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SHADES OF GRAY
Shedding Light on Old Struggles and New Opportunities

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**A thesis submitted in partial fulfillment
Of the requirements for the degree of
Master of Arts in Atlantic Canada Studies
Saint Mary's University
Halifax, Nova Scotia**

September, 2001

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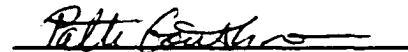
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ACKNOWLEDGEMENT

I acknowledge the contribution and support of a number of people associated with the production of this thesis. The production of this study, like any creative endeavor, has had its share of challenges to overcome, I would like to acknowledge the patience and support that I received from my family and friends during this project; you make all things possible. I wish to thank my thesis supervisor, Dr. M. VanderPlaat (an expert on focus), Dr. Audrey MacNevin, Dr. Patti Gouthro, and those Professors in the Atlantic Canada Studies program who challenged and supported my learning and writing far beyond the demands of curriculum. To Pat and Jim Yeomans many thanks for research assistance, editing, and strong shoulders.

A special thank you to the Advisors, faculty, students and administrators who contributed to this research – in many ways this is your work. Without your time, patience, sharp critique and insights this project would not have been accessible. A deep gratitude to all the women with whom I have worked and studied, and those whose voices I have cited here. You have showed me that through reflection, analysis, speaking out, sharing our “talk story” and truth, we create real, meaningful and liberatory change.

ABSTRACT

Judith Richardson

SHADES OF GRAY: Shedding Light on Old Struggles and New Opportunities

September 2001

This thesis examines sexual harassment policy and diversity management initiatives at four post-secondary institutions in Nova Scotia. This examination is set in the context of challenges faced by Sexual Harassment Advisors participating in this study, issues raised in the literature, and in terms of prevalent views on sexual harassment espoused by faculty, staff and students. Four distinct areas of focus emerged from this study: development of sexual harassment in the law and federal policy, development of institutional policies, politics of due process in sexual harassment policy and procedure, and the movement to diversity management initiatives. My examination of these issues reveals that sexual harassment policies must be revised and reconsidered based on input from all groups within the academic institution. This process would eliminate the present barriers to conflict resolution and allow for the voices of all parties to be recognized, reflecting a philosophy of diversity. This examination also reveals that emerging diversity management strategies have the potential to mitigate barriers to eradicating sexual harassment in that inclusiveness offers a commonality in the experience of difference, not a denial of difference. However, diversity management strategies also have the potential to divide groups competing for limited resources, reducing the gains made by those who have advocated and educated around issues of sexual harassment.

INTRODUCTION

**"Few organizations are well equipped to handle allegations of sexual harassment"
(Gutek in Stockdale 1996: 22).**

This thesis identifies and examines challenges for Sexual Harassment Advisors at four Nova Scotia post-secondary institutions, and explores whether or not a philosophy that respects diversity would address or mitigate those challenges. A common theme is the interdependency among planning and developing sexual harassment policy, dissemination of policy information, lived experiences of those accessing harassment procedures, barriers to resolving conflict, and diversity management initiatives. A review of literature reveals that although a considerable body of work exists on the subject of sexual harassment both in the workplace and educational institutions, very little critical analysis of harassment policy and procedures in Nova Scotia post-secondary institutions is available. Although diversity management initiatives have been developed in government and the private sector, the discussion is only beginning at post-secondary institutions.

Having a harassment policy in place in post-secondary institutions and workplaces does not necessarily prohibit harassing behavior. If there is to be true commitment to equity education, barriers need continuous examination. There cannot be true meritocracy in an environment that allows students to feel powerless, isolated, humiliated and degraded. Sexual harassment policies were intended to empower those who are powerless in our society, as well as to bring about change. The difference between harassment/discrimination policies and other internal policies is that harassment/discrimination policies were conceived, designed and implemented in a quest for social justice, and real equity for women, minorities, for the subordinate in

hierarchical organizations, for the historically disadvantaged, in the form of removing barriers to learning (Sandler and Shoop, 1997).

Ursula Franklin speaks of the necessity of including retrospective research. "The world has always been full of good intentions, expressed in policies and formal declarations. But relatively little time and intellectual effort has been devoted to follow-up, to looking at what in fact happened to those good intentions and promising policies" (Franklin 1999: 13). In this thesis I conduct a retrospective examination of the development and outcomes of sexual harassment policies. My intention in this thesis is to begin the conversation on diversity management in Nova Scotia post-secondary institutions.

In the research and writing of this thesis, understanding my sense of location and commitment provides the basis for taking a position while simultaneously remaining open to dialogue, new understanding, and the voices of others. This research, along with practical experience, has added clarity to that commitment. I believe in the necessity of forging a new understanding between difference and community. This study highlights some of the diversity issues confronting post-secondary institutions, offers a different way of interpreting the problems, and provides new consideration of how organizational change might take place. I am a feminist educator committed to conducting research that re-constructs realities. Rather than oversimplifying issues of difference, my desire is to contribute knowledge about the complexities of sexual harassment advisors' and educators' lives and practices, so that as members of learning communities we have the opportunity to rethink current philosophies and approaches in our various teaching/learning contexts.

Kelley and Parsons' study, as well as others (Fitzgerald & Ormerod 1991; Stockdale & Vaux 1993), define sexually harassing behavior as sexual coercion and unwanted sexual attention rather than gender harassment (2000). This is an important distinction, as in reviewing the literature gender harassment often takes the form of derogatory, negative comments, lewd comments/jokes, or being slighted or ignored because of one's gender (e.g. "a respectable woman wouldn't work and go to school", "he used his position to belittle me", "general comments about where a woman's place is") (Kelley and Parsons 2000:560). In contrast, sexual harassment involves unwanted sexual attention often taking the form of staring, being touched, being brushed up against, cornered, or pinned, being asked out repeatedly, or being kissed unexpectedly (e.g. "he would stare at my breasts or just scope up and down my body", "made comments about my legs", "promised better grades for certain favors", "unwanted sexual advances even after being told to leave me alone") (Kelley and Parsons 2000:561).

This research is a continuation of my ongoing interest in the issues of harassment and discrimination and how their construction affects the social, economic and political lives of those not belonging to the dominant group. I have sought inclusive terminology, realizing there is no uniform agreement in the literature or among different groups, perhaps because our perceptions of the different groups are shifting as we come to recognize both the diversity of groups and the importance and power of the words used to describe them. Whenever I use the term "woman", I am referring to all women while still recognizing that the experiences of women from diverse groups are often different.

Researching affirmative action, sexual harassment, discrimination, and diversity issues can be challenging due to sensitivity, political correctness, and a specific desire not to offend anyone. In requesting interviews, I encountered resistance. Many people refrain from discussing these types of policies and programs with their own colleagues, much less with an investigator. I've watched this in myself and those I've interviewed or engaged in discussion. In fact some still feel that saying the wrong thing could cost them their jobs. In the diversity training I offer, I often have a nagging feeling that people are not being completely honest, and indeed often have participants who say so. If the pressure to maintain good public relations or to say what people want to hear is intense, how do we get to honest dialogue? Timur Kuran (1995) believes that under affirmative action regimes, people have felt compelled to endorse publicly policies that they privately doubt or even scorn. However, the interview subjects participating in this study were highly cooperative and open, often not seeking anonymity in discussing such sensitive issues as race and gender preferences.

Offering a language of difference may assist in discussions around sensitive issues such as sexual harassment. There is a difference between handing students a brochure that says don't whistle or make catcalls at the opposite sex in the hallways, and encouraging discussion and reconstruction of domination and subordination that offers the historically disadvantaged the opportunity to see ourselves as the norm, not as the other. Rather than the rights based language of existing sexual harassment policies, a language of difference in the classroom would encourage discussion of sexual harassment within a broader context of how we relate as a community; not simply what behavior is and isn't allowed. I believe, as educators, we share responsibility with

students to learn how to live together. Existing sexual harassment policies and procedures are effective once a problem has occurred; rather like ticketing someone for speeding without teaching them to drive.

Methodology

I am attempting to complete this research in an interdisciplinary fashion – crossing diverse disciplinary boundaries to make new connections out of various theoretical discourses. This approach expands conversations and discourse by constructively engaging different strands of critical theory in a productive manner. I am aware of the interconnection between difference, power and ethics, and am attempting to examine differences shaped by the power relations that construct institutions of higher education as a workplace and learning community. Currently these academic structures give prominence to some ideas and constituencies, and silence others (see Henry 1998, Tierney 1993). I have attempted to treat difference historically and relationally as a struggle over power and identities. In recording her own struggle, Audre Lorde (1985) writes, “Some of the ways in which I identify myself make it difficult for you to hear me” (3). Lorde writes to her Black sisters about the difficulty she finds in being heard because she is lesbian. She continues by arguing that “unity does not require that we be identical to each other” (1985: 3).

I have also attempted to move between theory and practice so as to make clear how theory is lived out in specific, concrete struggles that mark the institutional and ideological territories of power in higher education. Henry Giroux suggests that theory is a practice informing beliefs, actions and practices (Giroux, Tierney foreword, 1993).

In this research, I am exploring the intersection of theory with the practical experience of Sexual Harassment Advisors.

In an effort to be responsive to women in this study, and to illuminate previously unexamined or misunderstood experiences, I gathered data from a number of sources. Although Canadian and American policies can be different, philosophies and ideologies in each location continue to influence one another. In my examination of the development of sexual harassment policy, I have included relevant influence from both Canada and the United States. An extensive literature review and critical analysis of existing literature were conducted on the topic of sexual harassment, sexual harassment in education and the workplace, policy development, organizational culture and diversity management strategies. Studies conducted in classrooms at all levels and in related settings were also examined, as well as surveys, interviews, conference proceedings, institutional publications, videos, online and email listserves. Primary research in institutional archives was also included to track the development of policies. Copies of policies are attached as Appendix “B” through “E”. The analysis of available statistics, as well as a comparative analysis of the development of harassment policies, is included, as well as information obtained from interviews with Sexual Harassment Advisors at Saint Mary’s University (SMU), Mount Saint Vincent University (MSVU), Dalhousie University (DAL), and the Nova Scotia Community College (Metro Region Campuses) (NSCC). I chose these institutions as their Sexual Harassment Advisors have all been working in their positions for more than five years and have been through at least one policy revision process. Also, these institutions, located in a common urban location, may have issues different or unique from those in rural areas.

After working several years as a counselor, investigator and advisor to sexual harassment policy, I was both curious as to challenges faced by other advisors, and aware that I needed to distance myself from the issue to gain perspective. Although the literature review provided data for analysis, the amount of information was extensive and I conducted informational interviews with Sexual Harassment Advisors as a source of information to direct the literature review and provide focus for the research. Open-ended questions were used to explore experiential anecdotes, attitudes towards policies and procedures, perceptions of resolution, expectations, and personal interactions. A copy of the data collection instrument is attached as Appendix "A".

Social Relations of Power

For many young men, maintaining a dominant position in relationships with women is part of their societal conditioning (DeKeseredy and Kelly, 1993). This need for control might then become competitive in nature in a dating process where students compete with members of their own gender for the attention of the opposite sex. Nelson and Robinson (1999), point out that researchers still find that most of those relationships we see as "egalitarian" are still male dominated, where males' power and prestige can appear consensual.

But the social relations of power change and evolve (Johnson, 1996). The line between what will and won't be tolerated in terms of dating partners has changed. For instance, when I was in high school in the 1970's, the term date rape was not used. What we consider date rape today might previously have been considered the fault of the young woman in the way she dressed or her lifestyle (Johnson, 1996).

Power does not exist in a vacuum. The sociocultural context not only determines what is considered to be a valuable resource, but also strongly influences the manner and degree to which individuals have access to those resources (Nelson and Robinson, 1999). Determining an individual's power lies in the fact that patriarchal societies grant greater power to males simply by virtue of the fact that they are male. The basic institutional structures of those societies are constructed in such ways that males have greater access to those positions, and reap a greater share of socially valued rewards and resources. Guttentag and Secord (1983) agree that as a consequence of their higher locations in the structures of our economic, political, and legal institutions, "males in general have greater structural powers than do women within patriarchal societies" (26).

Many men, by virtue of their sense of entitlement as the superior sex within a patriarchal society, often believe that any woman they desire should submit to their sexual will (Nelson and Robinson, 1999). They feel they have the basic right to impose their sexuality upon women simply by virtue of the fact that they are the more powerful sex possessing the more powerful sexuality. Imposing their sexuality demonstrates their power. A large number of cases of sexual harassment and sexual assault acts are based upon this sense of male entitlement anchored in social power (Nelson and Robinson, 1999).

The formal academy was established to educate men for the betterment of society, because it was a case of men teaching men. Women's unwelcome arrival in the academy represented their emergence from the private sphere into male turf (Paludi & Steuernagel, 1990). Academic institutions are structured hierarchically, with students at

the bottom, administration at the top, and faculty in the middle (with their own hierarchical structure, e.g. instructor, lecturer, assistant professor, associate professor, etc.) (Zalk et al, 1991).

University and College professors, for the most part, are admired in our communities, and often regarded as authority figures by students. As one would therefore expect, incidents of faculty harassing students bring more media coverage than student to student harassment. In 1982, Tangri, Burt, and Johnson identified the organizational model for identifying sexual harassment (Paludi and Barickman, 1991). This model suggests that relations of power and authority from the hierarchical structure of organizations presents opportunities for sexual harassment. Since vertical stratification and relations between professors and students define academic organizations, individuals can use the power of their position to force sexual gratification from their subordinates. Paludi and Barickman (1991) also suggest that organizational power is so pervasive because sexual inequality and victimization are entrenched in our patriarchal culture. In a 1990 study on men who harass, Fitzgerald and Weitzman suggest that it is extremely rare that women professors will date or initiate sexual relationships with male or female students. They credit this to women's relative lack of formal power and the socialization that stigmatizes the sexually aggressive woman (Fitzgerald and Weitzman, 1990). Paludi and Barickman (1991) suggest that power structures in academia are deeply rooted cultural biases; women are the targets of sexual harassment.

Sexual harassment occurs, in most instances, when individuals exploit a position of power granted to them by their roles in an institutional structure. Many in

educational institutions believe that sexual harassment is a matter of personal relations, and they reject having personal relationships regulated by policy, believing it is outside the control of the institution (Zalk, 1990; Paludi and Barickman, 1991). Zalk et al (1991) suggest that the faculty-student relationship is not that of equal collaborators, as the student has nothing to negotiate with. Professors give grades, write references and recommendations, and can influence other faculty members. Zalk et al (1991) also suggests that knowledge and wisdom and power are often ascribed to faculty members by students, which also gives Professors the power to affect students' self-esteem.

Although the studies above agree that sexual harassment is a power play, throughout my research I found some discussion of contrapower harassment (students harassing a professor) (McKinney and Crittenden, 1992). For the most part the assumption is that harassment only occurs when an offender has formal power over the victim, and that people of lesser power cannot harass a person of authority (McKinney, 1992, 1994; Fitzgerald, 1993; Ellis, Barak & Pinto, 1991). Benson (1984) describes contrapower harassment as persons with less formal power harassing persons with greater formal power. Diane Shrier (1996), in her examination of sexual harassment in academia, describes male students harassing female faculty by making gestures to the professor such as licking their lips, sighing loudly, offering glimpses of *Playboy* centerfolds in their notebooks, brushing up against the Professor, or making sexually explicit phone calls. Shrier (1996) points out that student to faculty harassment is more often anonymous, yet sometimes direct.

These studies raise intriguing questions about sexual harassment in academic institutions. Can students, who possess comparatively little power, sexually harass a faculty member who possesses the power to reward as well as the power of authority? If harassment suggests a misuse of power, arguably students do not have enough power to harass (Dzeich & Weiner, 1990). Some researchers argue, however, that the power inequality that stems from gender serves as a basis for male student to female faculty sexual harassment (Grauerholz, 1996). This argument has implications for understanding sexual harassment in that it shows that women in positions of power within the academic institution cannot necessarily avoid experiencing sexual harassment.

There are also those writers in the area who feel that sexual harassment is a manifestation of "the male fear of sharing power and significance with women" (Buchan 1992: 8). Buchan speaks of "a deep seated fear on the part of a large number of males in law school and some females as well about the changing role of women in terms of institutions like the law and what this meant for them I have experienced more subtle sexism in my two years in law school than I did in the sixteen years before that I was in the workplace" (Buchan 1992: 8). Yet more women entering the work force today are highly educated and were raised in the "age of diversity and gender equality, as have their brothers" (Crawley: 2000 A12). They are more likely to expose barriers. Susan Jackson stated in her study of women only programs at the Nova Scotia Community College that "part of the challenge for the education and training community is to modify existing programs and environments based on what we know,

and discover, about women as learners rather than helping women to “fit in” to existing programs” (Jackson 1993: 2).

As Ellen Willis comments, “power is not a monolithic system, but a system of overlapping contradictions. Women have always struggled against their situation both individually and collectively. They have seized on contradictions in the system – demanding, for example, that the concept of human rights be applied to women – thereby using the discontinuities in the system to mobilize for their own power” (Willis 1988: 118).

From a personal perspective, I find it both difficult and simplistic to view women as powerless in these situations. I feel it is important to note that the Sexual Harassment Advisors interviewed have witnessed women who have developed amazing coping strategies and support networks to deal with daily challenges. Ann Snitow (1990) argues that “culture may shape the body, but we feel that the body has ways of pushing back” (16).

