

# St. Thomas University

---

<b>POLICY:</b>	Harassment and Discrimination Policy
<b>Effective Date:</b>	July 1, 2021
<b>Revision Dates:</b>	November 25, 2011 February 24, 2018 July 1, 2021
<b>Review Date:</b>	July 1, 2022
<b>Approving Body:</b>	Board of Governors
<b>Authority:</b>	Act establishing St. Thomas University
<b>Implementation:</b>	President delegated to the Director of Human Resources
<b>Sponsor/Contact:</b>	Director of Human Resources
<b>Applies to:</b>	As described in 3. Scope
<b>Connection to other Policies:</b>	<ul style="list-style-type: none"><li>- Policy on Sexual Violence</li><li>- Policy on Non-Academic Misconduct</li></ul>

## Table of Contents

<b>1.0</b>	<b>Reason for Policy</b> .....	<b>3</b>
<b>2.0</b>	<b>Policy Statement</b> .....	<b>3</b>
	<b>2.1 Mission Statement</b> .....	<b>3</b>
<b>3.0</b>	<b>Scope</b> .....	<b>4</b>
<b>4.0</b>	<b>Guiding Principles</b> .....	<b>5</b>
<b>5.0</b>	<b>Definitions</b> .....	<b>6</b>
	<b>5.1 Discrimination</b> .....	<b>6</b>
	<b>5.2 Harassment</b> .....	<b>6</b>
	<b>5.3 Violence</b> .....	<b>8</b>
	<b>5.4 Retaliation</b> .....	<b>8</b>
	<b>5.5 Appropriate University Official</b> .....	<b>9</b>
<b>6.0</b>	<b>Resources</b> .....	<b>9</b>
	<b>6.2 Deans and Administrative Directors</b> .....	<b>10</b>
	<b>6.3 Harassment and Discrimination Officers</b> .....	<b>10</b>
	<b>6.5 Harassment and Discrimination Policy Administrator</b> .....	<b>10</b>
	<b>6.6 Director of Human Resources</b> .....	<b>11</b>
<b>7.0</b>	<b>Other Available Resources for Students</b> .....	<b>11</b>
<b>8.0</b>	<b>Complaint Reporting Procedure</b> .....	<b>12</b>
<b>9.0</b>	<b>Complaint Resolution Procedures</b> .....	<b>12</b>
	<b>9.4 Information Resolution</b> .....	<b>13</b>
	<b>9.5 Mediation</b> .....	<b>14</b>
	<b>9.6 Investigation</b> .....	<b>15</b>
<b>10.0</b>	<b>Privacy and Confidentiality</b> .....	<b>18</b>
<b>11.0</b>	<b>General Policy Provisions</b> .....	<b>19</b>
<b>12.0</b>	<b>Accountability</b> .....	<b>19</b>
<b>13.0</b>	<b>Secondary Documents</b> .....	<b>20</b>
<b>14.0</b>	<b>Review</b> .....	<b>20</b>
<b>15.0</b>	<b>Effect on Previous Statements</b> .....	<b>20</b>
	<b>Appendix A – Complaint Procedure Flowchart</b> .....	<b>21</b>
	<b>Appendix B – Quick Reference Guide</b> .....	<b>22</b>
	<b>Appendix C – Harassment and Discrimination Reporting Form</b> .....	<b>25</b>
	<b>Appendix D – Other Available Resources for Students</b> .....	<b>27</b>

## **1.0 REASON FOR POLICY**

- 1.1 St. Thomas University and its Board of Governors are committed to creating and maintaining a safe and secure work and study environment for all employees and students, and in which all employees and students are protected from harassment, discrimination, and/or retaliation. The purposes of this Policy are therefore as follows:
- 1.1.1 To be educational, in that its existence will increase awareness of, and sensitivity to, the negative impact of harassment and discrimination, and further that it will mandate preventative educational efforts on campus;
  - 1.1.2 To prevent harassment, discrimination, and/or retaliation by indicating the seriousness with which the University views this issue; and,
  - 1.1.3 To provide fair procedures for handling complaints when they do occur.
- 1.2 Notwithstanding the existence of this Policy, every person continues to have the right to seek recourse through their collective agreements, the New Brunswick *Human Rights Act* or other statutory provisions, or through the courts.

## **2.0 POLICY STATEMENT**

### **2.1 Mission Statement**

*“We are a University primarily concerned with people, ideas, and values. We are an institution with a social conscience. We are united in the belief that women and men of divergent backgrounds and abilities should have an opportunity to learn and practice critical thought and to realize their intellectual potential in an academic setting.*

*We seek to provide a learning and working atmosphere that is free of discrimination, injustice, and violence, and that is responsive, understanding, open, and fair.”*

- 2.2 To these ends:
- 2.2.1 Acts of harassment, discrimination, and/or retaliation within the meaning of this Policy are strictly prohibited and may be the subject of discipline.
  - 2.2.2 Allegations of harassment, discrimination, and/or retaliation within the meaning of this Policy that come to the attention of the University shall be addressed by the University in conformity with this Policy.
  - 2.2.3 Consistent with the New Brunswick *Occupational Health and Safety Act* (“OHSA”) and its Regulations, an employee shall report a perceived

incident of harassment or of discrimination to the University as soon as the circumstances permit.

- 2.2.4 Any individual or group that makes a malicious, frivolous, vexatious, false, or bad faith complaint pursuant to this Policy breaches the Policy and may be disciplined.
- 2.2.5 Where appropriate, and where those affected agree, informal resolution processes may be accessed to address interpersonal conflicts that do not rise to the level of harassment or discrimination, but which are adversely affecting the work or education environment for the individuals involved.

### **3.0 SCOPE**

3.1 The following policies were established to ensure a safe and secure work and study environment for all students and employees (faculty, staff, and administration) of St. Thomas University (“University Community”):

- Harassment and Discrimination Policy
- Non-academic Misconduct Policy
- Policy on Sexual Violence

Cases of harassment, discrimination, and/or violence (including sexual violence) where, at the time and in the context of the alleged incident, the Respondent is an employee (member of faculty, staff, or administration) are within the scope of the Harassment and Discrimination Policy. Cases of harassment, discrimination, and/or violence (including sexual violence) where, at the time and in the context of the alleged incident, the Respondent is a St. Thomas student are within the scope of the Non-academic Misconduct Policy.

