



Preventing and Responding to Workplace Violence and Harassment and Sexual Misconduct

Institutional Manual

Approving Authority: President (Vice Chancellor)

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Office of Accountability: Executive Director, Finance and Administration

Administrative Responsibility: Human Resources

Policy Statement

St. Jerome's University (the "University") is committed to creating a safe working environment that is free from Violence, Harassment and Sexual Misconduct, as defined below. The University shall take reasonable precautions to prevent and respond to Violence, Harassment and Sexual Misconduct. All members of the community have the responsibility to foster an environment of civility and mutual respect that reflects the mission of the University and conveys the values of excellence, academic freedom, freedom of expression, justice, integrity, and service.

This Policy complies with the Ontario *Occupational Health and Safety Act* and the Ontario *Human Rights Code*. In the event that legal provisions governing this Policy are modified or superseded, this Policy will be interpreted within that new legal framework. As required by legislation, this Policy will be reviewed annually.

Additional relevant information is also found within St. Jerome's University's Policy on Health, Safety, and Environment <https://www.sju.ca/policies-and-procedures-0>.

Scope

This Policy applies to all St. Jerome's University employees, wherever they are conducting work. This Policy applies to acts of Violence and Harassment and Sexual Misconduct from all sources, including but not limited to supervisors, employees, students, and members of the public. This Policy also applies to acts of Sexual Misconduct by an Employee of St. Jerome's University toward a student.

Where an Employee experiences Violence or Harassment on the University premises, or while conducting University activities regardless of location, the supports outlined within this Policy will be made available to them.

All students co-registered and/or living at St. Jerome's University are students of the University of Waterloo and are subject to University of Waterloo Policy 42 (Prevention and Response to Sexual Violence) and University of Waterloo Policy 33 (Ethical Behaviour). Under the above policies, where a student or members of the University of Waterloo community alleges that an Employee of St. Jerome's University engaged in Violence, Harassment or Sexual Misconduct, the Complainant should contact the St. Jerome's University's Human Resources for information about supports and the process.

If the individual who engages in Violence or Harassment against an Employee is not a member of the University community, the matter should be referred to the University of Waterloo Special Constable Service or the Waterloo Regional Police Service (WRPS). Under Policy 33 and Policy 42, the University retains the right to refer matters of Violence or Harassment to the University of Waterloo Police Services or the WRPS.

Definitions

Violence means:

- a) the exercise of physical force by a person against another person that causes or could cause physical injury, including but not limited to, physical acts such as punching, hitting, kicking, pushing, throwing objects, or damaging property;
- b) an attempt to exercise physical force by a person against another person that could cause physical injury;
- c) an action, statement, or other behaviour (e.g. damage of property) that is reasonably believed to be a threat to exercise physical force against them that could cause physical injury or threaten safety or security in the workplace; and
- d) any incident of domestic violence that occurs on University premises. Victims of domestic violence are also encouraged to seek assistance through the proper authorities.

Harassment means engaging in a course of vexatious comment or conduct against a person that is known or ought reasonably to be known to be unwelcome.

Harassment may involve conduct that is verbal or nonverbal, a single incident or a series of incidents, including:

- a) *verbal harassment*: such as shouting, swearing, name calling, teasing, or comments of offensive or degrading nature; and
- b) *emotional and psychological harassment*: behaviour or communication with the intention to, but not limited to, degrade or attack an individual's self-esteem to cause emotional harm through acts such as manipulation, humiliation, intimidation, berating, threatening, ridicule, taunting, exploitative behavior. This may also include nonverbal behaviour such as hand gestures or offensive postures.

Where such conduct is directed at a person because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability, such activities also amount to harassment contrary to the *Human Rights Code*.