Outline

The first two chapters in this thesis provide context. Chapter One outlines the evolution of sexual harassment in the law and in federal policy, as well as how faculty organizations and post-secondary institutions have influenced sexual harassment policy. In Chapter Two, an outline of the development of the four institutional policies and procedures is provided as obtained from Advisor interviews, archival research and literature review. In addition, Chapter Two discuss the politics of sexual harassment policy, issues making due process problematic, as well as strategies for negotiating the policy process as presented by the Sexual Harassment Advisors and in the literature

review. A review of the literature and the experience of Sexual Harassment Advisors interviewed is provided in Chapter Three. The focus of this chapter is on the resistance, perception, experience and gaps in understanding sexual harassment policy by students, staff and faculty. As well, an analysis of how this results in barriers to effective sexual harassment policies and procedures is explored. Chapter Four explores the concept of difference, theories that inform difference and diversity, as well as how the perspective of diversity informs sexual harassment policy. An analysis of the current movement to diversity at post-secondary institutions is also provided, as well as the possibility that this movement might address or mitigate the challenges faced by Sexual Harassment Advisors. The concluding chapter offers a summary of experiences and challenges, as well as possibilities for future research.

Chapter 1

Evolution of Sexual Harassment

In this chapter I examine the development of sexual harassment in the law and federal policy and how it has been incorporated in post-secondary institutions in Halifax, Nova Scotia. Also included is an examination of how faculty organizations and other post-secondary institutions have influenced these institutions. After growing up in the southern United States from 1960 to 1970, I was deeply influenced by the Civil Rights Movement. In my adult life I became active in human rights and harassment and discrimination issues, serving as advisor, investigator, policy advisor and analyst, and counselor. It wasn't long until I became aware that despite the efforts of many, little structural change seemed to occur. Sexual harassment policy, procedures, and training that simply codifies behavior is not effective. A literature review revealed very little in the development of sexual harassment in Canada and, more specifically in Nova Scotia. This chapter serves a dual purpose; it allows me the luxury of space and detachment from the issues to examine the development of sexual harassment, as well as provide background for the thesis.

The areas that spoke to me the most in research are reflected in this chapter. In examining the development of the legal definition of sexual harassment and challenges with the reasonable person concept, we see the emergence of the recognition that women could not be discriminated against on the basis of sex. Research also revealed that as well as the law, federal and provincial policy influenced post-secondary institutions in Nova Scotia. This Chapter also examines pressure for post-secondary

institutions to develop harassment policies from faculty associations, unions, and other post-secondary institutions across Canada.

The term “sexual harassment” is so common today that it can be easy to forget that it did not exist until the mid-seventies (Shrier 1996:8). Before the mid 1970’s, as feminist lawyer Catherine MacKinnon suggests, the experience of sexual harassment was literally unspeakable -- there was no term to describe it (MacKinnon 1979). Rowbotham (1979) supports MacKinnon’s view in the absence of words to articulate discontent: “This mistaken belief arises because we can only grasp silence in the moment in which it is breaking. The sound of silence breaking, makes us understand what we could not hear before, but the fact that we did not hear does not prove that no pain existed” (Rowbotham: 52). The movement considering sexual harassment as sex discrimination began in the United States in the mid 70’s. In the absence of Canadian jurisprudence on this subject, Canadian Tribunals and Boards of Inquiry examined, referred to and even adopted U.S. court cases and other arbitration (Aggarwall 1992: 16).

The concept of sexual harassment emerged initially in the United States to describe a range of inappropriate behaviors in the workplace generally practiced by men and experienced by women. Originally, such behavior was variously referred to as “sexual misconduct” or “sexual advances” (Aggarwal, 1992). Since then, the issue of sexual harassment has been transformed from a largely unknown concept into a well-documented legitimate organizational concern. There is considerable research documenting instances of sexual harassment in the workplace, its effects on victims and perpetrators, costs to the organization, and legal damage awards (Chilly Collective,

1995; Dzeich and Weiner, 1990; Sandler & Shoop, 1997; Aggarwal, 1992).

However, despite the increased awareness and action such as sexual harassment policies, methods of prevention, legislation, and liabilities of employers, employees continue to experience sexual harassment in the workplace and academia (Riger, 1993). In Canada, a 1994 Statistics Canada Violence Against Women Survey revealed that 87 percent of Canadian women have experienced sexual harassment (Johnson: 1996).

The Law (outside Academe)

Issues of coercion and harassment in the workplace have therefore been problematic for some time. In April 1890, the Canadian federal government introduced into the House of Commons an amendment to the criminal law to make it a criminal offense for a person who had a female employed in his factory to seduce her or to use the power that his position gave him to destroy her virtue. The legislation, however, required that the woman be of previously chaste character and under the age of twenty-one, and it only applied to women working in factories, mills, and workshops. Upon conviction, the employer was liable to two years' imprisonment (Hansard in Backhouse 1981: 61).

The practice of sexual harassment in the workplace was virtually unchallenged. Although most human and civil rights legislation prohibited sex discrimination, the term "sexual harassment" was not specifically mentioned. This meant that complainants of sexual harassment had to establish not only that they were sexually harassed, but also that such behavior was illegal. In the early 1900's the most common types of charges of a sexual harassment nature included rape, attempted rape, buggery, carnal knowledge and indecent exposure. Many of these charges brought conviction, which were often overturned on appeal. During this period the victim had to have corroborating evidence,

such as a weapon or witness, for a conviction to stand. For instance, in *King v. Carl Brown* (1928), a charge of carnal knowledge of a girl under 14 was reported, which would be known as statutory rape today. This case found that when the only evidence implicating the accused is the uncorroborated testimony of the plaintiff, a conviction is difficult to obtain on the basis that her evidence is not always credible. In *R. v. O'Leary* (1965), the same decision was made in a case of attempted rape, leaving the complainant victimized twice, the second time by the system. These cases are significant as they demonstrate sexual harassment emerging from the workplace.

In 1948 the United Nations *Universal Declaration of Human Rights* was established. Although not legally binding, the Declaration served as a moral conscience by providing international standards. The Declaration inspired the *Canadian Bill of Rights*, enacted in 1960, which gave a higher profile to all forms of discrimination, inevitably leading to inclusion of sex discrimination. The only sex discrimination case to come before the Supreme Court of Canada prior to the 1970's was the "Women as Persons Case" in 1927-1929. The Supreme Court decided against women, which was subsequently reversed by the Privy Council in London (Nova Scotia Human Rights Commission Newsletter 1974). The *Persons Act* was one of the most prominent public achievements of the first wave of feminism, as women were considered persons and not as chattels of their husbands under Canadian Law (in Nelson and Robinson, 1999).

In the 1950s legislative changes in Nova Scotia indirectly affected the course of sexual harassment. The *Fair Employment Practices Act* (1955) stated that no persons shall discriminate based on race, national origin, color or religion. In 1956 under the *Equal Pay Act* (1956), employers were required to practice equal pay for equal work. In

1959, under the *Fair Accommodations Act*, “every person and every class of persons had the right to obtain admission to and employment of the accommodation, services and facilities available in any place to which the public is customarily admitted regardless of race, religion, religious creed, color or ethic or national origin” (1959).

In 1962, Ontario enacted the first provincial human rights code and the subsequent establishment of the first human rights commission. In 1963 the *Human Rights Act of Nova Scotia* was enacted. These changes can be seen as significant for women as more opportunities in the workplace and in post-secondary education institutions emerged. In 1964 through Title VII of the *United States Civil Rights Act*, discrimination based on race, color, religion, national origin or sex was outlawed. However, many judges ruled out sexual harassment at that time as refusing to have sex with your boss was seen as a personal relationship, having nothing to do with discrimination (Jacobs and Bonavoglia, 1999). Women’s issues, including those of discrimination became more prominent in 1967 as a Canadian federal Royal Commission on the Status of Women was established. Nova Scotia followed suit with a Commission on the Status of Women in 1974 (Nova Scotia Human Rights Commission Newsletter 1974).

Efforts to have the courts acknowledge sexual harassment as “sex discrimination” began in the United States courts with the case of *Barnes v. Train* (1974). In this case, a woman was fired for refusing to participate in sexual relations with her supervisor. The District Court ruled that Barnes was unlawfully dismissed and was discriminated against. However, the Court also ruled that her refusal to participate in sex led to the discrimination, not the fact that she was a woman.

Although research demonstrates the experience of sexual harassment through “much of recorded history” (Farley, 1978; Backhouse and Cohen, 1978), it was not until 1977 that a ruling in the United States found that various types of sexual harassment could be considered illegal sex discrimination (Franklin et al, 1981). Dzeich and Weiner believe that an American case, *Alexander v. Yale University*, (1977) woke campus communities to the need for dealing with sexual harassment (Dzeich and Weiner, 1990). In 1978 the Canadian Human Rights Commission recognized sexual harassment as a form of discrimination under the Human Rights Act, partially due to the exposure of cases in the United States. (Welsh and Nierobisz, 1997).

In September, 1979, the Advisory Council on the Status of Women designated human rights as a priority issue at their conference in Montreal. The five to four decision by the Supreme Court of Canada against Lavell-Bedard in the first sex discrimination case tried under the *Canadian Bill of Rights* affirmed the protection from discrimination provided women and racially visible people under legislation in Canada. In the same year, The Nova Scotia Human Rights Act was amended to include a definition of “sex” in Section 20, offering women protection from discrimination on the basis of sex (Nova Scotia Human Rights Commission 1979: 19).

The U.S. Equal Employment Opportunity Commission (EEOC), which enforces federal antidiscrimination laws, published a legal definition of the term in the form of a set of guidelines in 1980, which focused on harassment between members of the opposite sex.¹ In response to the EEOC guidelines, a number of large-scale surveys were conducted in an effort to document the incidence of sexual harassment in the

¹ Jacobs (1999) reports that the U.S. Supreme Court declared same-sex harassment illegal March 4, 1998

workplace. The U.S. Merit Systems Protection Board, one of the first and most frequently quoted of these surveys, found that 42% of women and 15% of men among federal employees in the United States had experienced sexual harassment in the workplace (1981). This survey was updated in 1988, indicating 36,000 employees in the Federal Government quit their job because they were sexually harassed (U.S. Merit Systems Protection Board, 1988).

As previously mentioned, sexual harassment was recognized as a form of discrimination in 1978. However, not until the early eighties did case law specifically mention sexual harassment. In Ontario two women, Cherie Bell and Anna Korazak alleged that a man named Ernest Ladas had sexually harassed them. In applying for jobs they alleged that he made requests of them that would not have been made of a man. In this case, the Ontario Human Rights Commission held for the first time in Canada that sexual harassment was a form of “sex discrimination” (Bell, 1980). In 1988 the Supreme Court of Canada recognized sexual harassment as a legal issue when it decided that in certain situations, notably when it is a condition of employment, it would constitute sex discrimination (Janzen, 1989). During the case, Chief Justice Brian Dickson, described sexual harassment as “an abuse of power” and “a demeaning practice” which “attacks the dignity and self-respect of the victim”(Osborne, 1992: 5). This case contributed to the development of a definition of sexual harassment which is still used by the Supreme Court of Canada today (www.lexum.umontreal.ca/csc-scc/en/index.htm, Janzen).

The development of a legal definition of sexual harassment in Nova Scotia began with the first recorded Board of Inquiry into sexual harassment in 1982. The case

involved an allegation of sexual harassment and was settled before it went to court.

The settlement included a letter of apology, \$1100 to complainant number one, \$1400 to complainant number two, and awareness sessions for the defendant (Murphy, 1982).

In a 1983 Canadian case, Cindy MacKay alleged Dr. Navin Mehta and Ideal Computer Systems were guilty of sexual harassment, leading to her decision to quit her job. The case took four years for a final decision that found Dr. Mehta had caused a “negative psychological and emotional environment (*MacKay v. Ideal Computer Systems*, 1987). The above cases were instrumental in leading the Canadian Human Rights Commission, in July of 1983, to amend human rights legislation to specifically include sexual harassment. The Nova Scotia Human Rights Commission was similarly amended in 1991, pointing to public pressure as the reason for such changes (Nova Scotia Human Rights Act, 1991).

Another significant development came on March 1, 1985, as a Canada Labor Code amendment required companies under federal jurisdiction to develop and post sexual harassment policies (Galt, 1985). The amendment, called the Federal Contractors Program, requires any company desiring to compete for contracts over \$200,000 to demonstrate employment equity measures. This is seen as a key influence in universities adopting sexual harassment policies.

In 1986 a landmark decision by the United States Supreme Court confirmed that sexual harassment constituted sex discrimination within the meaning of Title VII of the United States *Civil Rights Act, 1964*. In *Meritor Savings Bank v. Vinson* (1986) the Court approved the principle of employer liability in relation to sexual harassment in the workplace. This case is widely cited in Canadian law.

In 1990, Bill #136 was introduced and passed to “provide a much clearer, more precise purpose for the Human Rights Act of Nova Scotia, and to expand the areas in which discrimination is prohibited” (Debates of House of Assembly Province of Nova Scotia, 1990). The Bill is significant in that it highlighted sexual discrimination as a form of sexual harassment. Following this in *Michelle Dillman v. I.M.P. Group Limited* (1994), Ms. Dillman charged her employer with sexual harassment. The Board of Inquiry found that Michelle Dillman was sexually harassed and discriminated against because of her sex when she was denied access to a promotion while employed by the I.M.P. Group. It found that Ms. Dillman was sexually harassed by her supervisor who engaged in a kind of “psychological warfare” that was intimidating and threatening. The harassment was sexual in nature and was directed at her because she was a woman. The board also concluded that the harassment was known, the company was aware of it and did nothing to stop it or to remedy it, making them as responsible for it as her supervisor. The Board cited both the Bell and MacKay cases when rendering the decision in this case.

The following definition of sexual harassment was added to the Nova Scotia Human Rights Act (1991):

- (i) vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome,
- (ii) a sexual solicitation or advance made to an individual by another individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome, or
- (iii) a reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance (1991, c. 12, s. 1).

Due Diligence

The leading Canadian case on employer liability for sexual harassment in the workplace is *Robichaud v. Canada (Treasury Board)* (1980). The question was whether or not an employer could be liable for the unauthorized acts of its employees. The Supreme Court of Canada accepted the lower court decision that Robichaud's supervisor had sexually harassed her, and the employer was held responsible. In a similar vein, universities have been held liable for sexual harassment by professors. In *Memorial v. Rose* (1990), a student charged a professor with sexual harassment. The court decided that a university student was the equivalent of an employee, and the university, the employer. Under human rights legislation, the university could be held liable for the professor's misconduct. Whether or not an employer practices "due diligence" (providing reasonable means), in preventing sexual harassment in the workplace can be a contentious issue. The *Canadian Human Rights Act* adopted "due diligence", which can be used as a defense by employers.

The Act states:

"An act or omission shall not, by virtue of subsection (1), be deemed to be an act or omission committed by a person, association, or organization if it is established that the person, association, or organization did not consent to the commission of the act or omission and exercised all due diligence to prevent the act or omission from being committed and, subsequently, to mitigate or avoid the effect thereof" (Human Rights Act 1991: s.1).

Since employers can defend a charge of sexual harassment based on due diligence under the Act, and universities are deemed to be an employer, it would only be prudent for such an employer to show due diligence by adopting sexual harassment policies and procedures as proof of such due diligence. The Nova Scotia Human Rights

Act has not yet adopted due diligence as a defense; however, tribunals may be lenient on an employer who demonstrates due diligence in an attempt to prevent and deal with sexual harassment (Richard, 1996). It was not until 1991 that the *Nova Scotia Human Rights Act* was amended to include the words sexual harassment. This gave potential complainants more opportunity to pursue their harassers.

The sex difference between educational decision-makers and victims of sexual harassment is informative as case law has determined that because men and women perceive sexually harassing behavior differently it is the victim's perspective (the woman's perspective) that determines whether the conduct is sexual harassment. Should legal action be taken against a school, the Courts have ruled that decision makers are liable for the harm caused by sexual harassment and that they are also liable for the actions or inactions of their staff in curtailing it. Employers and education decision-makers who act quickly and effectively lessen the risk of liability (Watkinson, 1994).

Reasonable Person Test

In July, 1985, The Canadian Human Rights Act stated that harassment would be considered to have taken place if a reasonable person ought to have known that such behavior was unwelcome. The difficulty in identifying sexual harassment is reflected in current discourse over the reasonable person rule used by courts. In applying the reasonable person rule, courts ask whether the conduct in question would be offensive to a reasonable person, or what is regarded as socially acceptable behavior. Applying the reasonable person rule becomes problematic as a reasonable woman and reasonable man are likely to differ in their definitions of offensive behavior. For instance, one Advisor provided the example of a female student making an informal charge of harassment

against a male student after he asked her for a date and she refused. He then began following her around the Campus, followed her on the bus, sent email messages, sat by her (without invitation) in the library and cafeteria. While the male student felt he was simply demonstrating his interest and affection, the female student was becoming very frightened by the behavior. Likewise, behavior that might be considered acceptable in some work places may be regarded as “unreasonable” in others (Lee and Greenlaw, 1999: 151). For example, the construction industry has been portrayed as sexist, often condoning behavior that would be intolerable elsewhere.

Courts use the criteria of what would a “reasonable person” see as unwanted to determine the level of “unwantedness” in sexual harassment cases. Even then, a generic expectation of reasonableness may not equally apply to women’s and men’s perceptions of sexual harassment. So far, courts have been reluctant to replace the gender-blind “reasonable person” criterium with a victim sensitive “reasonable woman” counterpart (Paetzold and O’Leary-Kelly, 1996; Lored, Reid and Deaux, 1995; Murrell, 1996; Saal, 1996 and Stockdale, 1996). Most courts continue to use a test where the complainant must establish both economic loss and some form of psychological suffering.