Although the Policy on Sexual Violence confirms St. Thomas University’s position on sexual violence and details prohibited conduct, it does not provide complaint procedures to be followed in issuing sanctions in cases involving allegations of sexual violence. Cases of sexual violence where, at the time and in the context of the alleged incident, the Respondent is an employee (member of faculty, staff, or administration) would follow the complaint process and sanctions outlined in the Harassment and Discrimination Policy. Cases of sexual violence where, at the time and in the context of the alleged incident, the Respondent is a St. Thomas student would follow the complaint process and sanctions outlined in the Non-academic Misconduct Policy.

The reason for this multiple policy approach is that the University’s responsibilities and the potential consequences of a finding are different in situations where the Respondent is an employee of the University, compared to situations where the Respondent is a student.

- 3.2 Subject to 3.1, harassment, discrimination, and/or retaliation that occurs on-campus, off-campus at University-related social functions, in the course of work or academic assignments/placements off-campus, during work or University-related travel, by telephone, electronic communication, and/or social media, or that otherwise affects the University work or study environment for a member of the University community, is covered under this Policy.

#### **4.0 GUIDING PRINCIPLES**

- 4.1 In establishing a Policy with procedures for dealing with allegations of harassment, discrimination, and/or retaliation, the University is guided by the following principles:
- 4.1.1 The prevention of harassment and discrimination through a process of educating and informing the University community is necessary, important, and forms an integral part of the University's prevention strategy;
  - 4.1.2 Whether or not a written complaint has been filed, an employee or student who experiences a situation as harassment or discrimination should be encouraged, if appropriate, to try to resolve the issue via an informal resolution process;
  - 4.1.3 The University is committed to academic freedom and to freedom of expression and association. This Policy in no way is meant to contravene the principle of academic freedom as outlined in the Full- and Part-time Faculty Collective Agreements (Article 2.04);
  - 4.1.4 This Policy is not to be interpreted, administered, or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage and direct employees and students in accordance with collective agreements or applicable University policies and procedures. Conversely, an obligation to manage or direct others is not an excuse for actions that may constitute harassment and/or discrimination;
  - 4.1.5 While it is the University's responsibility to maintain and promote an environment that is free of harassment and discrimination, all members of the University community are required to cooperate in this endeavour; and,
  - 4.1.6 Consistent with the OHSA, the University will identify training needs and implement and maintain a training program for employees, supervisors, and those identified as resources in the Policy. Furthermore, prevention and education activities will include, but not be limited to, ensuring trauma-informed training for those members of the University community who will be managing processes related to sexual harassment.

## **5.0 DEFINITIONS – DISCRIMINATION AND HARASSMENT**

### **5.1 Discrimination**

5.1.1 Discrimination is defined as the act of treating a person or group unequally, regardless of intent, by imposing unequal burdens, obligations, disadvantages, or preferences on the basis of the person's race, colour, national origin, place of origin, ancestry, creed or religion, age, marital status, family status, sex (including pregnancy), sexual orientation, gender identity or expression, physical disability, mental disability, social condition, or political belief or activity, or any other grounds covered by the New Brunswick *Human Rights Act* or the application of a seemingly fair and equal rule, policy, process, or procedure to an individual or group of individuals which, as a result of one or more of the above-listed grounds of that individual or group of individuals, has an adverse impact on the individual or group of individuals that is not or would not be experienced by other individuals.

### **5.2 Harassment**

5.2.1 Harassment may be personal, sexual, or discriminatory in nature, and includes any objectionable or offensive behavior that is known or ought reasonably to be known to be unwelcome, including but not limited to bullying, intimidation, verbal abuse, violence, abuse of authority, or any other conduct, comment, or display made on either a one-time or repeated basis that threatens the health or safety of an employee, but does not include reasonable conduct of an employer in respect of the management and direction of employees at the place of employment.

5.2.2 Some examples of personal harassment and/or abuse of authority include, but are not limited to, the following:

5.2.2.1 Communication that is inappropriately harsh or condemning, abusive and offensive language, threatening gestures, yelling, bullying, ridiculing, using derogatory names, or threatening in a manner that negatively impacts University work, studies, or participation in campus life;

5.2.2.2 The allocation of humiliating or demeaning tasks, or the setting of impossible deadlines with unrealistic expectations of work;

5.2.2.3 Hazing (such as harmful or humiliating initiation rituals);

5.2.2.4 Serious and/or repeated rude, degrading, or offensive remarks, such as teasing about a person's physical characteristics or appearance, put-downs or insults;

- 5.2.2.5 Singling out an employee for meaningless or dirty jobs that are not part of their normal duties; and/or,
  - 5.2.2.6 Threats, intimidation, or retaliation against an employee, including one who has expressed concerns about perceived unethical or illegal workplace behaviours.
- 5.2.3 Some examples of what does not constitute personal harassment and/or abuse of authority include, but are not limited to, the following:
- 5.2.3.1 Allocating work appropriate to the position;
  - 5.2.3.2 Following-up on work absences;
  - 5.2.3.3 Requiring performance to job standards; and/or,
  - 5.2.3.4 Taking appropriate disciplinary measures.
- 5.2.4 Sexual harassment may occur between people regardless of gender, gender identity, or gender expression. It may occur when there is a difference of power status (faculty/student, supervisor/direct report) or between persons of the same status.
- 5.2.5 In any University-related context, sexual harassment may be expressed in a number of ways, including but not limited to:
- 5.2.5.1 Crude, offensive, or sexually suggestive remarks, gender-based insults and taunting, sexual gestures or leering, and humour based on stereotypes, directed at a person because of their gender, gender identity, gender expression, or sexual orientation;
  - 5.2.5.2 Unwanted and unsolicited sexual advances (e.g., innuendoes and suggestive remarks inviting intimacy and sexual contact) and physical contact (e.g., unwanted contact of a sexual nature such as patting, touching, kissing, pinching, or brushing against, and sexual assault);
  - 5.2.5.3 Solicitation of sexual activity by expressed or implied promise of reward or threat of reprisal; and/or,
  - 5.2.5.4 Coerced sexual relations.
- 5.2.6 Sexual harassment is not:
- 5.2.6.1 Consensual interaction;

- 5.2.6.2 Physical affection between friends; and/or,
- 5.2.6.3 Mutual flirtation, joking, or teasing.
- 5.2.7 Some examples of discriminatory harassment include, but are not limited to, the following:
  - 5.2.7.1 Unwelcome remarks, jokes, innuendoes, or taunting about a person's race, colour, national origin, place of origin, ancestry, creed or religion, age, marital status, family status, sex (including pregnancy), sexual orientation, gender identity or expression, physical disability, mental disability, social condition, or political belief or activity, or any other grounds covered by the New Brunswick *Human Rights Act*; and/or,
  - 5.2.7.2 Displaying of sexually explicit, racist, or bigoted ethnic pictures or materials.

