

# SEXUAL HARASSMENT PROTOCOL

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## **Sexual Harassment Complaints involving Faculty and Students of the University of Toronto arising in University-Affiliated Health Institutions**

### **Introduction**

The University of Toronto, and the health care institutions in which University faculty, students, trainees and staff may work and study, have their own separate policies and procedures covering sexual harassment. This protocol does not change or replace those policies. It provides a process for deciding, in a particular case involving members of the University community working in a health care institution, which institution should take responsibility for the case and, therefore, which procedure should be followed. It also provides for each institution to keep the other informed about the progress and outcome of a case, and enables each institution to meet its own obligations to appointees, employees, and students or trainees. In some cases the responsibility for dealing with a case will most appropriately be shared by the University and the health care institution. Nothing in this protocol precludes an institution from taking independent action to safeguard its members.

### **Notification of Complaints**

#### **i. Complaints made by members of the University of Toronto community**

This protocol provides for notification to the University of Toronto of any complaint made by a student, trainee, employee, or faculty appointee of the University (hereafter, collectively referred to as University members) about sexual harassment that arises in the context of the University member's work in an affiliated hospital/research institute. The goal is to clarify jurisdiction in the interests of the complainant and both involved institutions.

The protocol encompasses all academic faculty, including those with status-only appointments, employees on the University payroll, and all students and trainees who are enrolled in programs organized under the auspices of the University of Toronto. This includes but is not limited to members of the University of Toronto health science Faculties: the Faculty of Medicine, the Faculty of Pharmacy, the Faculty of Nursing, the Faculty of Dentistry, the Faculty of Social Work, and the Faculty of Physical Education and Health. It also covers academic faculty and students in the Faculty of Law and in the member institutions of the Toronto School of Theology.

Where a member of the University of Toronto community situated in a health care institution brings forward a complaint of sexual harassment to an affiliated hospital/research institute, that institution shall notify the University of the complaint as soon as possible after its receipt. Notification shall be to the Sexual Harassment Officer in the University of Toronto.

Where the affiliated hospital/research institute has sole jurisdiction over the complaint (for example, where the respondent is directly employed by the affiliated hospital/research institute and has no relation to the University), the affiliated hospital will promptly provide the University with the name[s] of the complainant[s] and with access to the relevant policies and procedures. The affiliated hospital shall also provide the complainant[s] with contact information for the University's Sexual Harassment Office. Where there is, or may be, shared jurisdiction between the affiliated hospital/research institute and the University, the protocol in [ii] below shall be followed.

#### **ii. Complaints made against members of the University of Toronto**

This protocol provides guidelines for determining the jurisdiction of complaints of sexual harassment made against persons who are members of the University of Toronto and who are working or studying in an affiliated hospital/research institute. The University and the individual teaching agencies each have their own

sexual harassment complaint procedures, which are in no way modified by the provisions of this memorandum. Rather, the memorandum provides a protocol for determining, in each case, which institution shall take carriage of a complaint. Where an allegation of sexual harassment is made against a member of the University of Toronto, the institutions that will have an interest in the disposition of complaints may include the affiliated hospital/research institute or other teaching agency in which the person is based; and the University of Toronto. In every case, the following questions will be addressed by the person receiving the initial complaint:

1. Which institution(s) have the authority, capacity and responsibility for supervision and management of the person(s) accused of sexual harassment?
2. Which institution(s) have obligations to or liabilities in respect of the person(s) complaining of sexual harassment?

### **Persons to be notified:**

In every case, the person receiving the initial complaint shall notify each institution as to the nature of the complaint and invite each institution to assert that it has an interest in the disposition of the complaint. In the case of the hospital, the Office of the President and Chief Executive Officer, and the Vice-President, Human Resources will be so notified. In the case of the University of Toronto, notification will be to the Dean of the Faculty to which the university member belongs, and to the Vice-Provost, Relations with Health Care Institutions, and to the Sexual Harassment Officer. Where the University member belongs to a member institution of the Toronto School of Theology, notification will be to the Director of the Toronto School of Theology, and to the Vice-Provost, Relations with Health Care Institutions, and to the Sexual Harassment Officer.