Riger (1991) speaks to attribution theory as providing an explanation for the wide range of behaviors that women define as harassment and for men’s tendency to find women at fault (Riger, 1991; see also Kenig & Ryan, 1986; Pryor & Day, 1988). Attribution theory suggests that we see our own behavior as determined by individual situations, and we attribute others’ behavior to their character or “internal causes” (E.E. Jones & Nisbett, 1971: 499). Those who see sexual harassment through the eyes of the

accused, mostly male, see the women as provoking the situation and don't view their actions as harassing. Pryor and Day (1988) suggest that the victim does see specific behaviors as more harassing. Therefore, women are more likely to see harassment as a victim would, labeling more behaviors as harassment and attributing them to men's character. Jenson & Gutek (1982) offer the possibility that men as "potential harassers", avoid future blame by shifting the blame to women. Kenig and Ryan (1986) extend that thought by suggesting that men also have a restricted range of behaviors defined as harassment. There are also those who suggest that women's friendliness is often sexualized by men and seen as an expression of sexual interest (Abbey, 1982; Abbey & Melby, 1986; Saal, Johnson, & Weber, 1989; Shotland & Craig, 1988). Indeed, Tangri, Burt, and Johnson (1982) stated that "some sexual harassment may indeed be clumsy or insensitive expressions of attraction, while some is the classic abuse of organizational power" (52). In view of these gender differences, applying the reasonable rule can be difficult (Linenberger, 1983).

Another concern with the reasonable person test, as Catherine MacKinnon (1987) points out, is that "objectivity – the nonsituated, universal standpoint, whether claimed or aspired to – is a denial of the existence or potency of sex inequality that tacitly participates in constructing reality from the dominant point of view" (MacKinnon: 136). "The law sees and treats women the way men see and treat women" (MacKinnon: 140). To take this further, men's judgments about what behavior constitutes harassment, and who is to blame, are likely to prevail.

Quid Pro Quo

Canadian law recognizes two types of sexual harassment: quid-pro-quo and hostile environment. In the quid-pro-quo form of harassment, the complainant attempts to prove that the harasser has denied job benefits, such as promotion or salary increase, because sexual favors were not granted. Also considered is whether or not the harasser has taken away job benefits (e.g., discharge or demotion) because sexual favors on the part of the employee were not forthcoming (Lee and Greenlaw, 1999). Quid-Pro-Quo sexual harassment is also sometimes referred to as sexual extortion. Sev'er suggests that the quid-pro-quo type of sexual harassment is the easier to identify, and although frequencies are still low, it is the most likely to be challenged (Sev'er, 1999).

In the context of universities and colleges, quid-pro-quo may include an offer of special treatment for sexual favors (letter of reference, employment, and improved grades). It could also take the form of a threat, such as threatening to lower a grade if sexual advances are rejected. Courts hold institutions liable for even a single incident of quid-pro-quo harassment. Quid-pro-quo is better understood than hostile environment, more than likely due to media attention (Aagarwall, 1992).

Hostile Educational Environment

The other type of sexual harassment is often referred to as hostile-environment harassment. In guidelines, employees are protected even when the harassing behavior is not targeted specifically at them. For instance, a woman could file a sexual harassment charge if she repeatedly witnessed a male supervisor openly harassing another female employee. Another category of hostile environment is "written or graphic material that denigrates or shows hostility or aversion toward an individual or group, and that is

placed on walls, bulletin boards, or elsewhere on the employer's premises or circulated in the workplace, including posters and email messages, clothing with sexual drawings or slogans" (Sev'er, 1999).

Along with the difference in perception of male and females, another issue with hostile environment is determining the "unwantedness" of the behavior in question, and "upon whom the burden of proof falls" (Aagarwall, 1992a:123). Canadian tribunals and courts seem to favor the position that it is the responsibility of the complainant to show that the harassing behavior was unwelcome (Fitzgerald, Swan and Fischer, 1995; Paetzold and O'Leary-Kelly, 1996). As Sev'er states, "in no other criminalizable activity (except rape) do we see the requirement from the injured party to prove that her victimization was against her will. For instance, there is no question that racial harassment is unwanted, yet the same principle does not seem to apply to sexualized conduct where non-injury is assumed unless the (adult) victim proves otherwise" (Sev'er, 1999: 472).

Unlike quid-pro-quo, hostile or intimidating workplaces or educational institutions require a consistent pattern of behavior. A single event, unless it is very serious, has not been found to constitute a hostile environment (Sandler & Shoop, 1997). There does not have to be a power imbalance in a hostile environment, coworkers and fellow students can create a hostile environment for each other.

As we have seen, Nova Scotia has made significant improvements in sexual harassment legislation in the last thirty years. Since the amendments to the *Nova Scotia Human Rights Act* in 1991, the number of reported cases has increased. However, burden of proof on the part of the complainant can still be problematic for the racially

visible as sexual insults are often laced with racial slurs. This form of harassment is both racist and sexist and due to the current structure of human rights legislation, complainants are forced to decide whether the offensive behavior is primarily gender or race-based. Similar arguments could be made for the experience of disabled and homosexual persons.

Definitions of unwantedness may also be clouded by the existing male dominance in the workings of the criminal justice system. Any attempt to establish unwantedness may open the floodgates for questioning and scrutinizing the behavior of the victim herself such as what she may have said, what she may have done, worn, etc. For instance, in 1999 Canadians witnessed a lower court decision wherein a trial judge dismissed a sexual harassment case as the teenage victim “was not wearing a bonnet and crinolines” and “was not on her way to the nunnery” (The Toronto Star, 1999). The Supreme Court overturned this decision, yet questions still remain surrounding biases of predominantly male police, lawyers, and judges in the Canadian system.

Not only is there a cost to individuals involved, there is also a cost to the institutions and corporations. Figures are easier to obtain from the United States and settlements are often higher, as sexual harassment can be tried in a civil court. In Canada, complainants cannot sue their harassers since Canadian complainants have to bring their case to a Human Rights Commission. Only the Commission can prosecute on behalf of the complainants. Even if the Commission decided to pursue the matter, the compensations are capped in Ontario at \$10,000 and are on the basis of tangible losses. In Nova Scotia the largest compensation to date has been \$5,000. The complainant in that case suffered a sexual assault at the workplace (McIntee: 2001).

Aggarwal (1987) remarks that sexual harassment “may be an expression of power or desire or both”. Canadian case law has recognized that sexual harassment is a multifaceted phenomenon that may include sexual assault, unwanted touching or patting, leering, sexually suggestive gestures, demands for sexual favors, derogatory or degrading remarks directed towards members of one sex or sexual orientation, repeated offensive sexual flirtations/ advances/ propositions, verbal threats or abuse, questions about or comments upon individual’s sexual life, the use of sexually degrading words to describe a person, sexist jokes that cause embarrassment, and the displaying of sexually offensive material. In identifying this nonexhaustive list of behaviors that has been held to constitute sexual harassment by the courts, the Law Society of Upper Canada acknowledges that “whether a particular type of conduct constitutes sexual harassment is sometimes difficult to determine” and that although “the severity of the conduct may be the most conclusive factor.... What is determinative is a combination of frequency, severity, and persistence” (in Mossman, 1997; 244).

Federal Policy

Literature on sexual harassment evolved with Jeanette Farley’s book, *Sexual Shakedown: The Sexual Harassment of Women on the Job*, which contained the first examination of sexual harassment in 1978 (Farley 1978). One year later, feminist lawyer Catherine MacKinnon, who is frequently cited by the Supreme Court of Canada, then defined sexual harassment as the unwanted imposition of sexual requirements in the context of a relationship of unequal power in her 1979 text, *Sexual Harassment of Working Women, A Case of Sex Discrimination* (MacKinnon 1979). The first Canadian analysis on this issue came from law professor, Constance Backhouse and Leah Cohen

in their 1978 text, *The Secret Oppression, Sexual Harassment of Working Women* (Backhouse and Cohen 1978).

The government of Nova Scotia instituted a decade of change with particular attention to affirmative action, minorities and women, motivated mainly by the two Commissions on the Status of Women, one a Royal Commission on the Status of Women in Canada in 1967, and the other a Nova Scotia Commission on the Status of Women in 1974, led (NSHRC 1974). Until the creation of the federal Women's Bureau in 1954 and the Canadian Advisory Council on the Status of Women's Bureau in 1973, Ottawa had no significant research on "one-half of its citizens" (Strong-Boag, Veronica 1994/95: 30).

The recognition of sexual harassment by the Canadian Human Rights Commission in 1978, prompted numerous surveys exploring the pervasiveness of sexual harassment (e.g., Canadian Human Rights Commission, 1983; Cammaert, 1985; McDaniel and van Roosmalen, 1991; Phillips and Schneider, 1993). Dialogue in the public increased in response to these surveys. In 1983, the Canadian Human Rights Commission conducted a survey of working women to ascertain the extent to which sexual harassment was a problem. Three-quarters of those surveyed believed it was a serious problem (Canadian Human Rights Commission, 1983: 5). In the early 1990s, Health Canada developed an integrated dataset to expand existing knowledge about violence against women. And in 1994 Statistics Canada, released the results of the Violence Against Women Survey revealing that 87 percent of Canadian women reported experiencing sexual harassment (Johnson, 1996). Awareness of sexual harassment increased through public participation in surveys, as well as media reporting.

North America's attention has been fixed on harassment charges in several recent high-profile situations, giving prominence to sexual harassment. Highly publicized cases include the 1991 Clarence Thomas nomination hearings for the Supreme Court, the Navy's 1991 Tailhook conventions in Las Vegas, the 1994 investigation of Senator Bob Packwood, and the 1994 suit filed against President Clinton for allegedly engaging in sexual harassment while governor of Arkansas (Riger, 1991). Canadian newspapers in November 1999 also revealed that a senior partner in a major law firm had been fired for sexual harassment (Globe and Mail, Nov. 1999).

These publicized cases awakened North Americans to the widespread nature of sexual harassment (Se'ver, 1999). It also created an urge to eradicate sexual harassment in places one would expect to be exempt from these things – such as colleges and universities (Benson and Thompson, 1982; Kenig and Ryan, 1986; Mazer and Percival, 1989; McDaniel and van Roosmalen, 1991; Osborn, 1992). Researchers suggest that as many as one out of two or three undergraduates and a slightly greater proportion of graduate students may have experienced some form of unwanted sexually inappropriate behavior (Osborn, 1992; Fitzgerald and Shullman, 1993; Schneider, 1987). Female professors experience a variety of sexually inappropriate behavior (Grauerholz, 1989; 1996; McKinney and Crittenden, 1992). As previously discussed, Benson (1984) refers to harassment of female faculty by male students as “contrapower” harassment. Grauerholz (1989) reports that 47.6% of female professors claim to have experienced a variety of sexually harassing behaviors from their male students, 60% reporting more than one incident. In fact, Leonard et al (1993), observed that less than 20% of faculty

claimed to have never experienced any one or a variation of unwanted sexist comments, attention, physical touching or other types of sexual advances.

Faculty Associations

Faculty Organizations and Unions can have great influence in bringing about unionized workplace change. Apart from wages, working conditions have been a priority for unions. Unions and faculty associations have also influenced sexual harassment, discrimination, and race relations policies and procedures. For instance, in a Canadian study on penalty standards for sexual harassment offences in unionized workplaces, (Taylor, 1998) from 1986 to 1989, 31% of grievances came from workplaces with a sexual harassment policy in place. From 1990 to 1993, 54% originated in such workplaces. As for academia, Canadian professors, took a stand in 1970 as the Canadian Association of University Teachers (CAUT) Council adopted ethical guidelines, and has since found it necessary "to amplify" them as needed (CAUT Handbook, 1979). In November 1980, the Equal Employment Opportunity Commission (EEOC) issued a set of guidelines on discrimination because of sex, which includes a section that deals with sexual harassment.

In May of 1982, the Canadian Association of University Teachers issued further guidelines on professional ethics and abuse of professional authority - sexual harassment. These guidelines state that harassment on the basis of sex is a violation of their professional ethics. The guidelines also contain examples of sexual harassment conduct, places responsibility for development of a co-operative educational program on all constituencies within the university, and requires procedures to be put in place (CAUT 1982).

In the summer of 1990, the Canadian Association of Law Teachers established an advisory committee to review issues of inequality in legal education. The report, issued in July 1991, emphasizes that equality in legal education is a long-term project which can only advance with an institutional and professional commitment to a vision of equality. As the report states, “true equality requires systemic change to make legal education more relevant, and more survivable, for the majority of students and prospective students” (Paytou, 1992:2). It concludes that “legal education has played more than a passive role in creating existing conditions of inequality. Indeed, Canadian legal education actively practices and reproduces systemic discrimination”(Paytou 1992:2).

The report of the ad hoc Committee on Sexual Harassment, Nova Scotia Teachers Union (NSTU) April 1991 introduced guidelines for sexual harassment. The NSTU membership includes the Nova Scotia P-12 teachers and Nova Scotia Community College teachers. Unions have traditionally protected their members from exploitation. The NSTU has been and is interested in creating and maintaining a high quality working environment and in preventing situations that create offensive working conditions. The NSTU guidelines indicated policy guidelines set out by the Nova Scotia Human Rights Commission in 1983 which state in part: “prevention is the best weapon to eliminate sexual harassment” and the committee resolved that the NSTU develop a policy on sexual harassment, as well as procedures (NSTU Resolution 90-63 and 90-65).

In a 1994 Canadian Association Against Sexual Harassment in Higher Education (CAASHHE) Newsletter, the “Framework regarding prevention of harassment and discrimination in Ontario Universities” appeared. This article alluded to Stephen Lewis’

recommendation in June of 1992 to the former Minister of Colleges and Universities that policy on harassment and discrimination be drafted for use across the post-secondary sector. Consultation was undertaken with post-secondary institutions and policy was drafted by the Ministry of Education and Training (CAASHHE 1994).

Post-secondary

Cases of sexual harassment and public opinion have influenced institutions in terms of instituting policies and revision of existing policies. For instance, Dalhousie University's original sexual harassment policy referred to sexual harassment programs under Title IX in the United States. The document also explicitly names both York University and the University of Alberta, as well as Carleton and Queen's Universities and the University of Victoria as establishing sexual harassment policies. The document also states that as sexual harassment is being recognized as a serious problem by these institutions, policy and procedures will be instituted at Dalhousie (The Report of the Advisory Committee on Sexual Harassment 1984).

The term sexual harassment was slow to emerge in post-secondary institutions. In 1956 when a university professor was dismissed for allegedly entering into a sexual relationship with a student (Orr v. University of Tasmania), the term sexual harassment was not used. However, in a 1979 determination at the University of Ottawa, and again in 1980 at Acadia University, the arbitration panels used the term sexual harassment and considered it just cause to dismiss a faculty member (CAUT Handbook 1979: Note 2, p.1). Professors, themselves, took a stand in 1970 as the Canadian Association of University Teachers (CAUT) Council adopted ethical guidelines, and has found it necessary "to amplify" them as needed (CAUT Handbook 1979).

In 1980 York University set up the first presidential committee in Canada to study sexual harassment on campus. Based on its report, published in January 1982, a Sexual Harassment Education and Complaint Center was established (York University, 1982). York extended the definition of sexual harassment to include gender harassment (e.g., sexism in the classroom) to reveal the many everyday subtle forms of harassment. The work of the committee was met with mixed reviews. It was welcomed by many, but seen as a threat by others who had concerns with the protection of civil liberties and the challenge of trying to alter old patterns of behavior (Shteir, 1982).

Public opinion around cases of sexual harassment at Canadian post-secondary institutions also influences revision of policies. For instance in 1993 the Political Science Department at the University of Victoria was charged in a Report of the Climate Committee to the Department of Political Science with sexist and racist behavior, which it was argued led to a discouraging and unsupportive environment experienced by graduate and undergraduate women students. There was much reporting in the media around this issue and the faculty association and women's caucus.

Women in universities and colleges experience sexual harassment in many forms – from sexist remarks (often called gender harassment) and covert physical contact (patting and brushing against their bodies) to blatant propositions and sexual assaults (Paludi and Barickman, 1991). In the 1994 Statistics Canada Violence Against Women Survey, which included women in university, respondents reported experiencing sexually harassing behavior in the form of obscene phone calls, unwanted attention, being followed in a frightening way, indecent exposure, inappropriate comments about body or sex life, won't take no for an answer for a date, being cornered, leaning too

close (Johnson, 1996). Also, in a study of women students conducted by McDaniel and van Roosmalen (1991) at the University of Waterloo in the mid-1980s, sexual harassment was found as a common experience among female university students and one structured by power differentials. They found that 74 percent of their female university-student sample had experienced sexual insults ("an uninvited, sexually suggestive, obscene or offensive remark, stare or gesture"), 29 percent had received a sexual invitation ("a sexual proposition without any explicit threat or bribe by a person in a position of power or authority"), 7 percent reported sexual intimidation ("a threat or a bribe by a person in a position of power of authority to coerce sexual contact"), and that 10.8 percent had been sexually assaulted ("sexual contact through the use of force, threatened force or a weapon, without consent as inferred from refusal, helplessness or incapacitation") (in Nelson and Robinson, 1999: 270).

