

**SEXUAL HARASSMENT
POLICY AND
PROCEDURES
ARCHAEOLOGICAL TECHNIQUES
AND RESEARCH CENTER**

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POLICY

The Archaeological Techniques and Research Center (ArchaeoTek – Canada) is committed to providing researchers, staff and students with an environment where they may pursue their careers or studies without being sexually harassed. Sexual harassment of or by any member of the Center community is unacceptable and will not be tolerated. It is illegal and constitutes a violation of Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972.

For the purposes of this policy, it is defined as follows:

Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic work; or
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual; or
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile or sexually offensive working or academic environment.

In determining whether an alleged incident constitutes sexual harassment, those entrusted with administering this policy will look at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The final decision regarding a suitable penalty will be made from the finding of fact on a case-by-case basis and from any record of previous sexual harassment by the Respondent.

PROCEDURES

I. Purpose and Scope

This grievance procedure is intended to provide a fair, prompt and reliable determination about whether the Center's sexual harassment policy has been violated. Anyone who, at the time of the alleged harassment, was either employed by or enrolled at the Archaeological Techniques and Research Center may file a complaint alleging violation of this policy.

Specific procedures for complaint processing will be determined consistent with the exceptions noted in the last paragraph of this section. No Center employee, student or participant is exempt from the jurisdiction of this policy.

In most instances, complaints will be initiated by the target of the alleged harassment. However, the Center reserves the right to initiate a formal grievance (or to continue processing a complaint even after a request to withdraw has been submitted by the Complainant) when it is appropriate to do so.

As in any grievance procedure justice requires that the legal rights, as well as the right to academic freedom, of the Complainant and the Respondent be fully assured. The Center will make every effort to protect these rights and will knowingly undertake no action that threatens or compromises them. Notwithstanding, nothing in these procedures is intended to prevent the Center administration from taking appropriate interim measures to protect one or more of the parties until such time final adjudication regarding the complaint has been reached.

This procedure is not intended to impair or limit the right of anyone to seek a remedy available under state or federal law. A Complainant may file a complaint with an external agency to meet state and federal agency deadlines without jeopardizing his or her right to a Center hearing. Upon official notification that an individual has filed with an external agency, the Center will inquire if the Complainant wishes to continue with the internal grievance process. Should the Complainant seek to discontinue the internal process, the Center will nonetheless continue to fact find and take appropriate measures.

II. Confidentiality

All parties involved in any aspect of this process will act at all times to preserve the confidentiality of these proceedings. Information will be shared with those individuals who have a legitimate and operational need to be informed, and to the extent that it is necessary to maintain the effectiveness of this process. Individuals found to have violated the confidentiality of this process may be subject to disciplinary proceedings consistent with the provisions of their collective bargaining agreement or other applicable administrative rules and regulations.

III. Deadlines

A Complainant will have twelve months following an incident to initiate a complaint under this policy and procedures unless he or she can show good reason for having that deadline waived. Requests for exceptions to the filing deadline must be made in writing to the Director who will render a decision in writing following his or her review of the request. Legal counsel may be consulted in making this determination.

In some instances, particularly when a pattern of behavior is the subject of the complaint, supporting evidence may include reports of behavior that occurred outside of the twelve month

filing deadline. In these instances, a written request for an exception is not required. The decision of the Director in these instances is final.

Failure to meet any of the deadlines stipulated in this procedure will not result in a decision by default or prevent the process from continuing.

IV. Requirements for Participation & Withdrawals

Failure to respond to a claim or to appear at a hearing will be considered a breach of responsibility and could result in disciplinary action. Furthermore, a Respondent will not prevent this process from proceeding by his or her silence or absence; failure to respond to a complaint or to appear at a hearing may result in the process proceeding solely on the basis of the Complainant's testimony and evidence.

A Complainant may request to withdraw a formal grievance after it has been filed by submitting written reasons for the withdrawal to the Director. The Director will be responsible for notifying the Respondent of the request to withdraw. The Respondent must provide written agreement to the withdrawal before the charges are dropped. A Respondent who does not agree to the withdrawal request must provide written reasons to the Director who, after consultation with appropriate administrators including, where necessary, legal counsel, will issue a written determination to the parties regarding the status of the claim. A Complainant may not interrupt the process simply by failing to appear at the hearing or other required meetings. Failure to appear may result in the hearing proceeding solely on the basis of the Respondent's testimony and evidence.

None of the above actions should be construed to impinge upon the right of the Director to initiate or continue a claim in spite of a request to withdraw when, the allegations are sufficiently egregious to merit further action on the part of the Center. The alleged victim will be relied upon to serve as a witness under these circumstances.