Sexual Harassment means:

- a) engaging in a course of vexatious comment or conduct against an Employee 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 is in a position to confer, grant, or deny a benefit or advancement to an Employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual Misconduct means, in relation to a student of St. Jerome's University:

- a) 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 St. Jerome's University where:
 - i) 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); or
 - ii) 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 by a person in a position to confer, grant or deny a benefit or advancement to the student; or
 - iii) The act constitutes sexual misconduct as defined in this policy, or contravenes this policy or any other rule or other requirement of St. Jerome's University respecting sexual relations between employees and students; or
 - iv) The act constitutes Sexual Harassment or Sexual Violence as defined in Policy 42 – Prevention of and Response to Sexual Violence
- b) Any conduct by an employee of St. Jerome's University that infringes the right of the student under clause 7(3)(b) of the *Human Rights Code* to be free from reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

Sexual Violence means:

- a) any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Coercive Control means:

- a) patterns of control and abuse that cause fear or terror, including coercion (using force and/or threats to alter behaviour) and control
- b) everyone commits an offence who repeatedly or continuously engages in controlling or coercive conduct towards a person with whom they are connected that they know or ought to know could, in all circumstances, reasonably be expected to have a significant impact on that person and that has such an impact on that person.

A reasonable action taken by a Supervisor relating to the management and direction of employees or the workplace is not workplace harassment.

University Premises includes, but is not limited to all land and facilities, regardless of whether it is owned, leased, or otherwise controlled by the University. This includes, but is not limited to all University grounds, parking lots, and leased or rented spaces.

University Activities refers to all work or activities undertaken by employees, including social events, performed for or on behalf of the University, whenever the activity is held, regardless of whether the activity occurs on University premises.

An **Employee** is any individual employed by the University including those defined as "worker" under the *Occupational Health and Safety Act*.

A Supervisor refers to an employee or other individuals engaged by the University to direct the work of another employee and/or who has positional authority over another employee.

A Member of the Public refers to anyone participating in University activities or on University premises.

A **Complainant** is the person who has disclosed an incident of Violence or Harassment under the procedures outlined in Appendix A, or who has otherwise made a complaint about another individual under this Policy who they believe committed an act of Violence or Harassment against them.

A **Respondent** is the person whom a Complainant has alleged to have committed an incident of Violence or Harassment against them.

An **External Resolution Advisor** is the external third party resource that offers advice and guidance to the University or University Employees in the event of a complaint or incident under this Policy. An External Resolution Advisor means the same as the Harassment Advisor referred to in the SJUASA Collective Agreement.

Joint Health and Safety Committee refers to the committee established as per the *Occupational Health and Safety Act*.

Penalty

Any Employee who is found to have breached this Policy or falsely accuses someone of Violence and/or Harassment under this Policy shall be subject to discipline up to and including the termination of their employment.

Acts of Sexual Misconduct are prohibited and will be addressed through the appropriate disciplinary processes. Any employee who is found to have engaged in Sexual Misconduct toward a student will be disciplined, up to and including the termination of employment.

Responsibilities

The University shall:

1. assess, and reassess as necessary, the risks of workplace Violence and Harassment and Sexual Misconduct on the University premises and in conducting University activities and advise the University's Joint Health & Safety Committee of the results of any such assessments;
2. develop, maintain, and assess a program to implement this Policy in accordance with legislated requirements;
3. provide awareness and regular training to the University's Employees in accordance with legislated requirements;
4. provide specific training to supervisors on their obligations including how to respond to complaints under this Policy;
5. investigate all incidents and complaints of Violence and Harassment and Sexual Misconduct in a fair and timely manner, which may include appointing a third party investigator, while respecting the privacy of all concerned as much as reasonably possible; and
6. where necessary, assist in safety planning and prevention to support and protect Employees.

Employees are expected to:

1. conduct themselves in accordance with this Policy;
2. participate, as necessary, in the development and assessment of workplace programs that foster a Violence- and Harassment-free abuse-free environment;
3. attend training sessions offered by the University;
4. support awareness and prevention efforts;
5. raise concerns regarding workplace Violence and Harassment and Sexual Misconduct and its underlying causes; and
6. promote respectful behaviour while on University premises and while conducting University activities.

Supervisors, in addition to their responsibilities as an Employee shall:

1. conduct themselves in accordance with this Policy;
2. participate in the development and assessment of workplace programs that foster a Violence- and Harassment-free abuse-free environment;
3. attend training sessions offered by the University;
4. promote respectful behaviour while on University premises and while conducting University activities;
5. support awareness and prevention efforts;
6. raise concerns regarding abuse and its underlying causes;
7. be aware of the potential for incidents of Violence or Harassment that require attention under this Policy;
8. respond to complaints of Violence or Harassment under this Policy; and
9. report incidents of Violence or Harassment under this Policy to the Director of Human Resources.