Perceptions can be created in many ways and require constant analysis in terms of lived reality. For instance, the University of Western Ontario received an Employment Equity Award in 1986, but Constance Backhouse's (1995) analysis of the lived reality of female faculty at the University of Western, and in Canada more generally, questions the granting of it. As she reveals, in 1921 women filled 15% of all university faculty seats in Canada. The numbers of faculty for women in Canada were highest in 1944 at 19.9 percent. Between 1974 and 1982 many universities created committees to inquire into the problem of recruiting and retaining women, some appointing special women's affairs officers. In fact, in 1984 a report of the Association of Universities and Colleges of Canada concluded "with regret" that appointment of women's special affairs officers offered no more than "tokenism or window-dressing"

(Backhouse, 1995:88). By 1985 women represented only 17.0 percent of full-time faculty, and Statistics Canada stated "In a profession that has a history of a high proportion of males, this represents little gain over the ratio of 11% that was recorded 26 years earlier" (Backhouse, 1995:88). Backhouse notes that in 1985 only 6.1 percent of full professors in Canada were female, whereas 44.5 percent of those ranked below assistant professor were female. Despite these statistics, many "perceive" that women have made substantial gains in academia.

As we have seen, sexual harassment is a contentious issue and conflicting views on the prominence of sexual harassment and the backlash can be found in media portrayals of university complaints. For example, on June 9, 1997, The Globe and Mail, reported rumors of a secret payment made by Simon Fraser University (SFU) to the complainant of sexual harassment against the swim coach at SFU. Following this, on Saturday, June 14, 1997, The Mail-Star, speaks of what is viewed as a "miscarriage" of justice in the charge of sexual harassment against SFU's swimming coach. Simon Fraser University's swimcoach was fired on a charge of sexual harassment, and then rehired on a procedural error in the case's investigation. SFU's policy was revised in 1998 (CAUT May 98).

Constance Backhouse, Professor of Law at the University of Western, Ontario, relates how a report was presented to the President of the university regarding the chilly climate for women, highlighting patterns of harassment at Western. Professor Backhouse then relates how backlash and defensiveness resulted. She identifies the usual patterns at universities as initiatives for change, then resistance and backlash,

followed by attempts to defuse or resolve the problem before change occurs

(Backhouse, 1995a).

Linda Eyre, (2000) a Professor at the University of New Brunswick, in her analysis of a case of sexual harassment at a Canadian university, reveals that “sexual harassment policies and grievance procedures are consistently thwarted”, and those who hold power continue to undermine women’s voices (Eyre, 2000:293). Those working towards change often experience barriers as any analysis of sexual harassment cases is surrounded by confidentiality and often dealt with “behind closed doors” (Eyre, 2000:294).

Public opinion and pressure often influence the implementation of legislation. As we have seen, public opinion, faculty associations, federal contracting policies, and case law have all played a part in post-secondary institutions implementing sexual harassment policies. There is no doubt that those working in sexual harassment, such as the Sexual Harassment Advisors interviewed, continue to influence the development of policies and procedures. There is also no doubt that effort is needed to ensure that changes evolve. As we will see in future chapters, the Sexual Harassment Advisors and the literature reveal that simply having a policy in place does not prohibit acts of sexual harassment.

Chapter 2

Development of Sexual Harassment Policy In Four Halifax Post-Secondary Institutions

“No matter how comprehensive or well written a policy is, educational programs and activities are essential in helping to prevent sexual harassment. The first step in any educational program is dissemination of the policy” (Sandler 1997: 125).

Chapter one provided context for the development of sexual harassment in Canada and Nova Scotia. For the purpose of this thesis, I have interviewed Sexual Harassment Advisors from four post-secondary institutions in the Halifax Regional Municipality, specifically Saint Mary’s University (SMU), Mount Saint Vincent University (MSVU), Dalhousie University (Dal), and the Nova Scotia Community College Metro Campus (NSCC). In this chapter, I provide an outline of the development of institutional policy and procedure at those four institutions, as obtained from Advisor interviews, archival research and literature review.

During the Sexual Harassment Advisor interviews the reality of dealing with the policy and procedures was discussed. The sections following development of policy examine the politics of sexual harassment policy, the issues making due process problematic, as well as the strategies for negotiating the policy process as presented by the Sexual Harassment Advisors interviewed and the literature review.

Saint Mary’s University

Saint Mary’s University (SMU), in the 1986 Report of the Committee on Procedures for Dealing with Sexual Harassment, highlights the following from the 1983 Canadian Human Rights Act in its introduction:

“an act of harassment shall not, however, be considered to be an act committed by an employer if it is established that the employer did not

consent to the commission of the act and exercised all due diligence to prevent the act from being committed"(SMU Senate 1986:86045.01).

On April 11, 1985, the Executive Committee of Senate passed a motion creating a committee made up of faculty, faculty union, staff, staff union, student representative, and administration, to propose procedures to resolve allegations of sexual harassment, and to establish educational programs. The committee presented its "Report of the Committee on Procedures for Dealing with Sexual Harassment", on February 14, 1986 to Senate. The report was referred back to the Committee for further consideration and clarification as to purpose and activity of advisor and committee.

On May 5, 1986, the "Report of the Committee on Procedures for Dealing with Sexual Harassment", as amended, was adopted in principle by the Senate and sent to the University lawyer for review. Then on December 12, 1986, the "Report of the Committee on Procedures for Dealing with Sexual Harassment", as amended, was approved by Senate and referred to the Academic Regulations Committee.

On March 13, 1992, Senate approved proposed changes to the Sexual Harassment Policy and Procedures. As it became clear that sexual assault required policy and procedures of its own as it was a criminal event under the Criminal Justice System, and there was a need to clarify the ambivalence of the university in intervening in cases of sexual assault, on October 19, 1994, the Sexual Assault Policy was submitted to Senate for information. A notation suggests that the Board of Governors adopted the Sexual Assault policy in the spring of 1995.

The current Sexual Harassment Advisor at Saint Mary's University began working with the university just after the 1992 revision was made. The policy called for

the appointment of a female in the position, with an alternate male available, if requested by a complainant. The role of the Advisor at SMU is to be the first official contact person in any allegation of sexual harassment. She would then coordinate the complaint process from initial contact through to resolution. The role also includes maintaining records and networking with special agencies and comparable personnel at other post-secondary institutions. The Advisor also advises constituencies and provides an annual report to the President, to Senate and to the Sexual Harassment Advisory Committee, through the Vice-President Administration. The annual reports are not published.

Beyond the formal role of advisor, members of the university community can approach the Advisor for advice on issues of sexual assault outside of the context of the university, and often need support to deal with those issues to attempt to make sense of violence in their lives. Although there has always been a male appointed, to date no one has requested his services. As the Advisor feels the work can often be isolating, SMU also has an advisory committee to the Advisor. This committee meets periodically around educational strategies and organizing special events. The committee was involved in the organization of an event around March 21st, the International Day for the Elimination of Racism. As in other institutions, the Advisor deals with other equity issues. When the formal process is followed, a subset of the advisory committee acts as a hearing and investigative committee.

In terms of policy revision, the Advisor submits recommendations with her yearly report to the Vice-President Administration. The Advisor and the advisory committee would work together on any revisions resulting from the annual report.

There has been no revision since 1992, except formatting revisions to increase readability. As to the role of administration, the Vice-President Administration makes appointments to the advisory committee, and the President makes the final decision if an investigative committee finds a member of the college has committed sexual harassment.

As all policies and advisors are expected to provide information and education to all constituencies of the educative community, attempts are made to give workshops to students, faculty, staff, and administration. The Advisor attends the annual Canadian Association Against Sexual Harassment in Higher Education (CAASHHE) conference. This association draws its members from post-secondary institutions across Canada, issues quarterly newsletters, and holds an annual conference. Sexual harassment Advisors from Nova Scotia, New Brunswick and Prince Edward Island formed the Atlantic University Sexual Harassment Advisor Network (AUSHAN). This regional group began meeting for professional development, networking, and support. The Advisor's office has no budget, and has never had a problem obtaining resources. The annual reports are submitted; the results are not disclosed to the public.

Over the years, a group of students has participated in the student peer project that is largely educative in nature. They also helped maintain a crises telephone line. The success of this committee changes from year to year. During the 1999/2000 academic year training was scheduled for several interested students, but none actually attended the training. The Sexual Harassment Advisor interviewed believes that with pressure on students in the form of jobs, academic work, and graduate school volunteer requirements, little time is left for volunteering.

Mount Saint Vincent University

Mount Saint Vincent University (MSVU) instituted their Sexual Harassment Policy in 1991. In an interview with the current Sexual Harassment Advisor, she advised that there are few records as to the initial deliberations. She felt that as sexual harassment was becoming more recognized, case law emerged as to employer's obligation and there was pressure from Canadian Association of University Teachers (CAUT) and the Federal Contractors Program for MSVU to put policies in place. The President, Naomi Hersom, was very supportive of having the policy in place prior to her departure in June, 1991. The current Advisor was appointed in 1991 after the initial sexual harassment policy had been developed by a committee. She had no input into the original policy. Her first assignment was to take the recently completed policy before the Board of Governors, where it received approval.

After the first year, it was evident that members of the university community were seeking the Sexual Harassment Advisor for a number of equity issues, primarily abuse of authority. Revisions to the sexual harassment policy and a new policy to link with other forms of discrimination was needed. Limitations to the sexual harassment policy became evident and needed to be brought into line with a belief in the educative benefit of informal measures. The President was supportive of the new policy. A process they initially thought would take 6 months, is now 5 years in the consultation stage. They chose to develop a policy tailored to the specific needs of the university, rather than one without input. At the time of writing, the policy has passed faculty associations and most of the bargaining units and should be ready for the Board of Governors in the near future.

The Advisor interviewed has not had access to a regularly appointed advisory committee. However, following a President's advisory committee on the status of women, a development subcommittee was struck to develop new policy dealing with the fair treatment of all members of the academic community. The current Advisor was appointed chair of that committee. A research committee submitted findings to a smaller writing committee with representatives from faculty, administrative and professional associations, staff and students. The committee found that the Sexual Harassment Policy should remain in place, revamping procedures to reflect and operate alongside the broader informal measures in the new fair treatment policy. The decision to maintain the Sexual Harassment Policy as a separate policy is a historical decision, as the university's mission statement speaks to the education of women.

The Advisor interviewed reports directly to the President, which she feels is critical to being perceived as unbiased. There has never been a formal complaint at MSVU, however the President would have the final recommendation if an investigation committee found a member of the MSVU community guilty of sexual harassment. Members of the new Fair Treatment Committee will be appointed on the recommendation of the President, the Sexual Harassment Advisor, and the university constituencies and will deal with expanded issues of general harassment and discrimination issues, including all grounds contained in Nova Scotia Human Rights legislation. Education around the policy and issues will be part of the committee's mandate. All constituencies will have representation on the committee, and the Advisor is anticipating great support from the members. The committee will receive extensive training in equity issues and informal resolution procedures such as mediation. As two

policies will be in effect, the sexual harassment policy and the fair treatment policy, it is not yet clear whether there will be one advisor or two.

As to current educative procedures, the Advisor offers workshops for students and programs that ask for her expertise. The Advisor also provides lectures for Women's Studies courses, the co-op program, and, as all Sexual Harassment Advisors have indicated, finds it challenging to educate faculty. Whereas in the beginning information and training was offered to faculty by invitation, the Advisor now requests to be invited to faculty meetings, staff meetings, or other formal settings to speak on the topic, as informal sessions were not well attended.

Although MSVU has never had a case go to formal investigation, the Advisor doesn't feel this is a reflection of a harassment-free environment. She points to the possibility of a lack of awareness around existence of a policy, of the issues themselves, as well as the handling of informal charges to the complainants' satisfaction. Students are often referred to her by security officials or faculty, as they are unaware of the policy. Under the current sexual harassment policy, an appeal would go to an outside arbitrator. Under the new Fair Treatment policy that covers all forms of harassment and discrimination, appeal would go the committee as a whole. The President would only become involved after a decision or finding is made and recommendations for remedies, sanctions, or compensation are submitted for approval. An annual report including the nature of the Sexual Harassment Advisor's involvement during the academic year, statistics, number of inquiries, number of informal/formal complaints is prepared by the Advisor and submitted to the President. The annual report is not published. The

Advisor believes the statistical portion of the report is available to the public, yet has never seen it.

The Sexual Harassment Advisor has a direct line for members of the community to contact her. She clearly perceives her involvement to be a policy advisor. As a neutral person, the Advisor's duty is to explain options, clarify the process and facilitate understanding of what harassment is under the MSVU policy. Ultimately the decision of whether or not harassment occurred is up to the complainant. Should the charge move to investigation, and the Advisor is involved in that process, the Advisor has to be seen as neutral. As it is most often students alleging harassment who access her services, the Advisor feels that she can be perceived as being on the side of the complainant. In order to maintain an unbiased position, students are referred to counseling services or student council for support, once they have received her advice on policy.

The MSVU Sexual Harassment Advisor is an independent consultant who is contracted by the university and holds office hours on campus. She has a budget for training materials only. The university sends her to the annual Canadian Association Against Sexual Harassment in Higher Education (CAASHHE) conference which she finds is an excellent opportunity for networking and professional development. As well, this Advisor participates in Atlantic University Sexual Harassment Advisor Network (AUSHAN), whose members attempt to meet at least twice per year. There has been no student peer program at Mount Saint Vincent University.

Dalhousie University

In 1982 the Student Union at Dalhousie University (Dal) surveyed 100 students to determine whether sexual harassment was a problem on campus. Most of the respondents reported having experienced sexual harassment by members of the university community (Dalhousie, Report of Advisory Committee 1984). A report of the Ombudsman's office stated that Dalhousie had no formal definition of sexual harassment, and that at the end of a case "the offender remained unconvinced that his behavior was wrong" (Dalhousie, Report of Advisory Committee 1984:3).

President W. Andrew MacKay, in January, 1983, established an advisory committee on sexual harassment. The advisory committee concluded that sexual harassment was a problem at the university, formulated a definition, and made recommendations for educating the university community. In February, 1983, the first draft of a report from the committee was distributed to constituencies, with comments invited. After passing through a second draft in May of 1983, and a 3rd draft in November of 1983, letters of support from all constituencies were received, and the final report's procedures were adopted and implemented in 1984 (Dalhousie, Report of Advisory Committee, 1984). It was the belief of the advisory committee that the report represented work and ideas of a concerned university community. Other than York University and University of Alberta, Dalhousie was one of the first Universities in Canada to put a policy in place. In the background to the Dalhousie policy, activities at campuses both in Canada and the United States are cited as providing pressure for development of sexual harassment policy, as well as influence from the Equal

Employment Opportunity Commission established in the U.S. (Dalhousie University 1984:1).

Although procedures were in place, a position for a Sexual Harassment Advisor was not created until 1990. The current Advisor is technically Sexual Harassment Officer and Advisor on Women's Issues, although over the years there has been very little time left over for women's issues other than sexual harassment. Similar to the other three situations in this study, the Sexual Harassment Advisor at Dal is the only one working in the area. However, unlike SMU and MSVU, Dalhousie also employs an Equity Employment Officer. As a result of reports from the Sexual Harassment Advisor and Equity Employment Officer, a statement on prohibitive discrimination was approved and issued in 1999 by Dalhousie, followed by procedures in 2000.

The original Sexual Harassment Policy called for revision two years after the policy was instituted, or after the handling of 3 complaints, whichever happened first. The current Sexual Harassment Advisor was appointed in 1994, and after many years of attempting to revise the policy, the only revision was approved in March 1999. In 1993 there were three formal charges at Dalhousie, resulting in a need for revision. This revision now provides for a working committee. As Dalhousie has merged with the Technical University of Nova Scotia, there are many more students for one advisor to handle. Under the new policy, members of the campus community were interviewed to work as a team in being available for students to consult on an informal basis. Possible committee members also had to clear police and security checks. Criteria for members of the committee include being fair minded, unbiased individuals who have not been involved in complaints. Fourteen people have joined the team and are being trained for

a two-year period. This group will also provide support for those who are going through the process. The team is receiving quite a bit of training in informal resolution, such as mediation, is reviewing case studies, and has a coordinator to schedule meetings. The intent is to provide more points of access than one Sexual Harassment Advisor can provide.

The Sexual Harassment Advisor reports directly to the President. As we've seen in all of these institutions' policies, the President is the final consultation in the formal process. The current Sexual Harassment Advisor finds the President at Dalhousie is very supportive in this area. Administrative heads are also involved in investigation of the formal complaints.

In terms of an educative role, the Sexual Harassment Advisor currently speaks primarily to students. Some academic units are not receptive to training in sexual harassment. The Sexual Harassment Advisor and Dalhousie's Equity Officer have teamed up to present professional development on workplace harassment, which includes sexual harassment. Also, Dalhousie does have a co-ordinator for Peers Against Sexual Assault. This student group works out of the Sexual Harassment Advisor's office and does presentations on sexual harassment and sexual assault. Professors often ask the students to present to their classes. As the demands on student volunteers are wide and varied, there can be a high turnover rate.

Both the Sexual Harassment Officer and Employment Equity Officer are members of CAASHHE and attend the conference. In December, 2000, they also hosted the Atlantic University Sexual Harassment Advisor Network (AUSHAN) group for a one-day meeting.

Nova Scotia Community College

The President of the Nova Scotia Community College, Jack Buckley, implemented a committee to design harassment and discrimination policy in 1993. The draft of the policy was then sent to committees at each Campus of the College. These committees, made up of faculty and administration, reviewed the draft, submitted recommendations, and the policy was then revised and implemented. The policy called for harassment/discrimination committees at each Campus, consisting of a Chair and at least 3 other members. The committees were responsible for informal and formal investigations at their respective Campuses, along with educative measures.

