

**Review of the
Harassment/Discrimination Complaint Policy and Procedure
of
Queen's University
at Kingston, Ontario**

REPORT TO SENATE

Submitted by
Keith C. Norton, QC

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1. Introduction

Under Section IV, the Harassment/Discrimination Complaint Policy and Procedure¹, which was approved by the Senate of the University on March 30, 2000 and ratified by the Board of Trustees on May 6, 2000, provides for a review of the Procedure and its operation five years after its coming into force and for a report to the Senate with any recommendations for change.

In 2006, the Senate was preparing for the periodic review and acted on a suggestion from the Vice Principal (Human Resources) that an external (third party) review of the policy would be a useful first step. In December of that year, the Principal invited Keith Norton to undertake the external review.

This external review did not expressly include policies and processes beyond the Harassment/Discrimination Complaint Policy and Procedure itself. For example, the review did not include consideration of the University's Educational Equity Report and Policy Statement² or complaint processes which exist as part of collective agreements.

It was agreed that the review, which began in early 2007, would go beyond a review of the Policy and Procedure document as written, to include a broadly based consultation with interested stakeholders within the university community. As a result, the Review included:

- A review of background documentation on the Policy and Procedures document (historical information and reports to Senate)
- A review of the Policy and Procedure document itself
- An open meeting for the university community (Feb. 13, 2007)
- A review of 19 submissions from members of the university community
- Fourteen meetings with individuals and groups making submissions.

On at least two occasions, e-mail notices were sent to the entire university community inviting submissions and four days were selected during which oral submissions would be received.

The review was undertaken with the assistance of Kathy Wood and the support of the office of the University Secretary. To ensure the opportunity for confidential discussions, the office of the University Secretary scheduled but did not attend these meetings.

The University would like to thank those who took the opportunity to contribute to the Review process --- either through written or oral presentations. The review heard from members of the administration, faculty, staff, student body, Director and staff of the Human Rights Office, Respondent Advisors, Faculty Association, unions, the University Student Appeal Board and the Senate Education Equity Committee. In addition, Mr. Norton appreciates the contributions of an Executive Director of the Community Legal Clinic which has been involved with the Human Rights Office, and a Director and a Policy Analyst at the Ontario Human Rights Commission who reviewed the Policy and offered helpful comment.

¹ <http://www.queensu.ca/secretariat/senate/policies/harass/index.html>

² <http://www.queensu.ca/secretariat/senate/policies/EDEQ.html>

2. Review Conclusions and Recommendations

The following recommendations are based upon a review of the Policy and Procedure document itself, input from the consultations on campus, the written submissions received from individuals and groups who did not speak to their submissions in meetings, some limited consultation with external experts and a review of the background documentation provided. Some proposals, while not without merit, were found to be outside the scope of this review and some of the recommendations come not from submissions but from our own observations and experience. References to specific sections and paragraphs in this report are references to the existing Policy Statement.

During the review process, it was clear that the staff of the Human Rights Office (HRO) and the volunteer advisors are truly dedicated to their work and are widely respected for the work they do. That should be borne in mind when reading the following material since none of the criticism of process is intended to be critical of individuals. Dedicated

2. Awareness of The Policy:

In some meetings, it was suggested that there is a lack of awareness of the policy and the procedures set out in it. This lack of awareness extends to some degree to faculty, staff and students. While the HRO staff does engage in public education, their resources simply do not permit them to reach the whole university community.

In addition, to assist those who wish to access the procedures set out in the policy or those who wish to respond to a complaint, we would recommend that an attempt be made to set out in either electronic or hard copy form (for instance on the University website or in pamphlet form), possibly with a diagram/flow chart, a simplified outline of the process and a very brief description of the essential parts of the policy. These could be made available across the campus as part of a public education or awareness plan. These materials could also be used as part of orientation programs for new students, faculty and staff.

