

**Guidelines
Addressing Intimidation and Harassment
The Education and Learning Environment at UT-PGME
May 2006**

Preamble

We are committed to maintaining an environment in the PGME programs and offices that is free of harassment or intimidation based on race, creed, colour, ethnicity, sex, sexual orientation, national origin, age, marital and family status, and disability. We are committed to eradicating any conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Such behaviour is in violation of policy and will not be tolerated. The policy defines harassment and intimidation and explains the procedures for responding to harassing behaviour by members of the hospital and university community.

Implicit in this University policy is the recognition that there are concurrent policies at each Affiliated Teaching Hospital and a procedural memorandum that specifically addresses sexual harassment cases involving university members that arise in clinical settings.

We are committed also to the fair and responsible management of ethical concerns and conflicts arising for healthcare professional trainees in clinical practice.

Relevant Documents for Reference:

University of Toronto Faculty of Medicine: Principles re Supervision of Postgraduate Medical Trainees

<http://www.facmed.utoronto.ca/Principles-Re-Supervision-Of-Postgraduate-Medical-Trainees.htm>

University of Toronto Faculty of Medicine: Procedural Memorandum: Resolution of Resident Disagreement with Attending Physicians or Supervisors

<http://www.facmed.utoronto.ca/English/Content-Page-13.html>

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

http://www.facmed.utoronto.ca/English/page_13_11227_1.html

University of Toronto: Sexual Harassment Policy

www.utoronto.ca/sho

University of Toronto: Statement on Prohibited Discrimination and Discriminatory Harassment

RCPSC-CMQ-CFPC: Accreditation and the Issues of Intimidation and Harassment in Postgraduate Medical Education Guidelines for Surveyors and Programs

Faculty's Guidelines in Ethics and Professionalism

Understanding Harassment and Intimidation

Harassment is defined in the Ontario Human Rights Code as “a course of vexatious conduct which the actor knows or ought reasonably to know is unwelcome”. Harassment that is based on someone’s race, creed, colour, ethnicity, sex, sexual orientation, national origin, age, marital status, family status, or disability, is explicitly prohibited under Ontario’s human rights law as a form of discrimination.

Harassment is conduct that is annoying; that is unwelcome; that is based on personal characteristics of its target; and that the person engaging in it either knows, or should know, is unwelcome. It usually involves repeated conduct, but a single incident, if it is serious, may also constitute harassment. It can create an intimidating, hostile or offensive environment and can interfere with a person’s work performance and adversely affect their employment opportunities.

Harassment may occur between faculty members and students; or among students; or between MDs and allied health professionals or employees of the University or Hospitals. Sexual harassment may likewise be engaged in by women and by men, and may be directed at both women and men.

Examples of harassing conduct include the following kinds of behaviour:

- racial epithets or slurs
- disrespectful jokes or banter about sex
- comments about someone’s physical appearance or sexual attractiveness
- negative stereotypes about a particular ethnic group
- homophobic remarks
- disparagement of someone’s religious devotions
- the circulation of insulting or demeaning written material and pictures
- unwelcome physical contact

Sexual harassment may also include making repeated unwelcome sexual advances, retaliating when someone ends a relationship or refuses a sexual advance, making professional decisions about someone or offering them job-related benefits based on their willingness to comply with sexual demands, or circulating intimate details of someone’s life or private sexual behaviour.

Retaliation against someone because they make a complaint of harassment, or because they offer support or evidence in a complaint of harassment, is a violation of University policy and of Ontario law, and is treated in the same way as the substantive offence of harassment.

Intimidation and Abuse are forms of harassing conduct that involve the improper exercise of power. They may not be discriminatory in nature, but they will often have the same impact as discriminatory harassment, of interfering with people’s work performance, affecting their employment opportunities, and creating a hostile work environment.

Intimidation is behaviour which instils fear. It may involve using one’s authority to influence other people’s behaviour, and can reduce the extent to which people are willing to exercise their rights. Abuse of power can involve the exploitation of trust and authority to improper ends. Sometimes abuse of power takes the form of apparently positive conduct, such as flattery that is intended to persuade someone to co-operate, or favouritism.

Examples of intimidation and abusive conduct include the following kinds of behaviour:

- shouting or raising one's voice
- constant interruption and refusing to listen
- public criticism
- ridicule
- singling someone out for grilling or interrogation
- unjust assignment of duties; overloading someone with work

Conflict of Interest

Faculty members who become romantically or sexually involved with a student they teach are in a conflict of interest. University policy on conflict of interest requires that in any circumstance where personal and professional interests overlap faculty must declare the conflict to their own supervisor, who will arrange for someone else to evaluate that student's work. This is to safeguard the right of all students to fair and unbiased treatment. Faculty members should also be aware that sexual invitations or suggestions to their students leave them open to allegations of sexual harassment. Members of faculty have authority over students, and thus any intimate overture can readily be interpreted as coercive.

Professional conduct

A faculty member's relation with students is a professional one and as such many personal comments or questions (about someone's appearance, personal life, sex life, etc.) are improper and potentially damaging. Remarks which focus on the sex or sexual orientation of individuals can constitute sexual harassment. Physical contact for any reason may be construed as sexual or threatening and should be considered carefully.

Processes for Trainees in Postgraduate Medical Education

Principles

1. Timely identification of a concern about intimidation and harassment should be the goal of all programs.
2. Trainees should be encouraged to inform their program director or university administration of problems.
3. The initial discussion must occur in a confidential setting.
4. There should be a process to clarify the facts concerning the allegation.
5. The process of clarification must occur in an atmosphere free of retribution.
6. Allegations should be addressed and resolved in a timely manner.