V. Retaliation

No individual shall be retaliated or discriminated against for participating in these procedures. Any act of retaliation directed against person(s) participating in these procedures is illegal. Complaints of retaliation should be addressed to the Director who will determine the appropriate action.

VI. Penalties

The penalties for those found to have violated this policy may include, but will not be limited to, any one or combination of the following: verbal admonition, written warning placed in the personnel file, probation, suspension without pay, demotion, removal from administrative duties, and dismissal. Any disciplinary measures imposed will be consistent with applicable union contractual provisions.

VII. Filing Sexual Harassment Complaints

The Center recognizes that it has a responsibility to provide a procedure for rapid and equitable resolution of all sexual harassment complaints. In many instances, resolution can be reached without the need for formal measures. The goal in all instances is to ensure that inappropriate and offensive behavior is stopped.

VII.A. Initiating a Complaint

Individuals may alternatively initiate discussions regarding a potential complaint directly with a Center situated administrator with line authority (these individuals may collectively be referred to as “Complaint Handlers”); or Complainants may directly contact the Director. All of the above-named individuals can provide advice regarding available options and procedures, and assist in determining how to proceed with the complaint (i.e. informally or formally).

The Complaint Handler (initial intake person as identified in the preceding paragraph) will assess the matter; determine what immediate action must be taken; and advise the Complainant about how to proceed.

The Complaint Handler may also consult with the Director to determine the appropriateness of proceeding under these procedures. The Director has the authority to discontinue processing a complaint. This decision is final and not subject to appeal.

The Complaint Handler, in consultation with the Director, will identify the appropriate fact finding mechanism. Fact-finding will be done either internally (by a Center staff member) or externally (by a person whose services will be retained specifically for this purpose). When fact-finding results in a written report, this report will be forwarded to the Director and may later be introduced into the record during a formal hearing process.

Complaint Handlers must file a written report of all complaints, regardless of their disposition, with the Director who will maintain a record of all informal complaints and formal grievances. Such record will include Complainants' and Respondents' names and the outcome of proceedings, including sanctions imposed if any.

VII.B. Informal Resolution

In some circumstances informal resolution of a complaint prior to or instead of initiating the formal process may be more satisfactory than directly proceeding to a formal grievance. Informal resolution options include, but are not limited to, self-help; consultation or mediation.

VII.B.1 Self-Help

The goal in any complaint process is to stop the harassing behavior. If a Complainant believes he or she is experiencing inappropriate conduct and can comfortably confront the individual responsible for the inappropriate conduct, then the following steps may be taken:

- confront the person(s) promptly;
- inform the person(s) that the conduct is offensive, intimidating, or embarrassing;
- describe the effect of this behavior;
- request that the behavior stop immediately.

The Complainant should have the above conversation with a witness present who can corroborate the exchange. If this is not possible or practical, the Complainant may write a letter incorporating the above points and give it to the person in front of a witness. The Complainant should retain a copy of this letter.

In all instances, the Complainant should document the event(s), including dates, times, places and witnesses.

If this action fails to provide the Complainant with the appropriate relief, or as an alternative to using this approach, the measures described below may be considered.

VII.B.2 Consultation and Action

When the Complainant cannot comfortably and directly confront the Respondent, or the behavior has continued in spite of direct confrontation, then the Complainant should report the behavior to someone in a position of authority who can intervene. Such persons include an immediate supervisor, Director, or similarly situated supervisory personnel.

VII.B.3 Mediation

It is sometimes the case that the issue under contention can be resolved through mediation. The project directors or the Director, is available to provide mediation.

If, consistent with Section VII.A, the Director determines that the complaint should be dismissed and a hearing should not be held, the Chair will provide written notification of this decision to the Complainant, the Respondent, and the project directors. This decision is final and not subject to appeal under these procedures.

Director will provide copies of the fact-finder's report to the Complainant and the Respondent.

VIII.A. The Sexual Harassment Board

The Sexual Harassment Board consists of all project directors of any given year. Every effort will be made to ensure a widely representative and diverse group.

VIII.B. The Hearing Panel

When a hearing is to be held, the Director will appoint a three member Hearing Panel. At least one member of each Hearing Panel will be drawn from the Complainant's and Respondent's respective constituencies (that is, staff or student/participant). The Director will designate one member to serve as the Presiding Officer.

Prior to their participation in a hearing, the Director will meet with the Hearing Panel to review sexual harassment issues and the hearing procedures.