Officers of the hospital, clinic or teaching agency and of the University of Toronto will be provided with information about complaints solely on the basis of their need to know and their obligation to act. Where any such officer is consulted as to the appropriate routing of a complaint, that officer shall be provided with only such information as she or he needs in order to make the decision as to jurisdiction.

### **Jurisdiction:**

#### ***Students***

Where a complaint is made against a student or a clinical trainee, the University of Toronto will normally have carriage of the complaint.

#### ***Faculty members***

Jurisdiction over complaints against faculty members will vary according to the circumstances of the particular complaint. In general, jurisdiction will be determined by reference to the following factors:

1. a. In the circumstances of the particular complaint, which institution had immediate authority over the respondent? For example, was the respondent engaged at the time in activities which were consequent on her or his University status, or on her or his status at the health institution? It is understood that at times the authority over the respondent will be conjoint. One criterion will be whether the respondent is, at the relevant time, primarily accountable for the performance of her or his activities to the University, or to the hospital.
- b. Which institution has the primary general capacity to regulate the conduct of the respondent, or to impose restrictions on the respondent's access to persons or facilities?
- c. Which institution is principally responsible for protecting the respondent's interest in fair and unbiased process?

d. Which institution has the principal responsibility for safeguarding the working and learning environment of the complainant?

2. Parts (3) and (4) below outline: the circumstances in which the University shall normally have carriage of a complaint (3) and the circumstances in which the hospital, clinic or teaching agency shall normally have carriage of a complaint (4). In most cases both institutions will have an interest in the disposition of the complaint, irrespective of which institution has primary jurisdiction. Once the decision as to the jurisdiction has been made, the institution which does not have jurisdiction will be invited to assert its interests in the disposition of the complaint.

3. University of Toronto jurisdiction and procedures: Where the allegations refer to the conduct of a member of the University of Toronto faculty in the course of his or her work in a hospital or clinic, and where the allegations concern conduct which is related to or consequent on the faculty member's status in the University of Toronto, the complaint will normally be referred to the University of Toronto Sexual Harassment Office and will be dealt with under the University of Toronto *Policy and Procedures: Sexual Harassment*. The Sexual Harassment Office will, where appropriate, consult with the faculty member's Faculty and with the hospital or clinic, who will have an opportunity to make representations in respect of the disposition of the complaint.

4. Affiliated hospital/research institute jurisdiction and procedures: Where the allegations refer to the conduct of a member of the University of Toronto faculty in the course of study or work in an affiliated hospital/research institute where the faculty member is alleged to be in breach of a hospital policy, and where the allegations concern conduct that is not related to or consequent on the faculty member's status in the University of Toronto, the allegations will normally be dealt with through the mechanisms available within the hospital. However, the Dean of the faculty member's Faculty at the University of Toronto and the Vice-Provost, Relations with Health Care Institutions will be notified of the complaint and will have an opportunity to make representations in respect of the disposition of the complaint, after consultation with the Sexual Harassment Officer. Where the faculty member belongs to a member institution of the Toronto School of Theology, notification will be to the Director of the Toronto School of Theology and to the Vice-Provost, Relations with Health Care Institutions.

## **Patient care**

Where the allegations refer to the conduct of a member of a health science Faculty in the course of providing patient care, or where it is alleged that a public interest has been threatened, the public interest and/or the patient care concerns will take priority. Where appropriate, the College of Physicians and Surgeons of Ontario, the College of Physiotherapists of Ontario, the College of Nursing, the College of Occupational Therapists, the Ontario College of Pharmacists, the Ontario College of Social Workers, the Royal College of Dental Surgeons of Ontario, or the other appropriate bodies under the Regulated Health Professions Act, will be notified of the complaint.

Faculty Council  
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