### 5.3 **Violence**

- 5.3.1 Violence means the attempted or actual use of physical force, or any threatening statement or behaviour that gives reasonable cause to believe that physical force will be used, and includes sexual violence, intimate partner violence, and domestic violence. Acts of violence constitute acts of harassment within the meaning of this Policy.

### 5.4 **Retaliation**

- 5.4.1 Retaliation means the imposition of negative consequences by any person including, but not limited to, threats or reprisal, attempts to intimidate, or adverse behaviour or action taken against an individual (including a Complainant or a Respondent) in response to that individual having:
  - 5.4.1.1 Been involved in this Policy;
  - 5.4.1.2 Participated or cooperated in any process under this Policy; or
  - 5.4.1.3 Been associated with any individual who has invoked this Policy or participated in any of its processes.
- 5.4.2 Examples of retaliation include, but are not limited to, the following:
  - 5.4.2.1 Unfair grading, evaluation, or assignments;
  - 5.4.2.2 Purposely withholding information or making it difficult for an individual to obtain information in a timely manner, which may

adversely affect that individual, such as class information, recommendations, grades, important events, etc.;

5.4.2.3 Ridicule or name calling in private and/or public;

5.4.2.4 Oral or written threats or bribes;

5.4.2.5 Refusing to communicate with or acknowledge a person because of their involvement in a process under this Policy; and/or

5.4.2.6 Further harassment of any nature.

## 5.5 **Appropriate University Official**

The Appropriate University Official is the individual(s) identified by the President in consultation with the Director of Human Resources who is responsible for ensuring compliance with the various elements of this Policy, taking into consideration the circumstances of the complaint.

## 6.0 **ESTABLISHMENT OF RESOURCES TO ADMINISTER THIS POLICY**

6.1 The University shall ensure that a comprehensive set of resources is available to the University community for the purposes of preventing harassment, discrimination, and/or retaliation, creating a culture of safety and respect, and responding to complaints of discrimination and/or harassment under this Policy. Resources shall include: 1) Deans and Directors (Heads of Administrative Units); 2) Harassment and Discrimination Officers; 3) a Harassment and Discrimination Policy Administrator; and 4) the Director of Human Resources.

### 6.2 **The Role of Deans and Administrative Directors**

6.2.1 To strongly encourage those within their scope of responsibility to participate in harassment and discrimination education and training as provided by the University in accordance with 6.6.3.

6.2.2 To provide guidance to employees and students within their scope of responsibility regarding resources and support services provided under the Policy.

6.2.3 To proactively engage with employees and students within their scope of responsibility when there are indicators that harassment and discrimination has or is occurring.

**6.3 The Role of Harassment and Discrimination Officers**

6.3.1 To provide guidance to employees and students on matters related to harassment and discrimination that fall under the Policy.

**6.4 Appointment of Harassment and Discrimination Officers**

6.4.1 The President shall appoint, at minimum, two (2) Harassment and Discrimination Officers, one (1) representing the faculty and one (1) representing the staff/administration employee group. The President may appoint additional Harassment and Discrimination Officers. Harassment and Discrimination Officers shall be appointed for a three (3) year term.

**6.5 The Role of Harassment and Discrimination Policy Administrator**

6.5.1 To receive, review, and process complaints of harassment, discrimination, and/or retaliation under this Policy.

6.5.2 To facilitate the informal resolution process as outlined in Section 9.0.

6.5.3 To act as a mediator to resolve complaints. Notwithstanding this responsibility, the Harassment and Discrimination Policy Administrator may recommend to the Appropriate University Official that the complaint requires the hiring of an external mediator (see Section 9.5.4).

6.5.4 To investigate cases of alleged harassment, discrimination, and/or retaliation under this Policy. Notwithstanding this responsibility, the Harassment and Discrimination Policy Administrator may recommend to the Appropriate University Official the hiring of an external investigator (see Section 9.6.2.1).

6.5.5 After a reasonable amount of time, to follow-up with the participants in a complaint resolution process to assess whether further intervention is required and/or to ensure there are no recurrences or retaliation.

6.5.6 To co-ordinate support services, in partnership with the Director of Human Resources and the Appropriate University Official, for those who have experienced harassment, discrimination, and/or retaliation within the meaning of the Policy.

6.5.7 To maintain confidential records while actively engaged in the complaint process and to forward all records to the Director of Human Resources for confidential archiving once the Harassment and Discrimination Policy Administrator's role in the complaint process is complete. The record shall be filed on a confidential basis with the Director of Human Resources, kept for seven (7) years, and then destroyed.

- 6.5.8 In collaboration with the Director of Human Resources, to monitor the effectiveness of the Policy and to make recommendations to the President for revisions.
- 6.5.9 Given the importance of the Harassment and Discrimination Policy Administrator role to the efficient operation of the Policy, if the role is vacant or the incumbent is absent, a designated alternate shall be named to perform the functions of the role.
- 6.5.10 The functions of the Harassment and Discrimination Policy Administrator role may be performed by an external service provider.
  - 6.5.10.1 The Vice-President (Finance and Administration) and the Director of Human Resources will oversee the service contract relating to an external Harassment and Discrimination Policy Administrator.

## **6.6 The Role of Director of Human Resources**

- 6.6.1 To be a resource to all stakeholders within the scope of the Policy.
- 6.6.2 To maintain a list of qualified investigators and mediators.
- 6.6.3 To liaise with the Harassment and Discrimination Policy Administrator to coordinate harassment and discrimination education and training, and to keep training records and make them available to a health and safety officer, when requested.
- 6.6.4 To work with the Harassment and Discrimination Policy Administrator to select and hire an external investigator or mediator when necessary.
- 6.6.5 To maintain all confidential records related to the Policy, subject to disclosure required by law.

