contracts applicable in the circumstances (*e.g.*, Student Code of Conduct, Code of Behaviour on Academic Matters, Sexual Harassment Policy, employment policies, collective agreements).

Generally speaking, if a complaint is found to be substantiated it will result in some remedial action involving the respondent.

The University may request or require that one or more of the parties participate in processes including the following: training, coaching, mediation, or facilitation.

### **Dissatisfaction with the Resolution of a Complaint**

The available channels if you are not satisfied with the resolution of your complaint depend on the policies, contracts or other documents that govern your relationship with the University and the relationship of others involved in the complaint. You should speak with the office that had responsibility for your complaint to determine what avenues are available in your circumstances and/or your union representative, if applicable.

Should a complaint result in disciplinary action against an employee that individual will have access to the normal grievance or other processes available to him or her under the applicable memorandum of agreement, collective agreement, policy, or other terms of employment.

### **Reprisals**

There will be no reprisals against persons who, in good faith, bring forward a complaint or otherwise take action under this Guideline. Reprisals may be the subject of a complaint under this Guideline.

### **Vexatious or Bad Faith Complaints**

There may be penalties or sanctions for bringing forward concerns or complaints under this Guideline in bad faith or that are vexatious.

## **Other Processes**

Unless otherwise required by law, in the event that the same facts giving rise to the concern/complaint under this Guideline are also raised through another process, the University reserves the right to put the process under this Guideline on hold, or choose to proceed under the other process instead. .

## **Annual review**

This Guideline will be reviewed at least annually.