There was concern from the Nova Scotia Teachers Union (NSTU) regarding its members participating on these committees as they felt teachers should not be involved in investigating and penalizing other teachers. After negotiation, it was decided that NSTU members could sit on the committees as advisors and investigators, but the chairs of these committees, who were responsible for recommendations to the principal of the campus, would be department heads. Department heads are part of the administrative staff bargaining unit, not Nova Scotia Teachers Union members. The main difference between College and University faculty is the College has no faculty association, whereas the University's faculty association, the Canadian Association of University Teachers (CAUT) is the union. The role of advisors is to provide information, education, and coordinate the complaint process. Advisors also sit on campus committees and form the investigative team should a formal complaint arise. There is no time provided for committee work. All members of the committees are full time college employees with other full time duties.

Revisions to the policy were not done for several years as there are committees at each campus, but no one to co-ordinate the college wide effort at Central Office. There was also no one to debrief committees as to effectiveness of the policy, and no annual report is completed. As there had been no training for committees, in 1997 a one-day workshop for faculty, staff and administration was developed, which is offered to all campuses of the NSCC, was developed. Human resources then offered training in investigation techniques to committee members. Although there have been many recommendations, to date there has been no training on techniques for policy advising.

The Metro Campus committee sent several recommendations to human resources regarding limitations and problems with the policy and procedures. A meeting of the chairs was held and revisions to the policy were recommended. A representative from human resources made small revisions in 1997. The policy is currently under further revision by an administrative committee of chairs, containing no faculty, staff or student representation. A college-wide diversity advisory committee exists, however there is no formal sexual harassment advisory committee, only the committee of chairs with no staff, students or faculty representation. To date, I am the only representative from the NSCC who is a member of CAASHHE and AUSHAN.

Under the current policy a department head holds the position of chair of the committee. The principal on each campus is to appoint members to the committee each year. Should a formal charge come forth, the committee investigates, and the chair then makes a recommendation to the principal of the campus. Should the principal recommend punitive measures, an appeal can be taken to the President of the NSCC.

The current president of the NSCC has spoken out in support of women's issues, especially those in non-traditional trades.

Sexual Harassment Advisors interviewed suggest that educative measures are often met with resistance. The information about the committees does not always reach all students, and orientation is done differently at each campus. Although some professional development is mandatory for faculty at the College, the professional development day on sexual harassment awareness is presented at a campus by invitation. Eight of the 13 campuses have invited the professional development day on sexual harassment awareness. To date student peers have not been implemented.

Reality of Due Process

Sexual harassment policy can both reflect and alter existing power arrangements within the college or university. For instance, a strong policy can be seen as a victory for women at the expense of men; a weak policy can be seen as the reverse. Even the absence of policy reflects the choice of administrators to ignore a problem with consequences for the post-secondary community – a significant political statement. In this section, I will examine the nature of the policy process, and the organizational culture that works against stated policy objectives, all within the context of the experience of Sexual Harassment Advisors' who were interviewed.

As will be shown, at each stage of policy creation or revision, politics can be found. There is the possibility of struggle between players in the process needing to have their interests represented. For example, the myth that sexual harassment policies are only for women can create instant barriers. If those recommending change to policy are a small homogenous group of women, that myth could be prevalent. Creating broad-

based support for the policy or policy change, as well as organizing a group or committee behind the policy change representing broad interests is a critical component of the policy process. Those who understand the stages of the policy process stand a better chance of anticipating potential problems.

Having a sexual harassment policy in place will both address and prevent the problem for the learning community, as well as protect the institution from liability. Policies that are revised or developed elsewhere and simply adopted by top administrators without input from the educational community are not likely to receive support. Policies that are adopted or revised with the input and involvement of the educational community are better understood and are more likely to be supported and implemented by wide segments of the community (Sandler & Shoop, 1997:105).

There are some common areas in the four policies. All policies provide for a formal and informal procedure in terms of resolution, and speak of the importance of education. All Sexual Harassment Advisors speak of the difficulty of resistance at all levels to educative measures. Regardless of how comprehensive or well written the policy, dissemination must be the first step in educating the learning community. Knowledge of policy and procedures will insure its use and assist in prevention, as members of the community become aware of what constitutes harassing behavior.

Sexual Harassment as Part of Organizational Culture

Organizational culture is “the social glue that holds the organization together” (Oliveira, 2000:20). More specifically, culture may be defined as the values, beliefs, and knowledge acquired through social interactions that serve to define and predict acceptable organizational behavior (Oliveira, 2000). Culture, as an identity of an

organization, also reflects behaviors that an organization values, rewards, and empowers. It follows, then, that culture can perpetuate harassing behaviors or remodel them.

Rituals, as part of culture, occur in the rhythm of the day, such as taking lunch breaks at a particular time. Daily patterns or interaction rituals frame how individuals and the community communicate with one another, and these rituals are passed on to each incoming individual and group. Out of the language and symbols of our daily lives, we define our relationships to one another and the patterns of our actions within an organization. Individuals bring preconceived notions about what they expect from an organization, and the organization has a structure and history prior to an individual's entry that defines what is expected: "culture is malleable, constructed and interpreted" (Tierney, 1993:76). All individuals are able to shape the organization's culture and to be shaped by it.

Carol Bacchi (1998) argues that considering how the culture of the educational institution supports sexual harassment is as important as an examination of sexual harassment policies, grievance procedures, and education. She views "the institution as the problem and sexual harassment as a symptom of the problem", reminding us that institutions are collections of persons socialized by gender (Bacchi, 1998:76).

Behavior which is at first strange to us can become normalized if we are exposed to it over time (Bacchi, 1998). The power of the norm also is reinforced in an organization's culture through a structure that develops policies that privilege some and make others invisible (Tierney, 1993). Normalizing the behavior can justify behavior and actions can be dismissed as women's perceptions. For instance, we often hear the

reaction to men whistling at women as “boys will be boys”. Male students study at the library until closing time, while female students often leave before dark to travel safely. This behavior can become normalized to the extent that it is invisible and accepted without question. As policymakers, reflection and response in the form of the changes required are essential. As stated previously, Sexual Harassment Advisors suggest that revisions to improve the efficiency of policies can take years to complete, resulting in the continued use of problematic policy and procedures, reflecting lack of commitment to eradicating sexual harassment.

The academy is structured along “strict hierarchical lines, and individuals in the highest ranks tend to be male” (Grauerholz, 1996:39). In the Nova Scotia Community College system in the year 2000, the President and Vice-Presidents are male, and 5 out of 33 department heads are female. In a 1997 survey quoted in CAUT bulletin, out of all full time university faculty appointments, Saint Mary’s University appointed 24.8% females, Dal 27.8%, and MSVU 58.59%. Of all tenured appointments, 18.4% at SMU were female, 22.1% at Dal, and 56.7% at MSVU (CAUT Bulletin, 1999: 9). MSVU is dedicated to education of women and has a high percentage of female students. As women are clustered in lower and more powerless positions, advocating for victims of sexual harassment may mean alienating their male colleagues, thereby endangering their own careers by offending the social “network.” This hierarchical structure can leave women, especially those in lower positions, vulnerable to sexual harassment. There are also those who argue that this hierarchical structure could send potential harassers a supportive message – the higher he climbs, the more he “deserves” (Grauerholz, 1996).

Women seeking top positions in post-secondary institutions have no readily available pool of women on boards of directors, or as trustees and tenured faculty who can attest to their competence to “overcome skepticism of men in high places” (Reich 2000:140). Statistics show that the people who make referrals and do the deals are still overwhelmingly white and male. Perhaps one of the most important purposes of affirmative action is to broaden the informal networks to include the “socially disconnected” (Reich 2000:140).

Further, Cleveland and Kerst (1993) suggest that in an organization, an individual’s formal position may not be indicative of his or her actual power (in Grauerholz, 1996), as is evidenced by contrapower harassment. Women may have less power than male colleagues in the same job in that they are given less “decision-making responsibility and less latitude to exercise authority than men” (Grauerholz, 1996). Simply placing women in positions of power will therefore not necessarily discourage sexual harassment behavior.

Policy Development

Policy-making has been seen as deeply political, not only a product, but also a process with “contexts, texts, and consequences” (Taylor et al., 1997:55). In all of the institutions studied, an administrator makes appointments to the advisory committee. Advisors commented that as members of the committee graduate, retire, go on sabbatical, or have moved to other committees, new members are required. There can be delays in appointments at some institutions, leaving an Advisor waiting to access an advisory committee several months into the academic year. New members also require orientation and/or training in sexual harassment issues. In all the institutions, the

advisory committee is volunteer; members also have full-time positions with the institution. As the Sexual Harassment Advisor positions are part-time, if a student has a complaint and wishes to see a committee member, they often have a lengthy waiting period. The three universities have a part-time Sexual Harassment Advisor with regular office hours, but the College does not.

The Sexual Harassment Advisors at the three universities are all employed on a part-time basis, two are employees of the institution and one is on contract. They are each solely responsible for prevention and resolution of sexual harassment issues, along with some type of volunteer advisory committee. The three university Sexual Harassment Advisors have office hours for consultation. Members of the new resource group at DAL serve as advisors on top of regular full-time duties. Those serving on committees at the Nova Scotia Community College are full-time employees who volunteer in addition to work duties on the harassment/discrimination committees. They have similar duties to university advisors, have no office hours dedicated to harassment issues, and no advisory committee. A committee of Chairs does sit occasionally to discuss revisions. Sexual Harassment Advisors are often frustrated as they can be the last point of contact, rather than the first. This can be problematic in terms of coordinating the complaint process and assisting the complainant to resolution.

Each of the Sexual Harassment Advisors interviewed felt supported by their administration, yet also felt their position could be isolating. Supporting, and indeed being the voice for sensitive equity issues is never easy. Rarely are those who have the will to notice and the willingness to speak praised for their actions. They, instead, are

often seen as creating conflict rather than exposing existing conflict, risking isolation and disapproval from their peers (See Buchan, 1992 and Desbarats, 2000).

There are different approaches to prevention of sexual harassment -- a punitive or educational approach. Many people, especially those of diverse cultural backgrounds and especially women (e.g. Gadlin, 1991; Rowe, 1990; Gwartney-Gibbs, & Lach, 1991; 1992; Lewin, 1990; Riger, 1991), deeply dislike win-lose procedures. These "rights-based" procedures can polarise issues and affect workplace harmony and career relationships. Conversely, some employers deal with all non-criminal harassment on an informal basis, addressing many problems by discussion or reassigning job responsibilities. The underlying assumption is that many harassment concerns result from misunderstandings. The Sexual Harassment Advisors report that members of the academic community feel this type of resolution shows a lack of commitment to deal with harassment.

Formal Complaints

An institution or individual may choose to file a formal complaint for several reasons. The alleged victim or institution may be dissatisfied with the progress of the informal complaint process, or the outcome of that process. The alleged victim may seek the type of disciplinary punishment available under the formal process. The institutions may require strong sanctions to warn potential harassers of consequences or to demonstrate its commitment to a respectful learning environment.

In a formal process the alleged victim would file a complaint, in writing, to either an advisor or committee. Procedures would then require a fair and thorough investigation of the incident, including interviewing the complainant and alleged

perpetrator. The investigators would then prepare a written report of evidence and either make a decision, or forward the evidence to the deciding body for recommendations of action.

Researchers reveal how filing formal complaints can be problematic, as well as pointing out that individuals with several options are more likely to report sexual harassment (Kelley & Parsons 200; Gadlin 1997; Rowe 1990, 1993, 1996). Few women attempt to resolve sexual harassment through formal means (Kelley & Parsons 2000; Riger 1991; Rowe 1997). Other options could include informal third-party resolution, formal or informal mediation, assisting the complainant in resolution. Rowe and Lipsky (2000) argue that more than half of employees and managers in dealing with a problem or conflict prefer private informal options to deal with the issue, and only “one tenth prefer distributive options based on rights and power (e.g. formal complaints)” (in Kelley and Parsons, 2000).

Informal Complaints

An informal complaint is any method of resolving a sexual harassment complaint without accessing the institution’s formal grievance procedure. Once an alleged victim reports an incident to an advisor, informal resolution could mean assisting the complainant in resolving the issue by writing a letter to or confronting the harasser. It also may mean holding a meeting with the complainant and the harasser. The complainant may be satisfied with bringing the behavior to the attention of the institution as the obligation to stop the behavior is present even if the complainant is asking for no action at that time (Truax ,1997). At an informal level the complainant has more control of resolution of the process.

It is preferable to handle a complaint informally as it allows for greater flexibility in approach and resolution. As an informal complaint does not follow the specific steps as in a formal complaint, fewer people can be involved and the process can move quickly. If an attempt at informal resolution fails, the complaint can be upgraded to a formal one.

With the exception of MSVU's new Fair Treatment Policy, the focus for existing sexual harassment policies has been on formal procedures, creating a winner and a loser. Riger (1991) believes that because the nature of dispute resolution procedures better fits males, many women do not file formal complaints as they fear the possibility of retribution. Coles (1986) and Crull (1982) demonstrated that between one-quarter and two-fifths of complainants felt they were forced out of their jobs through stress and pressure from colleagues who doubted their complaints (also see Terpstra & Cook, 1985). Many women, especially students beginning a career, fear problems of accessing letters of reference following a formal dispute (Koss et al, 1994).

In many incidences it has been found that the victim who had been harassed did not feel they could safely report the harassment (Sandroff, 1992). Many victims also report being blamed for the problem (Thaker, 1992; Pierce, Smolinski & Rosen 1998), and/or being accused of trying to cause trouble (Clarke, 1988). Victims have also stated that after reporting a complaint the complaint was ignored (Sandroff, 1992), the situation became worse (Livingston, 1982), and often token reprimands were administered (Riger, 1991; Sandroff, 1992).

In the experience of the Sexual Harassment Advisors, many students feel information on sexual harassment interferes with their fun, some faculty feel defensive

as they feel they already have all the information they need, indeed some are highly qualified in psychology, law, or counseling and are offended at the suggestion of being educated by an advisor. Administrators can be hesitant to schedule workshops as faculty or staff express their resistance. Sexual Harassment Advisor services are not currently offered in new staff orientation at all four post-secondary institutions.

As well, Sexual Harassment Advisors at all four institutions have found that more and more they are consulted with respect to a variety of human rights issues. The roots of sexual harassment are often seen as having to do with discrimination, so this seems like a natural step. Also, Sexual Harassment Advisors can take on the role of counselor to those who are not parties to a complaint. For instance, members of the educative community may have issues with previous sexual assault and need support to deal with those issues. There are also those who may need advice to deal with employers or others in their lives. The background of Sexual Harassment Advisors interviewed varies and includes education and/or experience in law, counseling, social work, and psychology.

As we have seen, Sexual Harassment Advisors at all four post-secondary institutions face barriers in the administration of policy and procedures from many different areas of the learning community. Despite the efforts of the Sexual Harassment Advisors and advisory committees, there is still a lack of awareness around issues of power and privilege. This lack of awareness can be embedded in organizational culture. As Sexual Harassment Advisors suggest that having personal relationships regulated by policy is rejected by many, education that simply points out inappropriate behavior is

ineffective. Introducing a language of difference recognizes that people are different without condemning them for those differences, reducing resistance and backlash.

Chapter 3

Framing The “Problem” – Advisor’s Challenges

“Ignoring sexual harassment does not make it go away. Rather, silence condones the behavior and isolates its victims” (Osborne 1992:5).

This chapter expands on issues raised in dealing with institutional policy and procedure in chapter two. This chapter provides the experience of the four Sexual Harassment Advisors interviewed and a review of literature as it applies to their attempts to educate and work with the entire learning community. Included as well are students, faculty and staff’s resistance to and experience with sexual harassment policy. Perceptions of the policy and gaps in understanding sexual harassment policy and procedure are also examined.

Much of the literature and research on sexual harassment focuses on students in post-secondary institutions. As previously stated, sexual harassment is a power issue. In the hierarchy of the academy students, often viewed as powerless, fall victim to sexual harassment. Surveys and studies have identified problems for women in academia, often labeled as the “chilly climate” (see The Chilly Collective, 1995; Flam, 1991; Balogh & Kite 1991; Blakemore et al 1997). However, beyond the statistical emphasis in the literature are real people with real problems. Prior to an analysis of the movement to diversity management initiatives, this chapter provides a view of challenges experienced by the Sexual Harassment Advisors in the administration of their duties.

There are those within academia who argue that there are no marginalized individuals in the system (Sandler & Shoop, 1997). However, in a society where women can be defined as sex objects, and most of the positions of power and influence

are held by males, “it is inevitable that sexual harassment has become a pervasive feature of many working environments” (Backhouse and Cohen, 1981: 33). Yes, men are victims of sexual harassment too, yet in a workforce where there are 12 female chief executive officers among the top 560 companies in Canada, there is little opportunity for women as a group to exercise any authority or power over adult men (Crawley 2000:A12). Male violence toward females is ten times more than the reverse (Sharpe 1990: 12). Females constitute the majority of the teaching profession, but Canadian statistics do not reflect the same representation in educational administration. Females working with the Halifax County Bedford District School Board, the largest school system in Nova Scotia, comprised 68% of teaching positions, 28% of principalships and 36% of vice-principalships (Cochrane 1990: 1). Sexual Harassment Advisors at the four institutions state that more than 90 percent of the cases of harassment involved females experiencing some sort of harassing behavior from males. Harassment in other gender combinations does occur, however the vast majority of incidents involve a man harassing a woman (Baugh, 1997). This corresponds with social norms about sex roles in general, and so it appears to be a natural occurrence (Stockdale & Vaux, 1993). Although it is recognized that other patterns of harassment exist, in many illustrations I will use the example of a male harassing a female, because it is the most commonly occurring type.