Appendix A

Workplace Violence and Harassment and Sexual Misconduct Program

1. Principles

- 1.1 The procedures below are intended to offer a clear, supportive, confidential, and survivor-centered approach to responding to incidents and allegations of Violence or Harassment, while maintaining the rights of each individual to due process and privacy.
- 1.2 The University encourages any individual who has been affected by Violence or Harassment to advise the alleged perpetrator to cease from such behaviour and to make a report under this Policy.
- 1.3 Complainants are encouraged to participate in the investigation process under section 7 while seeking necessary support, and to utilize the available support resources in section 3.1.1.
- 1.4 The procedures below are intended to maintain the rights of each individual to due process and privacy to cultivate safe University premises. Every reasonable effort will be made to safeguard the rights of both Complainants and Respondents.

2. Training

- 2.1 The University demonstrates its commitment to a violence- and harassment-free workplace by promoting a culture of respect and prevention through training, awareness, and education.
- 2.2 The University works with the University of Waterloo to facilitate training, and will maintain records of the training provided, including the dates the training is provided and the number of people trained. Contractors and agents providing services on behalf of the University will be required to ensure that their staff have received the appropriate training.

3. Disclosure

3.1 Reporting

- 3.1.1 The University encourages Employees who are victims of Violence or Harassment to immediately inform their Supervisor or Human Resources.

Where relevant, Employees subject to the terms of the SJUASA Collective Agreement may contact the External Resolution Provider to report Violence or Harassment.

If the Employee's Supervisor is the alleged Respondent, the Employee should report their concern to Human Resources.

If Human Resources is the alleged Respondent, the Employee should report their concern to the President.

If the President is the alleged Respondent, the Employee should report their concern to the Chair of the Board of Governors or to the External Resolution Advisor.

Employees may seek advice and support at any time from the St. Jerome's University Director, Human Resources, External Resolution Advisor, the University of Waterloo Sexual Violence Response Coordinator (SVRC), or the University of Waterloo Human Rights, Equity and Inclusion Office at the University of Waterloo.

- 3.1.2 An individual need only to disclose their experience to seek support and will not be required to complete a formal report (a sample form attached to this Policy as Appendix B).

Regardless of the procedure followed by the Employee to report an alleged incident of Violence or Harassment, the University will work with the Complainant to determine their needs and will assist them in accessing support services, including consultation with the SJUASA as relevant.

- 3.1.3 Reports filed or incidents alleged under this section 3.1 will be investigated under this Policy pursuant to section 4 below.
- 3.1.4 Supervisors and employees who are not the victims of Violence and Harassment and Sexual Misconduct are expected to report an incident of Violence and Harassment and Sexual Misconduct, in accordance with 3.1.1, if they are aware that, or have reasonable grounds to believe that, there has been an incident of Violence and Harassment and Sexual Misconduct on University premises or when employees were conducting University activities.
- 3.1.5 Complainants are encouraged, but not required to complete a formal report (a sample form attached to this Policy as Appendix B).
- 3.1.6 The person who receives disclosure pursuant to section 3 shall notify Human Resources to support in coordinating immediate actions, except where Human Resources is the Respondent. Immediate actions may include, but are not limited to, provision of medical attention, support in the development of a written record of event details in the form of a report, and notification to the University of Waterloo Special Constable Service and/or the WRPS if necessary. The selection of the most appropriate immediate action will be dependent on the nature of the complaint and any immediate risks that may be identified.
- 3.1.7 In some instances, it may be necessary to implement interim measures, which are temporary measures put in place to protect the parties and the community during the investigation process. Such measures are without prejudice to the ultimate outcome of the investigation. Consequences for violating interim measures will be clearly communicated to the Respondent at the time they are applied.

4. Response Procedures

- 4.1 A Complainant seeking to partake in a response procedure will consult with the External Resolution Advisor. The Complainant shall indicate whether they elect to:
- a) Proceed with Informal Resolution;
 - b) Proceed with Mediation; or
 - c) Proceed with Formal Investigation

5. Informal Resolution Procedure

- 5.1 The Complainant may request an informal resolution meeting facilitated by the External Resolution Advisor.
- 5.2 The External Resolution Advisor will conduct an informal review of the incident of abuse by gathering information from both the Complainant and the Respondent, and any named witnesses. Both the Complainant and the Respondent have the right to be accompanied by a representative of their choice.