Before the hearing is convened, the parties will receive written notification of the Panel's appointment from the Director. Each party to the proceeding will have the right to object to the appointment of any panel member on the grounds that that member's participation would jeopardize the party's right to a fair and reliable hearing. All objections must be submitted in writing to the Director. The Director will determine whether objections have merit; will judge whether a panel member will be seated; and will provide the objecting party with a written decision. This decision will be final.

The Hearing Panel will hear testimony and consider evidence related to the complaint, including the written findings of fact as prepared by the fact-finder. (These findings will be provided to the Panel along with copies of the complaint and the response prior to the hearing.)

The Panel will, on the basis of all relevant information and testimony before them, make a determination about whether the Center policy on sexual harassment has been violated and, if so, will submit a recommendation for appropriate penalty and relief to the Director

Duties and Powers of the Presiding Officer and the Hearing Panel

The Presiding Officer will:

1. ensure an orderly presentation of all evidence;
2. ensure that the proceedings are accurately recorded; and
3. see that a fair and impartial decision based on the issues and evidence presented at the hearing is issued by the Hearing Panel.

The Hearing Panel will:

1. define issues of contention;
2. conduct a fair and impartial hearing which ensures the rights of all parties involved;

3. receive and consider all relevant evidence which reasonable people customarily rely upon in the conduct of serious business;
4. ensure that the Complainant and Respondent have full opportunity to present their positions and to present witnesses and evidence which support their positions; further, the Hearing Panel may also name individuals to appear as witnesses;
5. ask relevant questions of the Complainant, Respondent, and witnesses to elicit information which may assist the Hearing Panel in making a decision; members of the University community have a responsibility to fully cooperate with this process;
6. continue the hearing to a subsequent date if necessary to permit either party or the Panel to produce additional evidence, witnesses, or other relevant materials;
7. change the date, time or place of the hearing on its own motion or for good reason shown by either party, and with due notice to all parties;
8. permit both parties to submit written arguments following the conclusion of the hearing;
9. rule by majority vote on all questions of fact, interpretations of rules, regulations and policies, recommendations for penalties and relief, and any requests that are made during the hearing.

The Hearing Panel may consult with or have the assistance of legal counsel throughout this process.

VIII.C. The Hearing

The Hearing is intended to provide a forum within which a panel of peers determines whether Center policy has been violated. Both parties will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding and the Hearing Panel will not be bound by the procedures and rules of evidence of a court of law. In most instances, Complainants and Respondents will be expected to speak for themselves. The Hearing Panel will hear and admit evidence which it believes is pertinent to the case.

The Hearing Panel will conduct the hearing by the following procedures:

1. The Director will initially provide the Hearing Panel with copies of the complaint, the response, and the fact-finder's report; the Director will also work with the Hearing Panel and the parties to coordinate the scheduling of the hearing. A closed hearing will be held as soon as possible following the final appointment of the Hearing Panel. The Complainant and the Respondent must submit all documents they intend to introduce at the hearing, as well as the names and affiliations of their witnesses and advocates in reasonable advance of the hearing date. Actual deadlines for submissions of these materials will be established once a hearing date has been set. The Director will ensure that the parties and the Hearing Panel receive copies of all submitted materials. Documents not submitted in advance of the hearing may be introduced into the record on the day of the hearing provided all parties and the Panel are accorded sufficient time to review the documents and respond accordingly. In this case, the party submitting the documents must provide sufficient copies for all relevant parties.
2. The Hearing Panel will convene prior to the hearing date to review the complaint, the response, the fact-finder's report and all materials submitted by the parties. The Panel may, upon review of materials

and witness lists submitted by the parties, identify additional witnesses they wish to call on the day of the hearing or request that the parties provide additional materials. The Presiding Officer will provide the parties with the names of additional witnesses and copies of all additional materials requested by the Panel as far in advance of the hearing as possible.

3. The Presiding Officer may meet with the parties prior to the hearing to review hearing procedures and to respond to any procedural matters that have arisen.

4. The Complainant and Respondent will have the opportunity to hear and respond to all testimony, to examine all evidence, and to present evidence and witnesses which advance arguments relevant to the issues in contention.

5. Each party will have the right to be accompanied and advised by two people at any stage of the proceedings. Advisors are not restricted to Support and Referral Contacts. Either one of the advisors may be an attorney. In most instances, Complainants and Respondents will be expected to speak for themselves. Advisors, including legal counsel, will not address the Hearing Panel directly except with the permission of the Panel.

6. The Director must be advised as soon as possible, but in no event less than five working days in advance of the hearing date if either party will be accompanied by an attorney.