Student Response

Most students expect their college/university to be a safe place to learn with professors to provide teaching and mentorship, and peers to offer opportunities for mutually satisfying social experiences and growth. Students harassed in college

confront many demons. It is not uncommon for a student, new to campus and confronting sexual harassment for the first time, to be devastated by the loss of the image of their university/college as a haven from the harsh realities of the rest of the world. The Sexual Harassment Advisors interviewed report that many students see being involved in an incident of sexual harassment as a personal failure. The loss of trust, confusion over self-worth, fear of academic and/or administrative reprisal, concerns about the future, shame, guilt, isolation, and anger haunt those who remain to finish school. Indeed, many who experience harassment quit (Sandler and Shoop, 1997). Students, like employees, have a legal right to an environment free of sexual harassment (Wilson, 1991).

A professor or teacher can ruin a student's future career with a bad reference and by stifling their academic growth. All students, whether assertive or extremely passive, can be humiliated and manipulated when faced with a harasser who has power and influence over their career. A student in the back row may feel sexually harassed even though the professor has never made any advance or even a direct personal remark. Research shows that white males are recognized more often in the classroom, followed by minority males, then white females, then minority females (d'Entremont Video, 1991). The student may feel humiliated, embarrassed, or angry if the professor regularly tells jokes that present women or men as sex objects, or habitually uses "he" or "his" to refer to all students, or listens intently when a male student talks and responds to his remarks, but only smiles politely when a female student talks, or makes derogatory remarks about gays and lesbians. This kind of behavior may seem harmless or trivial to

some people, and the professor who engages in it may have no intent to hurt or embarrass any student.

Sexual harassment in school impedes the educational opportunities of girls and women. Consequences, as always, depend on each student, but generally we know that it effects self-confidence, marks, and we know that some students drop out altogether (Richard, 1996; Backhouse, 1995b). All Sexual Harassment Advisors interviewed stated that their role as Advisor is that of providing unbiased information, i.e. advising on how the policy and procedures work. None of the four institutions have formal advisors or advocates for students; it is expected that the student unions or a student representative on advisory committees will assist a student complainant or respondent. Faculty and staff access their unions for assistance. Sandler and Shoop (1997) feel that a student or victim advocate is an important part of this process. This individual, having a formal role and authority, would work on behalf of students/victims of harassment or discrimination within the post-secondary institution. Victim supporters are those who have no formal role within their institution's sexual harassment complaint procedures, but offer essential emotional support and encouragement along with practical advice and assistance to students who have been sexually harassed (Sandler and Shoop, 1997). The importance of victim supporters is evidence by the fact that the Sexual Harassment Advisors spoke of having meetings regarding sexual harassment complaints where a faculty member, his/her faculty association lawyer, and personal lawyer, sat across the table from a student with no representation.

Research revealed many factors as to why women can be reluctant to complain or seek assistance when suffering from sexual harassment. Even though it hasn't been

proven doesn't mean that sexual harassment hasn't occurred. Many students entering post-secondary institutions know each other from high school or their immediate community prior to attending. Victims of sexual assault and harassment are much more likely to report the crime when a stranger perpetrates it than by an acquaintance, friend or partner (Johnson, 1996). The chances of winning go up when the complainant has witnesses or when they experience work-related or other consequences that can be clearly tied to the harassment, including physical or mental health consequences (Sandler and Shoop, 1997). When the complainant has informed the organization there is the risk of retaliation, no response or an inappropriate response. In Gutek's (1996) review of a case of sexual harassment at an American private college, several students wouldn't come forward as they worked part-time at the school and feared losing their jobs. If the person alleging sexual harassment is a physical or emotional wreck as a consequence of the harassment, she runs the charge of being labeled crazy, sick, or a hypochondriacal woman who was always like that. And, of course, who would believe the allegations of a crazy woman? The consequences of the harassment can themselves undermine the complainant's case (Gutek 1996). As discussed in the section on power, when any charge is made by a professor or teacher against a student, the professor or teacher automatically has credibility and moral standing in the institution, indeed in society (Backhouse and Cohen 1981:181).

The Sexual Harassment Advisors interviewed agree that students are often reluctant to report sexual harassment. They stated that students are often not aware of the policy or procedures, despite posters and handouts in orientation packages. One Sexual Harassment Advisor expressed frustration that her office has existed for ten

years, and students are still not aware of it, despite her best efforts. Fear was also singled out by Sexual Harassment Advisors as a reason for not reporting. Fear in terms of escalating conflict, of retaliation, of being overwhelmed by the process, and fear of formal procedures. Students who consult the Sexual Harassment Advisors with a complaint are often trying to balance work and study. Often by the time they reach the Sexual Harassment Advisor's office it is because of lack of sleep, illness, or they are ready to drop a class because they can't deal with the behavior any longer. As the Advisors also suggest, most students simply want the behavior to stop without anyone being disciplined or losing their job. The Sexual Harassment Advisors also often find that students don't complain because they are unaware of the informal option. They believe that if they file a complaint, it will become formal right away and they won't be able to cope with meetings, investigations, etc. on top of study and work.

For example, Backhouse and Cohen interviewed a graduate student who was being harassed by a Professor. The student tried to handle the situation on her own, as she didn't think it was sexual harassment in the beginning. The student spoke of her upbringing and attitudes towards men, pointing out that "we've been told all our lives that male attention is flattering" (Backhouse and Cohen 1981:17). That attention may be even more flattering from a powerful male. When we constantly suggest that women stay out of secluded areas, study self-defense, become more assertive, all of which are reasonable, it focuses us on the victim's behavior, rather than that of the victimizer.

Students' reluctance to confront the issue also results from embarrassment and humiliation at being the targets of sexually coercive behavior. Sexual Harassment Advisors note that male students who consult them regarding homophobic sexual

harassment also fear violent reprisals for their homosexuality. Most of the female students wonder if they did anything to provoke the unwanted action. As they perceive themselves as lower in the hierarchical structure, female students are intimidated and fear that they will receive low grades, fail, or receive harassment from other faculty members. Sexual Harassment Advisors also noted that fear most often occurs when students are involved in a small department. These students fear that if they file a complaint they will get labeled by others in the department, may be treated differently, ostracized, and also fear the possibility of receiving lower marks. Linda Eyre, Professor at the University of New Brunswick, in her case study of sexual harassment in a Canadian university, reveals students “disillusionment” in a policy process they see as “concealing problems of sexual harassment and protecting male faculty and male students” (Eyre, 2000:293).

Sexual Harassment Advisors’ experience shows that students also fear the ridicule of other students who may see them in some way responsible by encouraging the harasser. These students often wonder if they should tell their husband or boyfriend or discuss it with a fellow student. They ask if others will believe them, if they will be labeled as a troublemaker, will their lives be hell for the rest of the academic year, will they receive a good reference for a job placement? In Kenig and Ryan’s study on blame for sexual harassment in American Universities, one student expressed that she was “ashamed, thought it was my fault, and was worried that the school would take action against me – for “unearned” grades -- if they found about it” (1986:31).

Dzeich and Weiner (1990) argue that the academic institution, “by its own biases and organizational structure and cultures, contributes to sexual harassment” of students

(38). The role that teachers and professors play in fostering students “moral, social, spiritual, and intellectual development make it possible to intrude in students” personal lives (Dzeich and Weiner, 1990:38). They go on to say that teachers and professors enjoy autonomy in the classroom, which can prohibit detection of potential harassers. Post secondary institutions tolerate eccentric behavior, which could lead to abusive situations. The image of colleges and universities makes it difficult to accept the reality of sexual harassment. Academics tend to be conservative in their reaction to problems, being trained to evaluate, analyze, test and retest ideas and search for resolutions.

Sexual Harassment Advisors interviewed also suggest that in post-secondary institutions in Nova Scotia, increasingly more women graduates entering non-traditional jobs are facing unique problems. Some students have stated that they feel unwelcome in non-traditional programs and they are subjected to sexist language, observe a neglect of women in the curriculum, and are called on less often than males in class. Sandra Pyke states that institutions of higher education can use argumentative, competitive, abstract and impersonal approaches to learning combined with a discounting of experiential knowledge (Pyke, 1997). Combined with a lack of women faculty as role models, these characteristics may serve to send a message to women that they don’t belong, or aren’t as qualified or committed as men. Researchers have demonstrated that blue-collar women who are dependent on their jobs are very vulnerable to sexual harassment (see Jackson, 1993; Gruber, Smith & Kauppinen-Toropainen, 1996; Lach & Gwartney-Gibbs, 1993; Blakemore et al, 1997). The Sexual Harassment Advisors believe that employers and educators have a special responsibility to oversee the fair and equitable adjustment of women entering into non-traditional jobs. Employers and educators in

such circumstances should anticipate such hostility and be aware of and sensitive to the concerns and difficulties female employees may face in non-traditional jobs. Yet Sexual Harassment Advisors state that almost no education which deals with harassment and discrimination issues is being provided to female or male students in these program areas.

As all the Sexual Harassment Advisors pointed out, there are increasing numbers of international students at all four post-secondary institutions. In many of these students' cultures, the role of women is very different than in Canada. For instance, one Sexual Harassment Advisor reported several incidents of Canadian female students reporting harassing behaviors such as stalking or expectation of sexual favors from male students of other cultures where this behavior is acceptable. All Sexual Harassment Advisors interviewed suggest that an important component of international students' orientation should be harassment training to prevent future confusion in relationships.

Faculty Resistance

All Sexual Harassment Advisors interviewed stated that faculty resistance was one of the prime barriers to education and awareness of sexual harassment. Awareness and educative training offered by the Sexual Harassment Advisors can prevent instances of sexual harassment. Sexual Harassment Advisors pointed out that some faculty and staff, although supportive of the initiative, believed they had more expertise in the issue than the Advisor. These people rarely attended awareness sessions or professional development offered in the area of sexual harassment and discrimination. Also in the Sexual Harassment Advisors' experience, male faculty and staff members often worry that their actions can somehow be confused with sexual harassers, leaving them with

feelings of vulnerability. Denial of a problem doesn't make it go away. Admission that some members of a group may have abnormal behavior certainly doesn't mean that all do. When women voice frustration about an "abuse that has been suffered in silence", they are asking to begin a conversation, not to be condemned for complaining. (Dzeich & Weiner, 1990: 179). The behavior of a few can cause damage to the teaching profession and to students. If our first responsibility is to students, wouldn't educated men and women recognize that they must reevaluate their assumptions about and behaviors toward one another?

One Sexual Harassment Advisor's explanation for faculty resistance is that any policies that are not faculty initiated are seen as administrative initiatives. It is then seen as the Sexual Harassment Advisor's responsibility to convince faculty and staff that the policy is there to serve them, not to be used against them. Some of the Sexual Harassment Advisors experience a small militant faction who seem to have an "axe to grind" and proceed to challenge any initiative. It is important that all staff be aware of what constitutes harassment, and what is expected of them in this area.

Some of the Sexual Harassment Advisors also experience lack of role knowledge in administrators as a form of resistance. Often it is clear that the supervisor or department head had no clear idea of his/her role with respect to students or faculty when sexual harassment occurs. It seems we have clear job descriptions for faculty, staff, and computer personnel, yet are just developing the same for administration. The absence of any clear responsibility for faculty, staff or administrative behavior can justify inaction. Some of the Sexual Harassment Advisors report that in some cases students reported retaliation but nothing was done.

Sexual Harassment Advisors also point out that as policy emerges out of political struggle and negotiation, barriers often exist for those wishing to create or alter sexual harassment policies on their campuses. For instance, initiatives for effective policies are often viewed as just another form of complaining (Wonders, 1997). Especially if a few women are pushing for changes no action may be taken as “such women will always find something to complain about” (Wonders, 1997:131).

Anyone who works in post-secondary education is aware of the number of rules, documents, committees, indeed policies that exist. Creating an effective policy, or making changes to an existing policy can perpetuate bureaucratic excess rather than simplify the issue. There can also be a high level of mistrust between faculty, administration, staff and students in post-secondary institutions. Sexual Harassment Advisors also report that effective change in policies or procedures can become weighed down in standing committee deliberations, or be sabotaged during the implementation process.

There may be resistance to creating or revising a sexual harassment policy if there is a prevailing attitude that policies don't matter or if an existing policy has been inactive. Policy alone rarely creates change, yet a well-written sexual harassment policy can provide a foundation for change. A new or revised policy provides impetus for campuswide educative programs. There are those who argue that campuswide education is essential to the effectiveness of sexual harassment policy (Dzeich and Weiner, 1990; Paludi & Barickman, 1991). Even those reluctant to participate in education around harassment issues can attend information sessions on policy revisions.

Some Sexual Harassment Advisors also suggest that sexual harassment policy is viewed as only benefiting women, leaving this policy open to dismissal as a special interest policy, and possibly creating or increasing tension between women and men rather than reducing it. It is not often recognized that men benefit from sexual harassment in terms of protecting the safety of men on campus, as a good policy protects the rights of the accused, who are most frequently males (Dzeich and Weiner, 1990). Good policy outlines prohibited behavior, methods for resolution, and is perceived as fair.

Although sexual harassment policies can be viewed as a women's special interest policy, Sexual Harassment Advisors interviewed report that some women faculty, both in the Universities and College, resist the harassment policy as it is often perceived as being feminist in nature. bell hooks (1984) speaks to social conditioning often leading to a false feminine nature that is also the reality for many women. Asking some women to give up the safety of their reality could also lead to resentment as they might interpret that request as a devaluation of their reality. And, as bell hooks pointed out, many women feel their lives are important and valuable despite exploitation and oppression. Any suggestion of leaving their lifestyle for a "feminist" one deems their life experiences as negative and worthless (hooks, 1984:27). For instance, one of the Sexual Harassment Advisors stated that some women faculty feel that sexual harassment policies require them to step out of their reality. For instance, they may view telling sexist jokes or displaying sexually explicit calendars in staff rooms as acceptable behavior. Some women faculty may find comments with a sexual overtone flattering and resist classifying those comments as sexual harassment.

Further to the discussion of contrapower harassment mentioned earlier under social relations of power, the Sexual Harassment Advisors report that women faculty also can be resistant to the policy as they experience sexual harassment from male students, and may view the policy as supporting students. Researchers reveal that male students commonly harass female faculty members. In a study done at Western University, female faculty reported receiving anonymous pornographic mail, being addressed as “dear” by male students and receiving constant challenges to their authority by male students (Backhouse, Harris, Michell and Wylie, 1995:114). Ten percent of the female faculty at Western experienced behaviors that diminished them as women and academics (Michell and Backhouse, 1995). Although estimates vary, approximately 40% of female and 18% of male college or university faculty report experiencing harassing behavior from other faculty or staff (Backhouse, Harris, Michell and Wylie, 1995; Gruber 1990; Rubin & Borgers 1990; Kelley and Parsons 2000). Grauerholz (1989) reports about 48% of women faculty members described harassing behavior from students, behavior they consider sexual harassment. Seals (1997), in a study of faculty to faculty harassment in American universities, suggests that 40% of female faculty report experiencing sexual harassment by other faculty members or staff. Fitzgerald and Shullman (1993) suggest the number is as high as one-half of all female faculty. Kelley and Parsons’ (2000) study which examines women’s experience in an American university with an existing sexual harassment policy, revealed that 30% of staff, 22% of faculty, and 43% of administrators reported having been sexually harassed while employed at a university (p. 555). They also found that staff most often reported their peers, administrators, and faculty as sexual harassers, and administrators most often

reported other administrators or faculty as perpetrator (p. 559). Sexual harassment is an expression of sexuality as it has been shaped by conditions of gender inequality.

The Sexual Harassment Advisors also experience resistance to sexual harassment policy surfacing simply from a fear of change. Participants in professional development sessions I have facilitated often speak to the fact that these types of issues were handled quietly in the past. Female participants usually offer their side of the story reflecting that the usual way of handling complaints is to cover up, or ask the accused to change the way he talks to the complainant. Sometimes the behavior would stop, more often it wouldn't. The Sexual Harassment Advisors suggest that an administrator might normalize the behavior by suggesting that is just the way men talk. Grauerholz (1989) suggests that male sexual behavior is condoned, even encouraged, whereas females are taught restraint in sexual expression. Sexual expression is shaped by sex roles, prescribes appropriate male and female conduct, defines normalcy, designs sexual rituals, and allocates power in the interest of men to the detriment of women. In this respect, there definitely is a "difference" between the sexes (Grauerholz, 1989:30). Lost productivity because of sexual harassment may influence the number of women who seek academic careers, as well as those who receive promotions. Sexual harassment may affect a faculty member's ability to teach, indirectly affecting sex discrimination.

It is unclear how women of color experience sexual harassment as few studies explore this dimension. DeFour, however, suggests that women of color experience as much, if not more, sexual harassment than white women (1990). "Society often does not see those who are voiceless We professors have a responsibility to pay attention

to who is silent and who is not, to consider why some students are silent and to examine our own role as teachers contributing to that silence” (Kramarae and Treichler, 1990:41).