Opportunities could be identified to reach key leaders within the student body who would have opportunities to increase awareness among others. Such persons would include those in charge of orientation programs for students, Dons in residence and certain key people in student government. It might be worthwhile for the HRO to invite these individuals to an awareness/training session at or before the beginning of each school year.

Recommendation A-2: Given the responsibilities outlined in paragraph 3 above to make the campus community aware of the Policy, the University should create and broadly disseminate a simplified outline of the essential elements of the Harassment/ Discrimination Policy and Procedure.

Recommendation A-3: That opportunities be identified to provide awareness and training among key students, faculty and staff who might be responsible for dissemination of this information to their peers.

3. Clarity of the Policy:

Based upon the submissions referred to in point number 2 above and our own observations, we would recommend that consideration be given to redrafting the policy with a view to developing a more user-friendly format. Also, it might be a more inviting document if the definitions were more succinct and moved to the end or placed in an appendix.

For example, a review of Section A (Policy) and Section B (Definitions) of the existing policy document reveals an inconsistency in the enumerated grounds cited in each. The sections should be harmonized to avoid confusion. Further, in the provincial legislation (to which the University is subject), mental illness and mental

disability are deemed to be covered under the general ground of 'disability'. This inclusion could be reflected in amendments to the definitions section of the policy. [See Section B, part 1 of this report for further recommendations on definitions of enumerated grounds.]

Recommendation A-4: That consideration be given to reorganizing and redrafting the policy into a more user-friendly format. This would include making the definitions more succinct and placing them at the end of the document.

4. Centralized Procedure:

Paragraph 5 of Section A of the existing policy statement refers to the assumption that a "centralized procedure is necessary to assure uniformity and fairness". As was evident in the presentations and documents

Recommendation B-1: That particular attention be given to aligning the enumerated grounds in the policy to reflect the existing grounds in the legislation of Ontario and Canada and ensure that the definitions section (B.1) is harmonized with the enumerated grounds in Section A of the policy statement (for example, age discrimination, disability). Further, the term ‘handicap’ should be removed from the policy statement.

2. Scope of Policy:

With the harmonization of the sections of the policy and the clarification of definitions in place, we support the current reference in the policy (Section B, paragraph 1 part three) which notes that personal/workplace harassment which is not

2. Employment in Related Corporate Entities:

A related issue is the applicability of the policy to individuals working for organizations other than the University itself but within university-related environments (for example, individuals

within Queen's facilities: 4.34 (of the Queen's Faculty of Staff Operating Other Organizations)

While this would not eliminate the need for emergency action in the most serious cases (for instance by finding alternative accommodation or arranging a change in thesis advisor, if possible), it might reduce the need to bypass due process in some cases.

We would recommend that some range of consequences be set out in reference to reprisal in the hope that this might reduce the need to compromise due process except in the most serious cases.

Recommendation C-4: That Section C-I-6 on page 6 of the existing policy be amended to include a range of consequences depending on the severity of the conduct constituting reprisal activity up to and including dismissal or expulsion from the University.

5. Hearings without Cooperation of Complainants:

Section C-III-4 on page 8 of the existing policy statement (Responsibilities of Supervisory Personnel) provides for a complaint to be taken as far as a formal hearing without the consent of the person(s) allegedly harassed in circumstances where the interests of the University and the protection of the members of the community require it. In our view, a preferred approach in these circumstances would be to initiate an investigation as an alternative to a formal hearing.

Recommendation C-5: That the University give consideration to making provision in the policy that complaints, the pursuit of which do not have the consent of the complainant(s), be subject to investigation with the possibility of

Recommendation C-8: That the services of someone from the law school be secured to provide training on due process to all appropriate parties including decision-makers and advisors.

8. Fact-Finding and Investigation:

Several very experienced people indicated that there was confusion about how these processes related to one another. For example:

- A complaint dealt with in the residence system might involve harassment or discrimination and might or might not be brought to the attention