## **7.0 OTHER AVAILABLE RESOURCES FOR STUDENTS**

- 7.1 St. Thomas University students have access to multiple on-campus and community-based resources that can assist with a broad range of harassment and discrimination issues and questions. A key resource is the Campus Sexual Assault Support Advocate which is described in more detail in 7.2 Other available resources for students are listed in Appendix D.
- 7.2 The Campus Sexual Assault Support Advocate is a trained expert staff member of the Fredericton Sexual Assault Centre, who works on campus. They are the recommended first point of contact on campus for students for all sexual assault disclosures or for students seeking support. The Campus Sexual Assault Support

Advocate is both a trained sexual violence counsellor and an advocate who can provide students with information about their options, and where appropriate, guide students through whatever processes or support they choose.

## **8.0 COMPLAINT REPORTING PROCEDURE**

- 8.1 Any person who is uncertain as to what resolution options exist, may seek the assistance of any of the resources outlined in Section 6.0.
- 8.2 Any person who is in search of information as to whether an act, comment, or gesture constitutes harassment, discrimination, and/or retaliation under this Policy may seek the assistance of the Harassment and Discrimination Policy Administrator.
- 8.3 Any person alleging that an act of harassment, discrimination, and/or retaliation has been committed shall report the incident(s) to the Harassment and Discrimination Policy Administrator.
  - 8.3.1 For further clarity, a person may initiate the application of this Policy where that person believes that they have witnessed harassment, discrimination, and/or retaliation of another person, by bringing the incident to the attention of the Harassment and Discrimination Policy Administrator.
- 8.4 Complainants should report their concerns as soon as possible after the alleged conduct, and in any event only those complaints lodged within twelve (12) months of an event shall be addressed under this Policy, except for extensions granted for extenuating circumstances at the sole discretion of the President. In the case of a series of events, the last event in a series will be used as the commencement of the aforementioned time limits.

## **9.0 COMPLAINT RESOLUTION PROCEDURES**

- 9.1 Upon receiving a written or verbal complaint alleging harassment, discrimination, and/or retaliation within the meaning of this Policy, the Harassment and Discrimination Policy Administrator will determine whether the alleged conduct falls within the scope of this Policy. If, in the opinion of the Harassment and Discrimination Policy Administrator after consultation with the Director of Human Resources, the alleged conduct would not constitute a violation of this Policy, they will not proceed further, and will inform the Complainant of this decision in writing. Where appropriate, the Harassment and Discrimination Policy Administrator may nonetheless refer the individual to the Director of Human Resources regarding possible resolution options so that they may address the underlying concerns that were identified.

- 9.2 If the Harassment and Discrimination Policy Administrator determines that the alleged conduct, if true, would fall within the scope of the Policy, then, depending on the particular situation, the following resolution options are available:
- 9.2.1 An informal resolution under 9.4;
  - 9.2.2 Mediation under 9.5; and,
  - 9.2.3 Investigation under 9.6.
- 9.3 Complaints of harassment and/or discrimination can be resolved by employing any or all of the resolution procedures. Where appropriate and where the parties agree, a reasonable effort to resolve complaints at the informal resolution or mediation level should be made, while reserving the right to bypass the informal resolution and mediation procedures and proceed to a formal investigation, if, in the judgment of the Harassment and Discrimination Policy Administrator, a case is of sufficient complexity or severity. Allegations of violence or retaliation are sufficiently serious that they will usually warrant an investigation, though mediation may also be appropriate in limited circumstances.

#### 9.4 **Informal Resolution**

- 9.4.1 Informal resolution is voluntary and requires the agreement of both parties. While informal resolution measures are optional, they are encouraged. The purpose of dealing with a complaint informally is to address the behaviour that underlies the complaint and to resolve the matter to the satisfaction of the parties as quickly as possible. Every reasonable effort will be made to achieve an informal resolution within twenty (20) working days of the initiation of the complaint.
- 9.4.2 If the parties agree to informal resolution, the Harassment and Discrimination Policy Administrator will assess the circumstances of the complaint to determine how best to facilitate an informal resolution. An informal resolution may include:
- 9.4.2.1 Direct discussion between the parties, possibly with advance preparation from the Harassment and Discrimination Policy Administrator;
  - 9.4.2.2 Indirect discussion between the parties, via the intervention from the Harassment and Discrimination Policy Administrator; and/or
  - 9.4.2.3 Direct discussion between the parties facilitated by the Harassment and Discrimination Policy Administrator.

- 9.4.3 If an informal resolution is achieved, it will remain confidential, subject to the disclosure necessary to implement and monitor adherence to its terms, or as may be otherwise agreed by the parties. No record of the informal resolution will be entered into an employee or student file. An informal resolution must take into consideration and be implemented within the parameters of the policies of the University and/or the provisions of any relevant collective agreement unless prior approval is received from an authorized University official. A record of the informal resolution shall be filed on a confidential basis with the Director of Human Resources, kept for seven (7) years, and then destroyed.
- 9.4.4 If an attempt at informal resolution fails to arrive at a mutually acceptable solution, either party may request mediation or initiation of the investigation procedure.

## 9.5 **Mediation**

- 9.5.1 Any time after a complaint has been received, the parties can attempt to resolve the complaint through a process of mediation provided that both parties consent to such a process.
- 9.5.2 If approved by the Appropriate University Official, mediation will begin within a reasonable time period, typically ten (10) working days. A mediated settlement must take into consideration and be implemented within the parameters of the policies of the University and/or the provisions of any relevant collective agreement unless prior approval is received from an authorized University official.
- 9.5.3 Mediations will be conducted by appropriately trained and experienced internal or external mediators.
- 9.5.4 The Harassment and Discrimination Policy Administrator shall either conduct mediation or recommend to the Appropriate University Official that the services of an external resource be retained to conduct mediation on behalf of the University.
- 9.5.5 A copy of any agreement reached during mediation will be provided to each of the parties and to the Director of Human Resources, and will remain confidential, subject to the disclosure necessary to implement and monitor adherence to its terms, or as may be otherwise agreed by the parties. No record of the mediation will be entered into an employee or student file. A record of the mediation agreement shall be filed on a confidential basis with the Director of Human Resources, kept for seven (7) years, and then destroyed. Access to the mediation agreement is restricted to the Director of Human Resources, the Appropriate University Official, and the President or designate.