Perceptions

Does the structure of the process create a safe environment for members of the educational community to express concerns or make a complaint on both informal and formal levels? Do we reinforce “internalized cultural values and beliefs” that influence certain ways of behaving between males and females? (Borgida & Fiske, 1995:127). In all areas of society, officials often indicate that silence, or not reporting, equals consent. Yet, there is evidence that gender-linked cultural values such as reluctance to hurt the man involved can inhibit women’s reporting harassment (Gutek, 1996). The Sexual Harassment Advisors report that some people find it so difficult to deal with unwelcome advances that they avoid the person, joke, or just endure while hoping it will stop so that they don’t have to go through the embarrassment of making a complaint. Often when harassment occurs the woman is unsure whether a real injustice has been committed because the aggressor may make light of it or pretend that she initiated the encounter. Some fear that if they bring a complaint forward their own personal life would be open to scrutiny. They would be victimized twice, once by the harasser and then by the process.

Lack of knowledge about sexual harassment, its definition, the conditions under which organizations incur legal liability, the conditions that can facilitate harassment, are all problematic. Research also reveals that stereotypes of the way females dress can also be problematic. The concept of provocative dress has been viewed from a gendered

perspective. Women who do not dress or behave according to specific sex role (or gender role) stereotypes, may fail to establish “unwelcomeness of conduct” that they find harassing (Paetzold and O’Leary-Kelly, 1990:100). For instance, a woman wearing shorts and a halter top on a hot summer day may be viewed as asking for sexual harassment simply by the way she is dressed. Aggarwal (1992) points out that many employers may think that it is the victim’s responsibility to fight or evade harassment, ignoring factors that prevent that type of resistance. These factors include the inability to secure private legal assistance, lack of skills and experience in finding another job, fear of reputation, and consideration of the harasser’s family and his possible job loss.

Research indicates and the Sexual Harassment Advisors agree that faculty men were less likely than faculty women to define sexual harassment as including jokes, and unwanted suggestive remarks, looks or gestures. Men were significantly more likely than women to agree with the following statements: An attractive woman has to expect sexual advances and learn how to handle them; “It is only natural for a man to make sexual advances to a woman he finds attractive”; and “People who receive annoying sexual attention usually have provoked it” (Kenig and Ryan, 1986: 69). Also, without giving it a second thought, many men often expect women’s behavior to conform to “sex-role stereotypes”, such as “passivity and deference in demeanor”, and traditional course and career choices (President’s Advisory Committee on the Status of Women – University of Saskatchewan, 1995:185). The pressure in males to assume stereotypical traits of maleness can be profound. Ideologically, girls have an easier time getting into male dominated workplaces. For instance, it is more acceptable for a girl to aspire to be an engineer than a boy to be a nurse (Sharpe, 1990: 12). In our society, male victims are

usually hesitant to report sexual harassment or assault, as they fear being ridiculed or perceived as homosexual (Dzeich and Weiner, 1990: 20). One of the Sexual Harassment Advisors spoke of a male homosexual student who complained of sexual harassment and was reluctant to pursue formal or informal charges, as he feared violent retaliation.

If access to the policy and procedures is not provided, there is no meaningful organizational protection from stigma and retaliation. As Perlin and Schooler (1978) argue, many of our social and economic organizations directly influence our personal lives, and yet are not particularly open to personal efforts to change them. From their argument, it would seem that shaping these influences might require a collective intervention as well as a personal one. This intervention would reflect shortcomings of social systems, not of those individuals attempting to cope. The Sexual Harassment Advisors find it difficult and simplistic to view complainants as powerless in these situations, and not from the point of view of blaming the victim. I, too, have witnessed women and men who have developed amazing coping strategies and support networks to deal with the daily challenges of sexual harassment.

Contradictions

As previously stated, there can be many barriers in the “culture” of an organization that prohibit a respectful working and learning environment. Members of the college or university are being encouraged to act assertively should they feel that they are victims, yet their concerns, under sexual harassment policy may not be acted upon. For instance, Sexual Harassment Advisors suggest that the lack of specific procedures to deal with retaliation prove problematic in dealing with formal cases.

Once the formal process has started, the Advisors are concerned how actions might be taken which can escalate conflict, resulting in a dysfunctional department. Rather than direct retaliation from the accused, there can be subtle behavior from other members of the department both toward the student as complainant directly or in support of the accused faculty member. As the behavior can be subtle, taking the form of looks, or excluding the student, or avoiding the student, the situation is allowed to continue.

Faculty unions represent faculty. It is the responsibility of the university to represent its policy. None of the institutions interviewed provide formal student advocates. The Advisors state that their role is neutral, simply to advise as to the process and procedures. There is an assumption that a representative from student government, advisory committees, or resource groups will assist the student.

It is the experience of the Sexual Harassment Advisors that the length of time it takes to process a complaint can be prohibitive, considering that the complainant must continue to work with the harasser and possibly be subject to reprisals. The complainant can have her/his work evaluated by an independent party, yet an appeal of a formal case takes months to complete often dragging on through the summer and into the next academic year. Investigations are performed in addition to full time duties. Stalling can be seen, on the part of bureaucracy, as a great strategy to wear the complainant down emotionally.

Sexual Harassment Advisors point out that few sexual harassment policies speak to confidentiality for the "observers" who attend with the complainant or respondent. An observer who wishes to spread his/her own views of the confidential nature of the

process to the college or university community at large can pose a problem as members of that community may assume the “observer” has some credibility.

I am not convinced that committee structure is in the best interests of either the individual involved in the process or for decision making in general. Committees do serve as overseeing bodies, in an advisory capacity, and as disseminators of information. As the advisor’s role can be isolating, feedback from a committee can be advantageous. However, committees can also serve to reinforce bureaucratic structures and Tierney believes this often has destructive consequences (Tierney, 1993). Decisions that might be made in a relatively short time frame, once relegated to a committee often take weeks of discussion. Individuals who must attend committee meetings do not become engaged in intellectual tasks, but bureaucratic ones. The point is not to ridicule the process, as these committees could become avenues to share experiences, understand differences and encourage authentic dialogue around harmony, not just a bureaucracy concerned with marketing and effectiveness. However, standing committees often meet once a month throughout the academic year, and the committee’s apparent purpose is of little more than symbolic import, leaving members questioning the meaningfulness of their input. Why not create committees to address specific issues, rather than debate issues seemingly ad nauseam? Certain decisions cannot be made in a month’s time, and yet decisions are not so involved that they necessitate a year’s worth of consideration. Decisions get bogged down and individuals remove themselves from committees when they feel their input is not valued and the tasks before them are trivial. Taking dedicated individuals and placing them on committees demonstrates how the institutional

ideological mechanisms of power seek to constrain and return us to the norm or status quo.

The role of investigators is often unclear in the policies. If investigators are employed full time in other positions, when will they have time to investigate, follow timelines and prepare? Who does the respondent go to for advice? If the process is sanctioned at the administrative level, how can there be independence? Sexual Harassment Advisors find that investigators often proceed with caution, as there can be anxiety around the complexity of sexual harassment issues.

Consensual Relationships

Professors and instructors at a post-secondary institution are expected to encourage students' moral, social and intellectual development. Also, most faculty benefit from autonomy and self-regulation in the classroom and in relationship with students. These factors can create a personal relationship with students that make it possible for professors and instructors to abuse their role and intrude in students' personal lives.

Having acknowledged that members of faculty enjoy autonomy, we are still dealing with male dominated institutions. For example, in a study done on faculty-student consensual relationships at Guelph University in Ontario (1993), it was found that 18% of faculty was female, 9 of 23 board members were female, 61% of all undergraduates were female, 47.2% of masters students and 30% of doctoral students were female (Molnar, 1994:90). The number of women attending university demonstrates progress made by women in academia, and also demonstrates how women remain heavily numbered at the bottom of the hierarchy. There is disagreement as to

whether a relationship can be considered consensual between faculty and students when considering the “political, social, legitimate and expert” power involved (Molnar, 1994:90). The way a female student acts with or towards a male peer is often different than in her relationships with a professor (Dzeich & Weiner, 1990). Many students are in awe of professors, placing them on an intellectual pedestal (Paludi and Barickman, 1991). Molnar (1984) also states that consensual relationships do not fit many male faculty’s definition of sexual harassment, and policies of these relationships can rarely be found. Whether or not post-secondary institutions should address consensual relationships comes back to power. As those in power decide what will or will not be put on the agenda, what does not appear on the agenda is not seen as important. As Dzeich and Weiner (1990) state, “responsible faculty understand the need for caution in acting on their desires and feelings, sexual harassers just act” (77).

Academic Freedom

Changing behavior, attitudes and workplace culture is the most effective way of ensuring a safe and harassment-free workplace or learning environment. Having a clear, well-known anti-harassment policy in the workplace is one way of promoting a harassment-free environment. There are those who resist equity measures for fear of losing the academic freedom to critique society and challenge the status quo (Blackburn, 1991). Dr. Blackburn suggests that academic freedom gives no one in authority the right to neglect “portions of current knowledge such as Native perspectives on Canadian history or to insult students with racist or sexist comments” (1991:12).

Linda Eyre, in her analysis of sexual harassment in a New Brunswick University Community, argues that freedom of speech is inherent in academic freedom (Eyre,

2000). William Tierney suggests “a concept such as academic freedom has never existed in a political vacuum; rather the parameters of knowledge define what we mean by academic freedom, which, in turn allows some topics to be worthy of investigation and others to be unworthy of study” (Tierney, 1993:144). In the video *Inequity in the Classroom*, Dorothy Smith states, “I treasure academic freedom ... but I have never known academic freedom to be used to protect women” (D’Entremont, Concordia University, 1992).

When students believe they are silenced because of their gender, the issue of a poisoned classroom can become the focus of harassment complaints (O’Hagan, 1994). In the early 90’s a media frenzy arose around free speech in universities and colleges. In October of 1993, the Ontario government released a “framework” document for preventing harassment and discrimination in Ontario universities and colleges. The document set out elements to be included in policies and gave institutions a deadline to complete a review of harassment and discrimination policies and to make changes to bring them in line with the framework. The document was perceived by many academics as a potential threat to academic freedom. CAUT, the Canadian Association of University Teachers, agreed with the government as to eliminating sexual, racial or other harassment prohibited by the Ontario Human Rights Code. CAUT also stated that it believes “academic decisions should not be tainted by prejudice and that the university should provide a model for society in this area” (CAUT Bulletin, June 1994). However, CAUT also called for an explicit statement on academic freedom, and called for the government to withdraw the proposal, as it failed to consider academic freedom and the language of the document. CAUT believed that the language was vague and could

undermine progress towards both equality and a free discussion of ideas (CAUT Bulletin, 1994). McMaster University Faculty issued a statement on February 24, 1994, defending the right to make others uncomfortable, to injure, by expression, atmospheres in which some may not feel welcome or accepted. It also defends the right to academic expression, which includes intellectual materials that express discriminatory ideas and inequality as well as those that express equality (Shaughnessy, 1994:74).

In Canada, however, there is no entrenchment of the right to academic freedom in case law. Naomi Levine (1994) notes that although collective agreements between post-secondary institutions and faculty unions often contain clauses regarding academic freedom, the law permits no one to enter into an illegal contract. Collective agreements only apply when they don't contravene human rights or criminal code legislation (Levine, 1994). Academic freedom cannot be used to legitimize emotional abuse in the classroom. All Sexual Harassment Advisors interviewed stated that there had been no complaints of a classroom or resource material nature in the last 5 or 6 years. Although there are still articles written on academic freedom, it does not appear to be a recent issue in the 4 institutions.

As previously discussed, the many levels of authority in post-secondary institutions can make governance of harassers difficult. Despite posting signs and awareness sessions, the Sexual Harassment Advisors find that many students are not aware of their offices on campus. The culture of "collegiality" can lead faculty to diminish complaints about colleagues. As well, students are on Campus for a short period of time. For instance, one Sexual Harassment Advisor stated that as program duration is short, much of the student population is coming and going every year. For

this reason students are often perceived to be on campus temporarily, therefore lacking a strong voice. Students often don't bother to complain as they hope to leave the behavior behind them. Policymakers, advisors, and trainers need to be aware that subgroups of women in academia may be more susceptible to various forms of harassment and that women in different positions may have different levels of understanding of what constitutes sexual harassment (Kelley & Parsons, 2000).

Community does not simply happen; we need to enable mutual dialogues of respect and difference to take place. To meet one another in an intellectual dialogue demands that we have the time and desire. Not providing harassment and discrimination officers with adequate time and space to meet with those who seek them out does not create a welcome atmosphere, nor does it indicate a commitment to educating about conflict resolution. There is only frustration on the part of committee members and the whole college/university community when there is no meaningful organizational protection from stigma and retaliation. As Perlin and Schooler (1978) argue:

There are important human problems, such as those that we have seen in occupation, that are not responsive to individual coping responses. Coping with these may require interventions by collectivities rather than by individuals. Many of the problems stemming from arrangements deeply rooted in social and economic organizations may exert a powerful effect on personal life but be impervious to personal efforts to change them. . . . Coping failures, therefore, do not necessarily reflect the shortcomings of individuals; in a real sense, they may represent the failure of social systems in which individuals are enmeshed (Perlin and Schooler ,1978:18).

Sexual Harassment Advisors on campus need to have faith in the policy and process, and know that support is available. Focusing exclusively on outcomes can create an overreliance which reduces concern for understanding the processes taken to

achieve those goals. This reinforces institutional norms that privilege some and silence others, lessening the bonds of community and organizational understanding.

As we have seen, the Sexual Harassment Advisors at all four post-secondary institutions feel supported in their positions to varying degrees. The challenges they face have continued despite their best efforts. One would hope that the movement to diversity management initiatives might lessen or mitigate the challenges.

Chapter 4

Philosophy of Diversity: Creating a Culture of Support?

In this chapter I explore the concept of difference, theories that inform difference and diversity, as well as how the perspective of diversity informs sexual harassment policy. In exploring the concept of difference, I examine what it might offer to those interested in eradicating sexual harassment. I also consider how a philosophy of difference differs from the rights based discourse underpinning existing sexual harassment policy. How sexual harassment considered within a broader context would offer education around community, rather than what behavior is and isn't allowed. I provide critical analysis in this chapter, despite my awareness that any critique of diversity recognition can be seen as catering to the right wing, if not bigoted (Lynch, 1997).

I use the term "diversity management" to refer to valuing difference, valuing diversity, or managing diversity, all terms used by various post-secondary institutions. Valuing difference initiatives are designed to enhance the individual's awareness, understanding, and acceptance of differences among people, in that it focuses on the individual and interpersonal levels, as opposed to the organizational level. This is similar to the concept of affirmative action. Affirmative action and valuing difference are both active forms of implementing change. Affirmative action focuses on results, while valuing difference seeks to change attitudes. Affirmative action makes no attempt to eradicate causes, nor does it pretend to. Managing diversity can encompass affirmative action and valuing difference.

My participation on harassment and discrimination committees and with the Nova Scotia Human Rights Commission provided information on a social movement called "managing diversity". I have watched the concept of managing diversity rise out of the newsletters I receive and the conferences I have attended over the last few years. Managing diversity is suggested as the alternative to traditional measures to resolve harassment, discrimination, and human rights issues. I am seeking answers to many of the questions that arise after working with groups of people attempting to understand each other. For instance, how can we work to eliminate discrimination without adding aggression? Proponents of managing diversity strategies and procedures promise intercultural harmony, creativity, and increased productivity. I am attempting to research practical experience in managing diversity and theories as to their success. This question leads to an examination of the differences between managing diversity and its predecessor, affirmative action. As managing diversity practices move into Atlantic Canada, it will be interesting to observe whether it will spread without public outcry, or meet conflict and resistance.

In recent years the concept of diversity management has arisen in equity conferences, newsletters and in the literature. Discussion began at the Canadian Association Against Sexual Harassment in Higher Education (CAASHHE) conferences over the past three years around expanding the mandate to include other forms of inequity at Canadian universities and colleges. This national organization is the only national opportunity for networking and professional development for Sexual Harassment Advisors.

At the November, 2000 conference, the membership voted to officially change the name to the Canadian Association for the Prevention of Discrimination and Harassment in Higher Education (CAPDHHE), and to expand the mandate to include forms of personal and racial harassment, discrimination, as well as sexual harassment. Sexual Harassment Advisors at the three universities in this study are long time members of CAASHHE. Locally, the move to diversity management practices is reflected in Mount Saint Vincent University's process of expanding their Sexual Harassment Policy to a Fair Treatment Policy. Dalhousie University is also in the process of developing procedures for an equity policy, expanding upon their sexual harassment policy. The Nova Scotia Community College has a policy regarding both sexual harassment and discrimination. At this time there is no formal mechanism in place at Saint Mary's University to expand upon their sexual harassment policy.

Concept of Difference

Carl Allsup (1995) suggests that the concept and actuality of difference, with a focus on issues of race, gender, and class as "analytical and concrete explanations of individual and collective status and participation in human communities", has, until recently, received little attention in Western society (Allsup, 1995:269). Kelly (1997) suggests that while personal identity marks a difference from others in terms of individualization, collective identity distinguishes collective sameness, often at the expense of suppressed difference. For example, earlier stages of feminism relied on a collective, "undifferentiated" notion of women and women's experience that ignored differences in class, race, sexuality, etc. (Kelly, 1997:109). This notion of sameness led to early affirmative action. The solidarity such single-minded differentiation was meant

to build “found itself worn thin by differences, which challenged the definition and conditions of collectivity feminism was attempting to build” (Kelly, 1997:109). Mary Gentile agrees with Kelly as she points out that notions of sameness resulted in the “denial of difference, the repression of women and the denial of women’s experience” (Gentile, 1985:3).