- A. Preventing harassment:** each Residency Program has a responsibility to maintain an educational environment free of any form of harassment, whether by a manager, supervisor, employee, or other person (including a patient or other learners).
- B. Communicating the Policy:** all medical students, residents and faculty should be aware that the University and the teaching hospitals will take appropriate action to prevent and correct any behaviour which constitutes harassment or sexual harassment as defined above, and that individuals who are found to have engaged in such behaviour are subject to discipline up to and including termination.
- C. Deciding which procedure to use:** the relevant hospital and or University policies will be applied. When a complaint is brought forward to either the University or the teaching hospital, the institution that receives the complaint will immediately notify the other institution of the complaint, and the institutions will consult one another to determine which institution shall take responsibility for dealing with the complaint. The University

and the teaching hospital may agree to share this responsibility. In any case, the institution taking carriage of the complaint will inform the other institution of the outcome.

D. Discussing and Reporting Incidents or Problems

1. Trainees have access to confidential resources in the University and may in particular contact the University's Sexual Harassment Office, its Anti-racism and Cultural Diversity Office, and its Community Safety Office, on an entirely confidential basis and without commencing a formal complaint process.
2. We urge anyone who believes he or she had been subject to harassment to bring a complaint forward.
3. Trainees should usually bring their concerns to their University Program Director, who will discuss the matter with the trainee, consult with University resources, and may attempt to resolve the matter. Discussions will be kept confidential to the extent possible and every reasonable effort shall be made to protect the privacy of all parties. However, residents should keep in mind that reporting the situation may result in an investigation, and that this will require that the person whose conduct is complained of be informed about the complaint. It may also require that witnesses be interviewed.
4. Trainees may elect to bring their complaint forward through another University office. In such a case that office will advise the University Program Director of the matter and keep the Program Director informed.

E. Jurisdiction

University: the University will normally have jurisdiction in the following situations:

- A complaint by a trainee about the behaviour of a member of the teaching faculty in an academic context.
- A complaint by a trainee about the behaviour of another trainee in an academic context.
- A complaint by a member of the teaching faculty about the behaviour of a trainee in an academic context.

Hospital: the teaching hospital will normally have jurisdiction in the following situations:

- A complaint by a trainee about the behaviour of a member of the hospital staff.
- A complaint by a hospital employee about a trainee.
- A complaint by a patient or member of the public about a trainee.

Joint: the University and the teaching hospital will normally share jurisdiction in the following situations:

- A complaint by a trainee about the behaviour of a member of the teaching faculty in the hospital context.
- A complaint by a trainee about the behaviour of another trainee in the hospital context.
- A complaint by a member of the teaching faculty about the behaviour of a trainee in the hospital context.

F. Procedure

Notification and Consultation:

When a trainee brings a complaint forward to the University Program Director, the Program director will consult with University resources: in the Dean's Office and, where relevant, in the Sexual Harassment Office and/or the Anti-racism and Cultural Diversity Office. The university and the hospital will discuss and decide upon the question about which institution has jurisdiction to deal with the complaint.

Where the hospital takes carriage of the complaint, the VP Education will be contacted, as will the University Program Director, the Dean's Office, the Vice-Provost, Relations with Health Care Institutions and, where appropriate, the CPSO. The hospital CEO and the VP Human Resources will also be notified. The University will co-operate with the hospital and will take appropriate steps to safeguard the interests of the trainee.

Where the University takes carriage of the complaint, the University Program Director, the Dean's Office, the Vice-Provost, Relations with Health Care Institutions and, where appropriate, the Sexual Harassment Office and/or the Anti-racism and Cultural Diversity Office, will be contacted. If necessary the Division Head or Department Chair will be notified.

Mediation: A trainee may choose to resolve a case within the University through mediation, calling on the resources offered by the Sexual Harassment Office and the Anti-racism and Cultural Diversity Office for alternative dispute resolution.

Investigation: Where a complaint requires investigation a committee will be established. Where appropriate this will be a joint committee with representatives of the hospital. The Dean's Office will determine membership of the committee from the University, and may draw members from PAIRO where appropriate.

G. Investigation

The committee will promptly conduct a thorough and objective investigation of the allegations, and will determine whether they can be substantiated.

1. The investigation will include, but may not be limited to, a meeting or meetings with the complainant, with the person accused of harassment (the respondent), and with people who have relevant evidence about the allegations (witnesses). It may also examine documents and communications such as e-mails and other relevant evidence.
2. The committee or designated members will meet with the respondent and
 - a. inform them that there has been a complaint;
 - b. provide details of the complaint;
 - c. provide information about relevant policies;
 - d. summarize the procedure that will be followed for investigating the complaint;
 - e. inform them that the hospital and/or the University will handle the matter confidentially as far as possible and that it expects the respondent to do the same;
 - f. advise them that any retaliation against or intimidation of the complainant or of anyone connected with the complaint will be treated as an offence.

3. The complainant will be informed:
 - a. that the hospital and/or the University will handle the matter confidentially as far as possible and that it expects the complainant to do the same;
 - b. that s/he should bring forward any complaint of further harassment or of retaliation.

Both the complainant and the respondent will be given a full opportunity to state their case and to present relevant evidence.

H. Resolution

1. If it is determined that harassment or retaliation has occurred, prompt and effective measures will be taken to remedy the harassment.
2. The decision about the measures necessary to remedy the harassment will be made within a reasonable time.
3. The committee will notify the complainant and the Associate Dean and appropriate VP Education of the results of the investigation, and of any action that will be taken to remedy the harassment.
4. Any resident, faculty or program director or other person who is found, after appropriate investigation, to have harassed any person will be subject to appropriate disciplinary action, up to and including termination.

Approved at PGMEAC
May 19, 2006

Postgraduate Medical Education Harassment Complaint Protocol