9.5.6 If mediation fails to arrive at a mutually acceptable solution the complaint will be resolved via the investigation procedure.

## 9.6 Investigation

### 9.6.1 Process

9.6.1.1 A Complainant or Respondent may request an investigation of a complaint.

9.6.1.2 Investigations will be conducted by appropriately trained and experienced internal or external investigators.

9.6.1.3 When an investigation is necessary, a written summary of the allegations that are to be investigated will usually be submitted by the Complainant. “Appendix C – Harassment and Discrimination Reporting Form” may be helpful as a template for this. If the Complainant is unable or unwilling to record the allegations in writing, the Harassment and Discrimination Policy Administrator may summarize in writing the verbal allegations of the Complainant and this summary will constitute the complaint for purposes of the investigation. The complaint document, however developed, will establish the scope of the allegations to be investigated and will be provided to the Respondent as part of the duty of procedural fairness.

9.6.1.4 A Complainant may choose not to participate in an investigation, in which case the Harassment and Discrimination Policy Administrator will conduct an assessment as to whether an investigation into the complaint would be able to establish a violation of the Policy without the participation of the Complainant. If, in the opinion of the Harassment and Discrimination Policy Administrator after consultation with the Director of Human Resources, it is unlikely a violation of the Policy can be established without the participation of the Complainant, the matter will not proceed to an investigation. The Complainant will be informed of this decision in writing.

9.6.1.5 Once an investigation has begun, each successive step should begin within a reasonable time period, typically ten (10) working days, of the conclusion of the previous step until the complaint is resolved.

9.6.1.6 If a Complainant and a Respondent share the same work space or academic space, it may be appropriate for the Appropriate University Official, in accordance with Section 5.5, to separate the Complainant and Respondent from one another while the complaint is being processed. In order to encourage complaints from those who believe they have been harassed, discriminated, and/or retaliated against, and not as an indication that a decision has been made on the merits of any complaint, normally it will be the Respondent and not the Complainant who will be moved. Although the University will make every attempt to maintain confidentiality, it should be noted that any decision to separate the Complainant and the Respondent from one another may indirectly cause the existence of the complaint to become known to those who would otherwise not know about it.

## 9.6.2 Investigation Procedures

9.6.2.1 The Harassment and Discrimination Policy Administrator shall either conduct an investigation or recommend to the Appropriate University Official that the services of an external resource be retained to conduct an investigation on behalf of the University.

9.6.2.2 The investigator will conduct the necessary investigation in accordance with the requirements of “procedural fairness”. This includes the Respondent’s right to know, understand, and respond to all allegations.

9.6.2.3 The investigator will consider the importance of giving the Respondent and Complainant a target date for receipt of the investigation report at the outset of the process. It is understood that the target date may change and that extensions can occur with reasonable notice (e.g., one week).

9.6.2.4 The investigator will provide an opportunity to both the Complainant and the Respondent to identify individuals who may have relevant information to share, and to provide verbal and/or written evidence related to the alleged conduct.

## 9.6.3 Witnesses

9.6.3.1 The investigator will endeavour to interview individuals identified as having potentially relevant evidence to share and to receive into evidence all potentially relevant documentation identified by the parties and witnesses. The Complainant and the Respondent will be provided an opportunity to respond to relevant evidence provided by the witnesses.

- 9.6.3.2 The investigator has a duty to keep as much of the evidence collected as possible confidential while meeting the requirements of procedural fairness for all parties to the complaint.

#### 9.6.4 Investigation Report

- 9.6.4.1 Upon completion of the investigation, the investigator shall prepare a report in a timely fashion, containing the following information:

- 9.6.4.1.1 a summary statement about the background of the complaint;

- 9.6.4.1.2 a summary description of the Complainant and the Respondent's written response (if any);

- 9.6.4.1.3 a summary of the process followed in the investigation;

- 9.6.4.1.4 a summary of the evidence provided by the parties and the witnesses;

- 9.6.4.1.5 copies of any relevant documentation relied upon in the Report;

- 9.6.4.1.6 findings of fact as to what did or did not occur, and conclusions based on those findings as to whether or not a violation of the Policy has been established, both based on a balance of probabilities; and,

- 9.6.4.1.7 whether there were mitigating or aggravating circumstances affecting either party in the case where a violation of the Policy was found to have occurred.

- 9.6.4.2 The investigation report will be forwarded to the Appropriate University Official. The Appropriate University Official is responsible to ensure the Complainant and Respondent receive the investigation report at approximately the same time. The Appropriate University Official will determine the method and timing of distribution, acting reasonably on both accounts. The investigation report shall be filed on a confidential basis with the Director of Human Resources, kept for seven (7) years, and then destroyed. Access to the investigation report is restricted to the Director of Human Resources, the Appropriate University Official, and the President or designate.

#### **9.6.5 Decision, Discipline, Remedial Action, and/or Follow-up Measures**

- 9.6.5.1 The final disposition of the complaint will be determined by the Appropriate University Official, in consultation with the Director of Human Resources.
- 9.6.5.2 If a person is a member of a bargaining unit, any formal recommendation for remedial or disciplinary action shall be made in accordance with the relevant provisions of the collective agreement.
- 9.6.5.3 Where there is no collective agreement, the Appropriate University Official shall be responsible to ensure the remedial or disciplinary action is carried out.
- 9.6.5.4 Discipline and/or remedial action will be appropriate to the offense and relevant circumstances of the case, and may include but is not limited to coaching, verbal or written warnings, final warnings/suspension, or termination.
- 9.6.5.5 In the case where the decision has involved discipline and/or remedial action, documentation of those actions will be placed on the appropriate employee or department file.

#### **10.0 PRIVACY AND CONFIDENTIALITY**

- 10.1 The University recognizes the importance of privacy and confidentiality with respect to all matters and processes under this Policy. All persons involved in processes under this Policy must maintain the privacy and confidentiality of information, including but not limited to information about the existence and content of allegations under this Policy, except as may be required to meet their obligations and/or to carry out their functions under this Policy, or as may be required by applicable collective agreement provisions, other University Policies, procedural fairness, or operation of law.
- 10.2 For greater clarity, confidentiality is not the same as anonymity. The information collected from participants in processes under this Policy, and the identity of those participants, may be disclosed if required to pursue a resolution under the Policy, to meet the requirements of procedural fairness, to meet the requirements of governing collective agreements, and as otherwise may be authorized or required by law.