- 5.3 The Respondent will be provided a written summary of the Complainant's statement and will be invited to respond in writing and partake in an informal resolution meeting.
- 5.4 During the informal resolution meeting, the complaint will be discussed with both parties where an attempt to reach a fair and acceptable resolution will be made.
- 5.5 If both parties agree to a resolution, through mediation or otherwise, a statement outlining the resolution will be signed by the Complainant and the Respondent. If a settlement includes actions on the part of the Employer, the resolution will be conditional upon the Employer's approval. No further action will be taken unless parties fail to comply with the resolution agreement.
- 5.6 If no resolution is achieved from this stage of resolution within 20 days of when the written complaint was received by the External Resolution Advisor, the Complainant has 10 days after the informal resolution meeting to indicate in writing to the External Resolution Advisor, of their decision to proceed by:
 - a) withdrawing the complaint;
 - b) escalating the complaint to mediation; or
 - c) requesting the complaint be referred to the President for a formal investigation.
- 5.7 No response from the Complainant shall be considered a withdrawal of the complaint. The Respondent will be informed in writing of the Complainant's decision to proceed.

6. Mediation

- 6.1 In the event that no resolution with the informal resolution was achieved, the External Resolution Advisor will appoint an independent Mediator from the previously agreed upon list jointly created by the Employer and the ASA; and in the case of Full-time bargaining unit members pursuant to Article 41.6.a., or Article 34.6.a. for CAS bargaining unit members. The Mediator is to agree to complete mediation within 20 working days of the invitation to mediate.
- 6.2 If a resolution agreement is achieved during mediation, a statement outlining the resolution will be signed by the Complainant and the Respondent. If a settlement includes actions on the part of the Employer, the resolution will be conditional upon the Employer's approval. No further action will be taken unless parties fail to comply with the resolution agreement.
- 6.3 If no resolution is achieved from this stage of resolution, the Mediator shall produce a report for the External Resolution Advisor and copy the Complainant and the Respondent.
- 6.4 If no resolution is achieved from this stage of resolution within 20 days of the Mediator's engagement in this resolution stage, the Complainant has 10 working days of the receipt of the Mediator's report to indicate, in writing, to the External Resolution Advisor of their decision to proceed with a formal investigation.
- 6.5 No response from the Complainant shall be considered a withdrawal of the complaint. The Respondent will be informed of the Complainant's decision to withdraw the complaint.

7. Formal Investigation

- 7.1 Where an alleged incident of Violence or Harassment has been disclosed pursuant to section 3, the University has a legal obligation to conduct an investigation, even in circumstances where a report is not filed or the Complainant has not provided consent. At all steps in the process, information and support will be made available to the Complainant even if they choose not to participate.
- 7.2 At any time the Complainant may request, in writing to the individual managing the stage of the investigation to withdraw themselves from the process without fear of reprisal.