7. Each of the parties is responsible for informing their respective advocates and witnesses of the date, time, and place of the hearing.

8. If either party is a member of a collective bargaining unit, the advisors mentioned above may, upon the request of the party, be representatives of his or her union. However, neither party will be required to be advised by a union representative. When there is no request for union representation, the Director will notify the appropriate union in writing that a hearing has been scheduled; the union will be allowed to send an observer.

9. The hearing will be recorded on tape by the Hearing Panel and the tapes will become the property of the Center. Following the completion of the hearing, either party may have supervised access to the tapes by submitting a written request to the Director.

The proceedings before the Hearing Panel will be as follows:

Following opening remarks, the Presiding Officer will summarize the charge(s) and ask the Respondent to either admit or challenge the allegation(s).

The Complainant will present a brief opening statement, followed by the same from the Respondent. Each party will then present their evidence and witnesses, followed by witnesses called by the Hearing Panel. Questions may be posed at any stage of the proceedings consistent with the protocol established by the Presiding Officer at the onset of the hearing process. Each party may make a brief concluding statement to the Hearing Panel.

Either party may submit a written argument following the hearing, provided he or she notifies the Presiding Officer no later than two working days after the hearing. The written argument may not introduce new information, but rather must be a summary of the information already introduced and presented. The Parties will have ten working days to submit written arguments to the Presiding Officer. The Presiding Officer will send copies of written arguments to each party.

A Hearing Panel, by a majority vote of its members, may make other rules concerning the procedure of a hearing which it deems appropriate and consistent with this Sexual Harassment Policy.

VIII.D. Decision of the Hearing Panel

Following the hearing and submission of written arguments, if any, the Hearing Panel will convene for private deliberations to determine whether the Center's policy on sexual harassment has been violated. The Panel will prepare a detailed report noting its conclusion; this report will clearly state the facts of the case and the supporting evidence; the conclusion must be fully supported by the evidence elicited at the hearing. The decision of the Hearing Panel will be submitted to the Director as soon as possible following the completion of the Panel's deliberations.

When the Panel finds no violation, the Director will forward the Hearing Panel's report along with appropriate commentary to the Respondent.

When the Panel finds a violation of the Sexual Harassment Policy has occurred, the Hearing Panel will recommend a penalty for the Respondent and relief for the Complainant if appropriate. The Director will review the Panel's decision and provide appropriate commentary. This commentary may include an adjustment to the recommended penalty if, upon review of Center records, it is determined that there have been past violations of this Policy by the Respondent; specific written reasons for the adjusted penalty must be provided. The Director will subsequently forward the Hearing Panel's report, the complete record of the hearing, and appropriate commentary to the Respondent.

Following the decision, the parties may request copies of any written record. Requests must be submitted in writing to the Director.

VIII.E. Review

Within seven days after receiving a written decision, the Respondent, the Complainant, or the Director may request a review by submitting a written petition to the Panel. The petition for review will set forth in detail the specific grounds upon which review is sought. The Director will ensure that the Respondent, the Hearing Panel, and the parties receive a copy of the petition. The Director will review the record of the case, which includes the taped record of the hearing; documents considered by the Panel; the Panel's findings and recommendations; and any record of previous offenses. Based upon this review, Director may, for example, decide that the Panel's findings are unsupported by a preponderance of evidence, or that some aspect of the process violated an individual's legal rights, academic freedom, or these procedures.

The Director or designee may: a) affirm or revise the decision of the Panel; b) request specific findings from the Panel; or c) remand the case for a new hearing before a new Hearing Panel. In the course of review, the Director may consult with legal counsel who will have access to the complete record of the case.

The Director or designee will render a written decision in as timely a manner as possible following receipt of the petition for review and all materials relating to the grievance. The Director's decision will be sent to the Respondent, the Complainant, and the Hearing Panel.

IX. Records

Records of all proceedings under this Policy will be kept by the Center and may be accessible to authorized staff as necessary. For example, records may be accessed when determining an appropriate penalty for a subsequent sexual harassment complaint; when a complaint of retaliation is made; when a decision is reviewed; or when a Respondent is a candidate for a supervisory position.

The records will also be available to legal counsel for any proceeding related to these policies or procedures, whether internal to the University or in any judicial or administrative proceeding in which the Center, its staff or agents are a party.

X. Standard of Proof

A violation of this Sexual Harassment Policy will be found only where there is a preponderance of evidence that a violation has occurred. The Hearing Panel, the project directors, and the Director will be bound to make their determinations based on this standard of proof.