## **11.0 GENERAL POLICY PROVISIONS**

### **11.1 General Provisions**

- 11.1.1 When an individual who has an administrative role in the Policy becomes a Complainant or Respondent, they surrender any rights or responsibilities assigned to the respective position which affect the implementation of this Policy.
- 11.1.2 Either party to a complaint may object to an investigator or mediator, on grounds of a conflict of interest or reasonable apprehension of bias. Such objection should be submitted in writing within five (5) working days to the Appropriate University Official, whose decision will be final. Objections must be legitimate and not used as a tactic to slow or stall an investigative process. In a situation where the objection is supported as being legitimate, the Appropriate University Official will appoint a qualified investigator or mediator.
- 11.1.3 Employees and students participating in a procedure under this Policy shall be provided assistance in adjusting schedules by the Director of Human Resources, the Deans, or the Registrar, as appropriate.
- 11.1.4 At all times, and during any stage of the procedures, the Complainant and the Respondent are entitled to have a support person present. The resources outlined in Section 6.0 will not act as a support person for either party but will remain neutral. In a situation where multiple complaints are filed against one Respondent, a Complainant will not act as a support person for another Complainant. Investigation witnesses may not act as a support person for any party or other witness. Additionally, unionized employees will have all rights to representation that their collective agreements confer, but procedural fairness and the integrity of the investigation process may require that different union representatives be assigned to each party and the witnesses.

## **12.0 ACCOUNTABILITY**

The Director of Human Resources will be responsible for communication, administration, and interpretation of this policy.

### **13.0 SECONDARY DOCUMENTS**

Appendix A – Complaint Procedure Flowchart

Appendix B – Quick Reference Guide

Appendix C – Harassment and Discrimination Reporting Form

Appendix D – Other Available Resources for Students

### **14.0 REVIEW**

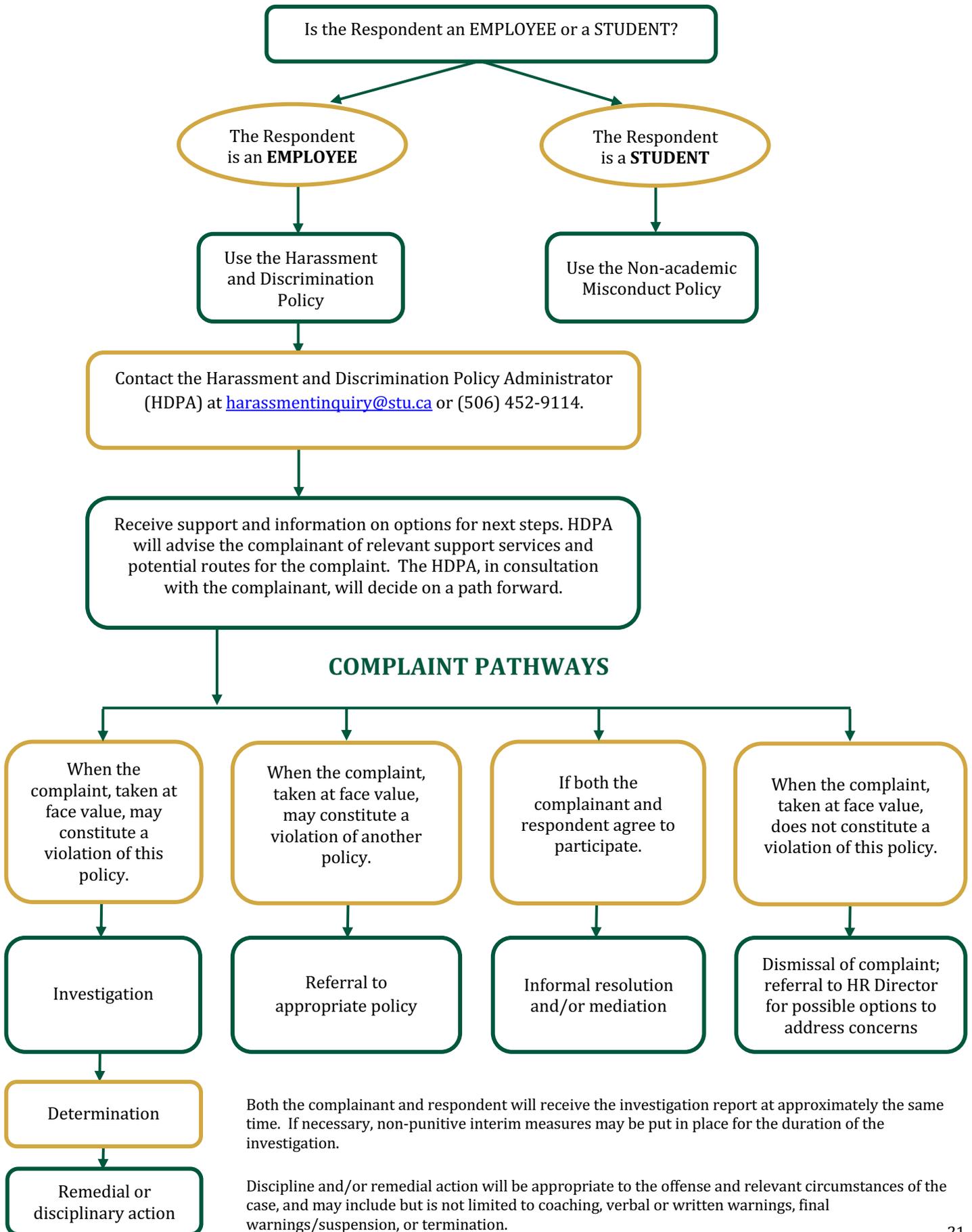
This policy shall be reviewed annually in consultation with the Joint Health & Safety Committee. The review will be initiated by the Director of Human Resources.

### **15.0 EFFECT ON PREVIOUS STATEMENTS**

This policy supersedes all previous policies on the subject.

Approved on May 8, 2021 by the Board of Governors.