- 7.3 When an alleged incident is disclosed under section 3, the President (or the Board of Governors where the President is the Respondent) will appoint either Human Resources or a third party investigator, as appropriate, to conduct a formal investigation (the "Investigator"), and in the case of Full-time bargaining unit members, pursuant to Article 41.7.a., or Article 34.7.a. for CAS bargaining unit members.
- 7.4 During the investigation, the Complainant may request in writing to the individual who appointed the Investigator that the Investigator withdraw themselves, and that another Investigator be appointed under section 6.1.
- 7.5 Where an investigation is started under this section, the Complainant and the Respondent will be informed within 20 working day of the beginning of the investigation, by the Investigator, of the investigation process to be undertaken. This procedural explanation will include expected timetable, the roles and responsibilities of all involved, and the confidentiality expectation of the investigation, as well as any possible interim measures that may be implemented under section 3.4.
- 7.6 Where a report was made, a copy of the original complaint may be provided to the Respondent at the discretion of the Investigator.
- 7.7 Where a written complaint is not made, the details of all of the allegations contained in the complaint shall be provided to the Respondent.
- 7.8 Where a written complaint is made and where necessary, the Investigator may request a written response from the Respondent.
- 7.9 In the course of the investigation, the Investigator may interview any person who may have information relevant to the complaint or the response to the complaint ("Interviewees"). Interviewees will be reminded of their duty to keep all shared information confidential and not to discuss the complaint, the incident(s), or the investigation with others unless necessary to obtain advice about their rights.
- 7.10 The Investigator will complete a report of the investigation. The report will include the findings of the investigation and a recommendation of next steps. The Investigator shall make only one of two findings with respect to the alleged incident of Violence or Harassment, being that the allegations are substantiated or unsubstantiated.
- 7.11 The report will be provided to either the President or the Board of Governors where the President is the Respondent.
- 7.12 Where the allegations are substantiated, the individuals in section 7.11, and any other person deemed necessary by those individuals, will determine the necessary disciplinary and/or corrective action.
- 7.13 Within 10 workings days of when the final investigation report is received under section 7.11, the Complainant and Respondent will be advised in writing, by the individuals in 7.11, of the results of the investigation (i.e., whether substantiated or not substantiated) as well as the nature of any corrective action that has or will be undertaken.

8. Confidentiality

- 8.1 The Investigator will keep all complaints and related material confidential, except where necessary to protect Employees or when disclosure is required for the purposes of investigating or taking corrective action with respect to the alleged incident, or as otherwise required by law.

- 8.2 All persons involved with a complaint and/or investigation will be instructed to maintain confidentiality regarding the matter, and not to discuss a complaint, an incident, or any investigation details with others unless necessary to obtain advice about their rights.

9. Record Keeping

- 9.1 All records of investigation and any disciplinary or remedial responses will be kept in a confidential personnel file within the Human Resources Office for 2 years from when the investigation was formally closed. These records will be removed from the confidential human resources file at the end of the 2-year period, unless there has been another related investigation; and except in cases where it is relevant to follow the process outlined in Article 38.1 (b) in the Full-time Collective Agreement and 33.1 (b) in the Contract Academic Staff Collective Agreement.
- 9.2 All records will be retained in a secure location and will not be disclosed unless necessary to investigate an incident or complaint of Violence or Harassment under this Policy, to take corrective action, or as otherwise required by law.
- 9.3 Where the investigation results in a finding that there has been no violation of this Policy by the Respondent, no record of the complaint shall be retained in the personnel file of the Respondent.
- 9.4 The University may maintain anonymized statistics regarding disclosure, reports, and investigations in the event that such statistics are required for compliance reporting purposes.

No Reprisal

Employees who make a complaint under this Policy in good faith will be protected from reprisal and threats of reprisal.

Resources

Employees looking for on-campus resources or assistance may contact their Supervisor or department head, Human Resources, or one of the University of Waterloo offices that provide support to employees (e.g., Equity Office, Employee Family Assistance Program, Counseling Services, Safety Office, Health Services, Access Ability Office, Conflict Management & Human Rights).

Dispute Resolution Policy for Administrative Staff (available under Policies on SharePoint) or for Members of the Bargaining Unit, Article 11 Grievance and Arbitration may be used in the event an individual believes that there has been a misapplication of procedure.

**Appendix B
Abuse Incident Report Form**

An Incident Report Form provides a statement of allegations regarding any incident of Violence or Harassment.

Individuals who experience, witness, or become aware of an incident of Violence or Harassment can complete a report to the University.

Supervisors have a duty to report all incidents of Violence or Harassment of which they become aware.

Please contact Human Resources or the External Resolution Advisor should you require any assistance in completing the form, or if you wish to be connected with resources including, but not limited to counselling.

The completed Incident Report Form can be submitted to Human Resources, the President, or the External Resolution Advisor.

Name of individual who has allegedly experienced Violence or Harassment (your name if applicable)	
Name of alleged Respondent.	
Please list the names of the parties involved and any individuals who may have witnessed the incident(s).	
Please identify the location, date, and time of the incident(s).	
Please provide details about the incident(s) (behaviour and/or words used) and any additional details.	
Please list any evidence such as supporting documents, such as emails, handwritten notes, or photographs.	