# ST. THOMAS UNIVERSITY HARASSMENT AND DISCRIMINATION POLICY COMPLAINT PROCEDURE FLOWCHART



# ST. THOMAS UNIVERSITY HARASSMENT AND DISCRIMINATION POLICY QUICK REFERENCE GUIDE

*St. Thomas University is committed to creating and maintaining a safe and secure work and study environment for all employees and students, and in which all employees and students are protected from harassment, discrimination, and/or retaliation.*

## DISCRIMINATION

Discrimination is the act of treating a person or group unequally, regardless of intent, by imposing unequal burdens, obligations, disadvantages, or preferences based on a person’s race, colour, national origin, place of origin, ancestry, creed or religion, age, marital status, family status, sex (including pregnancy), sexual orientation, gender identity or expression, physical disability, mental disability, social condition, or political belief or activity, or any other grounds covered by the New Brunswick Human Rights Act.

## HARASSMENT

Objectionable or offensive behaviour that is known (or ought reasonably to be known) to be unwelcome. Harassment may be personal, sexual, or discriminatory in nature and may include bullying, intimidation, verbal or physical abuse, abuse of authority, etc.

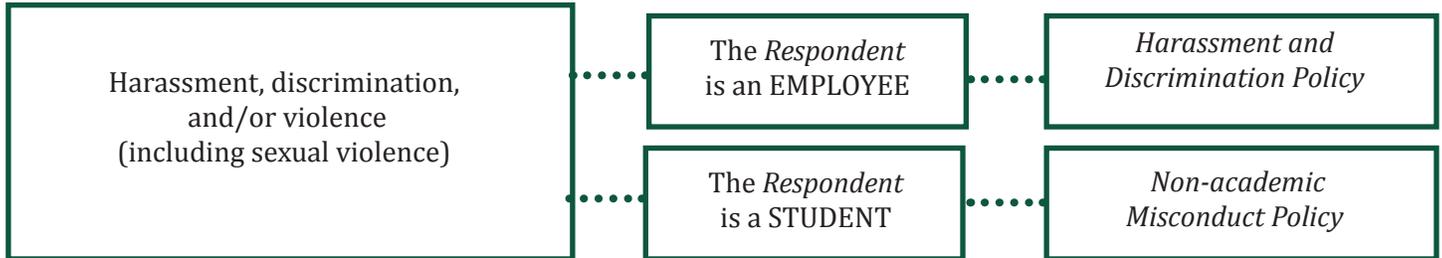
EXAMPLES OF PERSONAL HARASSMENT	EXAMPLES OF SEXUAL HARASSMENT	EXAMPLES OF DISCRIMINATORY HARASSMENT
<p>Communication that is inappropriately harsh or condemning, abusive and offensive language, threatening gestures, yelling, bullying, ridiculing, using derogatory names, or threatening in a manner that negatively impacts University work, studies, or participation in campus life.</p>	<p>Crude, offensive, or sexually suggestive remarks, gender-based insults and taunting, sexual gestures or leering, and humour based on stereotypes, directed at a person because of their gender, gender identity, gender expression, or sexual orientation.</p>	<p>Unwelcome remarks, jokes, innuendoes, or taunting based on the grounds covered by the <i>New Brunswick Human Rights Act</i>.</p>
<p>Hazing (such as harmful or humiliating initiation rituals).</p>	<p>Unwanted and unsolicited sexual advances (e.g., innuendoes and suggestive remarks inviting intimacy and sexual contact) and physical contact (e.g., unwanted contact of a sexual nature such as patting, touching, kissing, pinching, or brushing against, and sexual assault).</p>	<p>Displaying of sexually explicit, racist, or bigoted ethnic pictures or materials.</p>
<p>Serious and/or repeated rude, degrading, or offensive remarks, such as teasing about a person’s physical characteristics or appearance, put-downs or insults.</p>	<p>Solicitation of sexual activity by expressed or implied promise of reward or threat of reprisal.</p>	
	<p>Coerced sexual relations.</p>	

## SCOPE

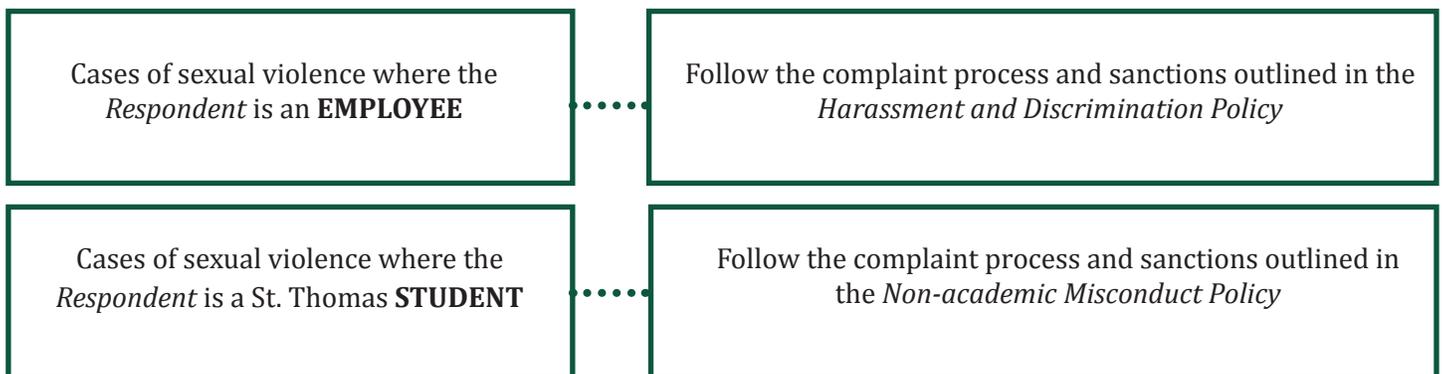
The following policies were established to ensure a safe and secure work and study environment for all students and employees of St. Thomas University:

- [Harassment and Discrimination Policy](#)
- [Non-academic Misconduct Policy](#)
- [Policy on Sexual Violence](#)

## WHICH POLICY DO I USE?



Although the *Policy on Sexual Violence* confirms St. Thomas University's position on sexual violence and details prohibited conduct, it does not provide complaint procedures to be followed in issuing sanctions in cases involving allegations of sexual violence.



## RESOURCES FOR STUDENTS

There are a number of campus and community supports available for students affected by harassment, discrimination, and/or violence (including sexual violence). Find a list of resources and supports at [STU.ca/harassment-discrimination-policy](http://STU.ca/harassment-discrimination-policy).

## PRIVACY AND CONFIDENTIALITY

All persons involved in the processes under this Policy must maintain privacy and confidentiality of information except as may be required to carry out functions outlined in the Policy. The identities of participants may be disclosed if required to pursue a resolution under the Policy, to meet the requirements of procedural fairness, to meet the requirements of collective agreements, or if required by law.

## WHAT TO DO IF YOU EXPERIENCE OR WITNESS HARASSMENT/DISCRIMINATION

Any person who is in search of information as to what resolution options exist, may seek the assistance from any of the resources listed below.

Contact information for the following people can be found at [STU.ca/harassment-discrimination-policy](https://www.stu.ca/harassment-discrimination-policy)

- Harassment and Discrimination Officers
- Harassment and Discrimination Policy Administrator
- Director of Human Resources

One of the roles of the Harassment and Discrimination Policy Administrator is to receive, review and process complaints under this Policy. Any instances of harassment or discrimination that are within the scope of the Policy will be resolved through either an informal resolution process, mediation, or investigation. Please refer to the [Policy](#) and the [Complaint Procedure Flowchart](#) for more information about these processes.

### QUESTIONS?

Jason Scarbro, Director of Human Resources

Email: [jscarbro@stu.ca](mailto:jscarbro@stu.ca)

Phone: 506-452-0630

July 1, 2021

## Appendix C – Harassment and Discrimination Reporting Form

### **Information about the Complainant**

**Name of Complainant:**

**Contact information of Complainant:**

- **Work #:**
- **Cell #:**
- **E-mail address:**

**NOTE – Contact information will be redacted from any documents provided to the Respondent.**

### **Information about the Respondent(s)**

**Name of Respondent(s):**

**Contact information of Respondent(s) (if known):**

- **Work #:**
- **Cell #:**
- **E-mail address:**

### **Details of the Complaint**

**Please describe in as much detail as possible what transpired during the incident(s), names of parties involved, names of witnesses, date(s), time(s) and location(s) of the incident(s) and any other details.**

### **Documents/Evidence**

**Include details of any known supporting documents (emails, notes, photographs, physical evidence, etc.).**

**I understand and agree that:**

The Appropriate University Official may send a copy of my complaint document to other relevant University officials as may be needed to address the complaint, and that a copy of the complaint will be provided to the Respondent. I further understand that in order to process my complaint under this policy, the Appropriate University Official may need to

discuss my complaint with other University officials or persons appointed under this Policy.

---

**Complainant Signature:**

**Date of Report:**

## Appendix D – Other Available Resources for Students

### Policy Resources

- Policy on Sexual Violence - <https://www.stu.ca/media/stu/site-content/current-students/policies/STU-Policy-on-Sexual-Violence-2.pdf>
- Policy on Non-Academic Misconduct - <https://www.stu.ca/media/stu/site-content/current-students/policies/STU-Policy-on-Non-Academic-Misconduct-February-2019.pdf>

### Campus Resources

- Campus Sexual Assault Support Advocate: (506) 453-4530 or [csasa@bellaliant.com](mailto:csasa@bellaliant.com)
- LGBTQIA2S+ Wellness Coordinator (Cassidy Wilson): [cassidy.wilson@unb.ca](mailto:cassidy.wilson@unb.ca)
- The 203 Centre for Gender and Sexual Diversity: <https://www.unbsu.ca/the-203-centre-for-gender-and-sexual-diversity>
- Indigenous Student Services (Trenton Augustine): [trentona@stu.ca](mailto:trentona@stu.ca)
- STU Mental Health Counselling Services: [www.stu.ca/mentalhealth](http://www.stu.ca/mentalhealth) or [mentalhealth@stu.ca](mailto:mentalhealth@stu.ca)
- Resiliency in Colour BIPOC Support Group (contact STU Mental Health Counselling Services for more information)
- UNB Counselling Services: <https://www.unb.ca/fredericton/studentservices/health-wellness/counselling/>

### Community Resources

- Sexual Violence New Brunswick: [www.svnb.ca](http://www.svnb.ca)
- Black Lives Matter Fredericton: [blmfredericton@gmail.com](mailto:blmfredericton@gmail.com); / [https://www.facebook.com/Black-Lives-Matter-Fredericton-100550358369958/?fref=mentions&\\_\\_xts\\_\\_\[0\]=68.ARAVuvacjEjmu5LpMynYoxti\\_efHchtWtPP3HY7rB05VCVGa9zU3KDeScI3WX-4VG6weowIMSAdk2u4HaOL8ORoEDs9uyoCmtHqQG-RmBOR4jzZWVxrwclisncY6Isgm60SukYTpac6pLrvRQ9Xq3-SIrOeIXjE9ODoJpIqWPmxCXpfXlxoUjMHe4F8wcIJBaiSsybmeOcfHiMvuTAHvxbZkbnvJtVaf9NvMnrz2k1cREytVB\\_HuD293cshol61M22yopYfcqvIJd4eUfqftvL0DXpqWsKU2duEof9MsLBZ9f5dxqpQ0LM9gG-F1tV4o3b1MABK72GpkouGEfN7IXSe8pg](https://www.facebook.com/Black-Lives-Matter-Fredericton-100550358369958/?fref=mentions&__xts__[0]=68.ARAVuvacjEjmu5LpMynYoxti_efHchtWtPP3HY7rB05VCVGa9zU3KDeScI3WX-4VG6weowIMSAdk2u4HaOL8ORoEDs9uyoCmtHqQG-RmBOR4jzZWVxrwclisncY6Isgm60SukYTpac6pLrvRQ9Xq3-SIrOeIXjE9ODoJpIqWPmxCXpfXlxoUjMHe4F8wcIJBaiSsybmeOcfHiMvuTAHvxbZkbnvJtVaf9NvMnrz2k1cREytVB_HuD293cshol61M22yopYfcqvIJd4eUfqftvL0DXpqWsKU2duEof9MsLBZ9f5dxqpQ0LM9gG-F1tV4o3b1MABK72GpkouGEfN7IXSe8pg)
- Fredericton Pride: [www.frederictonpride.com](http://www.frederictonpride.com)
- Victim Services: [https://www2.gnb.ca/content/gnb/en/departments/public-safety/community\\_safety/content/victim\\_services.html](https://www2.gnb.ca/content/gnb/en/departments/public-safety/community_safety/content/victim_services.html)