In my experience, a community is formed both on grounds of difference and commonness. In her introduction to The Second Sex, Simone deBeauvoir speaks to “othering”. She writes, “Things become clear,..... we find in consciousness, the subject can be posed only in being opposed – setting himself up as the essential, as opposed to the other, the inessential, the object” (deBeauvoir, 1981: 45). The difference is from those who lack features in common, and therefore are “others” to the collective “self” of the community, usually a smaller group marked out as different by the majority – or as “other”. Ronnie Joy Leah argues this “othering” implies racism, sexism, ethnicization and homogenization (Leah in Dua and Robertson, 1999:263).

Ursula Kelly (1997) suggests that notions of difference are founded “in a colonialism that relies on binaries and essences to rationalize its own continued practices of hierarchy and exclusion” (109). This difference is then mediated in the interest of the dominant, who in the past implied, and at times explicitly articulated, biological determinism, or “a natural order ruled by the natural masters”, while others (white women, people of color) were objectified as other, maintaining the myth of the ascribed hierarchy (Kelly, 1997:109). Alan Simmons (1998) speaks to “othering” as a process involving mental images in which people who have some distinctive physical attributes or characteristics (accent, or style of dress) “are viewed as different, less deserving,

suitable only for low-wage jobs and as outsiders with respect to the normal benefits of membership in a given society” (87).

This “othering” is reflected in our perceptions and language. Teresa Ebert (1991), suggests that our current ways of seeing and acting are formed by relations of power that require distinctions to be made in order to organize groups according to the unequal distribution of privilege and power. Peter McLaren (1994) suggests that Western language and thought are constructed as a “system of differences organized as binary oppositions – white/black, good/bad, normal/deviant, etc., -- with the primary term being privileged and designated as the defining term or the norm of cultural meaning, creating a dependent hierarchy” (45).

This difference or othering can be found in educational institutions. Philip Wexler sees the importance of school for identity formation. He suggests that the main thing about schools is that they are public interactional spaces in which people are engaged in the “reciprocal, though organizationally patterned labor of producing meaning – indeed the core meaning of self identity” (Wexler in Kelly 1998:123). Because the dominant European male group’s lived experience is used to represent the “norm,” the lived experiences and historical memories of women and other groups are marginalized or ignored.

Acts of sexual harassment whether blatant or more difficult to name, create a sense of other. For instance, if a woman walks down the street on a spring day and suddenly men’s voices fill the air with catcalls and whistles – clearly sexual in intent – her face flushes, her motions become stiff. She feels vulnerable and the body in which she moved with ease has become self-conscious. She has been made into an object -

the other. The men joking and shouting may think it is all in good fun or an expression of male camaraderie, not meant to anger or humiliate. However, the behavior is uninvited and unwelcome, it is done against her will. This is not to say that everyone always relates to us in the way we would desire, yet in this case it is a public action. The men could have admired the woman amongst themselves or in silence, yet their display means that she must be made to see herself as they see her. Unless the woman enjoys the attention, it is a form of unacceptable sexual objectification, often maintaining male dominance. She, as a female, does not feel at ease and remembers her role as a sexual being. If we accept the excuse that they were just joking around and didn't intend any harm, then who does own responsibility for the sexual objectification? Perhaps we all have responsibility to insure that women can feel confident in their feelings of personal integrity and physical ways of being. If we all agree that sexual harassing behaviors are highly offensive to all of us, it is simply a matter of trying to figure out the measures we can take to eliminate these situations on campus.

Discussion of Theories that Inform Difference and Diversity

I have attempted to work and participate in organizations that embrace a conservative ideology (the status quo) with little success, as I do not share that ideology. I have participated in groups that have organized around issues of harassment and diversity and employ a liberal ideology. These organizations have attempted to apply solutions to symptoms of barriers while avoiding structural change. I have observed that standing committees in institutions attract committed individuals and over time the energy dissipates like a slow leak in a balloon, until that energy is gone. I have heard colleagues say this type of committee does not work. I choose to no longer participate

in the activities of such committees as I think they do work – they work by providing the appearance of attempting to effect change, while preserving the status quo. As I choose not to be complicit with an ideology that treats only symptoms, critical feminist theories and speak to this point in my research journey. I am seeking a different way of “being” with my commitment to a respectful learning environment.

Feminist theory informs diversity or difference theory and practice through the specific experience of women’s oppression, which is brought to their entire realm of knowledge and experience (Gentile, 1985). Mary Gentile (1985) traces this mode of perception as a “way of seeing”, of seeing multiply. Whether or not women’s oppression is “politically motivated”, it is a political act. Gentile also suggests that in the act of constructing a “feminist social theory or a feminist mode of living, we see ourselves – and we are seen – as engaged in an oppositional cultural practice” (1985:3). As we assemble a new paradigm for “ordering experience, particularly women’s experience”, Gentile sees that paradigm standing in opposition to, and read in relation to the dominant order of physical, sexual, political, spiritual, psychological, or cultural practice. As she states, “it is only from the consciousness of our positioning as the “second sex,” as “Other” – that is, “from an awareness of our oppositional position – that an analysis of ideological practice and the construction of a female subjectivity can develop” (Gentile, 1985 :4).

Gentile’s feminism speaks directly to difference. She suggests a feminism that calls for an alternative use of “difference” (1985). If feminist analysis finds its origins in the consciousness of gender-based oppression, it has continually opened out onto other fields of oppression. For instance, Gentile suggests that socialist feminism has

raised the question of class difference. Mothers have extended their analysis of women's oppression to the analysis of children's rights. Racial oppression, ageism, the rights of the disabled – all these issues have found their way into feminist politics (Gentile, 1985). Feminism does not exist “in opposition to” so much as it incorporates opposition into itself.

For instance, there is no doubt that sexual harassment in school impedes the educational opportunities of girls and women. As previously stated, the effect, as always, depends on each student but generally we know that it effects their self-confidence, their marks, and we know that some drop out of school altogether. Bringing feminism into the classroom as a world-view, offers us a chance to make sense of our individual experiences – “moving us from a dependence and reliance on individual solutions to collective strategies and social and political solutions. This results in a shift of focus from victimization to agency and ability to make change, and a reclaiming of our anger. Claiming our feminism –challenges the fear of change from the media and the right” (Briskin 1994: 458). As Linda Briskin states, “to make gender an issue in the classroom is to take on the gendered relations of power – indeed all relations of power – in our society” (Briskin 1994: 482).

The Sexual Harassment Advisors often report that the women who consult them have difficulty attaching meaning and language to the experience of sexual harassment. They “know” inside that something isn't right. Access to words which name the experience seem to be problematic. Perhaps as Liz Kelly states, as long as definitions are limited, it is in men's interests as those who commit acts of sexual violence (Kelly 1988:156).

Kobena Mercer (1990) suggests that a change can begin when we have the confidence to disagree with each other with the intention of constructing a common ground. Mercer contends that this is a solidarity that “depends on antagonism and uncertainty (68). Annette Henry, as well, argues that, as educators, we need new models for understanding teaching and learning (Henry, 1998). As bell hooks stated, we need to “decenter the white patriarchal gaze” (hooks in Dash, 1992:40). Rather than oversimplifying issues of sexism, my desire is to contribute to knowledge about the complexities of teachers’ lives and practices, so that as educators, we have the opportunity to rethink current philosophies and approaches in our various teaching/learning contexts. Introducing critical feminism in the classroom would assist in eliminating sexual harassment. Encouraging women to speak up early, to identify their feelings, to refuse to believe that we deserve sexual violence of any kind, and to trust our instincts would assist in recognizing sexual harassment when it happens. In this type of a respectful learning environment, female students would feel more comfortable setting boundaries and speaking up to prevent sexual harassment.

Power and the Notion of “Other”

In academia, women find themselves in institutions historically designed to keep them “outside its concrete and theoretical frames” (Lewis, 1992:172). Magda Lewis (1992) argues that women students struggle to survive the masculine constructed practices and content that form their subordination. Female faculty face “the maleness of the environment” in terms of devaluation of women and their work, sexist jokes and comments, sexual harassment, and exclusion from the institution’s social networks. Researchers report that students expect more of women faculty and assign poorer

evaluations, especially if gender norms are violated (The Chilly Collective, 1995; Basow, 1995; McIntyre 1995; Fandt & Stevens 1991; Blakemore et al 1997). Power issues affect women and girls in terms of sexual harassment to keep them in their place. Harassment is still an issue in our society where women can be defined as sex objects, and males hold most of the positions of power and influence. Marlene Nourbese Philip (1992) suggests that the process of growing up in a white, male dominated society contributes to that sense of other (Philip 1992). And, as previously noted, that duality or sense of other often leads to inequity and silences.

In Peggy McIntosh's (1992) work on gender and racial privilege, she has often noticed men's unwillingness to grant that they are over-privileged, even though they may grant that women are disadvantaged. They may say they will work to improve women's status in the society, the university, or the curriculum, but they can't or won't support the idea of lessening that of men. Denials surround the subject of advantages which men gain from women's disadvantages. She feels that men are schooled not to recognize male privilege and are taught to think of their lives as normal and average, as well as ideal. When we then work to benefit others, this is seen as work that will allow "them" to be more like "us" (McIntosh, 1992 :11).

McIntosh (1992) also feels that the silences and denials surrounding privilege keep the thinking about equity incomplete, protecting unearned advantage and conferred dominance. In her words, "the obliviousness about male advantage, is kept strongly inculturated so as to maintain the myth of meritocracy, the myth that democratic choice is equally available to all" (11). She has met very few men who are truly distressed about systemic, unearned male advantage and conferred dominance (McIntosh, 1992).

Perhaps few of us see our daily experience of having age advantage, ethnic advantage, physical ability, advantage related to nationality, religion, or sexual orientation. Graves-Colquhoun (1992) feels that by focusing on the merits of masculinity, researchers may inadvertently be perpetuating the belief that it is valid to disregard and discriminate against minority groups, such as women. Moreover, this view condones the discrimination against other forms of masculinity, such as homosexuality (Carrigan, Connell & Lee, 1987).

Educators and educational institutions concerned with changing unjust power relations, that often result in sexual harassment, must explore assumptions about our positions, our students' positions, student voice, our power to silence student voice, and our ability to perpetuate unjust power relations (Orner, 1992). There are times when it is not safe for students to speak. Patti Lather argues that we can learn from those who don't speak up by listening to what their silences tell us (Lather, 1987:12).

Perspective of Difference or Diversity as it Informs Sexual Harassment Policy

Theories of difference or diversity attempt to reconstruct patterns of domination and subordination, offering women the opportunity to see ourselves as the norm, not as the other, thereby correcting the power imbalance inherent in many acts of sexual harassment. An analysis of relations of power and systems of knowledge, or critical discourse analysis, speaks to power operating through the distribution of institutional discourses or systems of knowledge (Eyre, 2000). This system creates a worldview, a notion, or a way of being that appears natural, "shaping grids and hierarchies for the institutional categorization and treatment of people" (Luke, 1995:8).

As women accept socialized conditioning, in the appearance of setting a single standard for persons, women are measured by the standards of men, reflecting a worldview. If the standard of men is seen as “the” standard, there is often no value to women’s experience. In fact, acceptance of this standard reflects the image of success in the image of a man. Challenging the patterns of domination extends to complaints that sexual harassment policies invade academic freedom. If we accept that a set of norms and values that protects a faculty member’s freedom of intellectual expression and inquiry is academic freedom, a set of legal protections would make it more meaningful.

From a feminist critical pedagogical perspective, Magda Lewis (1992) speaks directly to difference or diversity informing power and dominance by suggesting that teaching should focus on exploring ways for all of us to articulate the knowledge we gain from our experience (Lewis, 1992). She advocates a learning approach by not just motivating to learn, but creating “conditions of learning that enable everyone to locate themselves in history and to interrogate the adequacy of that location as both a pedagogical and political question” (Giroux and Simon, 1988:3).

Educational and pedagogical concerns are as valid to universities as they are to schools. Many working in these institutions advocate educational reform aimed at improving conditions, access and outcomes for the historically disadvantaged and under-represented. Despite the rhetoric in support of social justice, many of those advocates and much of the work continues to be marginalized. The theoretical position we, as educators, take on the subject of voice or power, can have significant political and ethical consequences for how we deal with students and how we formulate an

agenda for change relevant to “groups that have been contained and subjugated in discourses that mark their differences as negative” (Luke and Gore, 1992:193).

It is crucial to pay attention to how power relations manifest in the classroom, the place where sexual harassment often occurs. We must pay attention to who speaks and who doesn't, and how “multiple identities and positions inform who speaks and who listens” (Ormer, 1992:81). Who holds the power verbally or physically in the cafeteria or in the hall? Perhaps expecting everyone to speak up is an unachievable ideal, yet educators can attempt to recognize and understand how power differentials occur and develop in the classroom (Ormer, 1992).

Defining Diversity Management

The difference between harassment/discrimination policies and other internal policies is that harassment/discrimination policies were conceived, designed and implemented in a quest for social justice -- real equity for women, minorities, for the subordinate in hierarchical organizations, and for the historically disadvantaged. This study rejects pitting movements against each other, and instead tries to see how they converge as part of a broader political project. It is important to examine procedural inadequacies constructively. As the Sexual Harassment Advisors point out, it is also important to be aware that, in some cases, those who conclude that the processes don't work can actually be expressing their opposition to the objectives of such policies. When discussing these policies people often tailor remarks to what they believe are good public relations, creating challenges for researchers in this area.

In the past some people who were considered “different” were willing to assimilate (change to dominant culture to fit in), in order to get ahead in the workplace.

Today many of us celebrate the things that make us different. People are more reluctant to put those differences on hold. Managers will find themselves dealing not with diversity, but with unassimilated diversity. It is this lack of assimilation that creates the challenge. In the past, assimilation allowed us the luxury of having people who were different on the surface, while expecting homogeneous working and learning styles underneath (Lynch, 1997). Even the law is changing; where we once witnessed prevailing attitudes centering around tolerance and equality, meaning assimilation and integration, the law now speaks to a duty to accommodate difference (Lynch, 1997).

Out of tolerance, assimilation and integration, and notions of sameness, initiatives such as affirmative action evolved that called for preferential hiring in response to unjust treatment. Employment equity then surfaced as employment practices designed to eliminate discriminatory barriers and to provide equitable employment opportunities. Both of these initiatives involved the setting of goals to redress previous discrimination and inequalities for designated groups. In organizations, normal may be defined as doing or being what can be expected by the majority, by management, or the person in a position of authority. Difference could then be described as anything or anyone who deviates from the norm.

Dalhousie University has had an employment equity policy for 11 years, SMU and MSVU instituted an employment equity policy in 1997, whereas NSCC is instituting an employment equity policy this year. All institutions are attempting to meet the requirements under the Federal Contractor's Act and Collective Agreements. All institutions are dealing with issues of recruitment, promotion and retention of members of underrepresented groups.

Managing diversity to an extent where you can reap a substantial amount of its potential will take time. Every organization will need ways of dealing with diversity related issues that arise while moving forward with managing diversity. Traditional methods of affirmative action and valuing differences have dealt with these issues in a way that has produced significant results. The difference is they don't seem to be able to sustain themselves naturally. If you eliminate them before gaining the benefits of managing diversity, people who are "different" will be disadvantaged and the productivity of the organization will suffer. Thomas suggests that you can manage diversity without valuing differences, but you can't manage diversity without understanding differences (Thomas 1991: 169). A logical sequence might begin with affirmative action, followed by understanding and accepting differences, and then by managing diversity.

Employment equity is a program of preferential treatment. Equality is the goal and equity is the process to get there. Treating everyone as equal would perpetuate the status quo, marginalizing designated groups. For example, if an employer insists on a grade 12 requirement for an entry level job, she/he would be pursuing a principle of equality because the requirement would apply equally to all that applied. Yet many groups, such as the 4 groups designated by local academic institutions: women, African Nova Scotians, people with disabilities, and Aboriginal people, have already been marginalized by systemic discrimination in education systems and would have a much tougher time meeting that requirement and would disproportionately be excluded from applying. What is ostensibly equality then really is not, because the playing field is not equal or level. The notion is to level the playing field so that we can reach true equality.

The process to get there is equity and it requires preferential treatment for groups that have experienced exclusion by systemic forces in Canadian society.

Affirmative action preferences may have been applied more quickly in academic settings. Like business and government, colleges and universities may be having trouble moving beyond rhetoric and proportional personnel appointments because they have encountered many of the same problems: the recession, downsizing, and demands for “quality” and “accountability.” Managing diversity and cultural diversity is not affirmative action. Affirmative action is the law – i.e. legal hiring practices. Diversity goes beyond the law and has to do with respect and tolerance (Lynch, 1997). Not only do diversity management initiatives deal with recruiting and attracting members of underrepresented groups of people, it also deals with examining the organizational culture to retain and indeed promote these groups.

The Sexual Harassment Advisors point out that many of the complaints around affirmative action and sensitivity training revolve around the lack of sustainability in effecting change. Is diversity management simply the latest fad or a sustainable initiative? In recent years, advocates of a more equitable and fair workplace have changed their approach. First of all, they support a more inclusive view of employment equity that includes not only the four traditional groups of Aboriginal peoples, women, persons with disabilities and racially visible people, but also other groups such as gay and lesbians, single parents, youth, etc. Diversity consultants defend the pursuit of inclusiveness as a good business strategy rather than on democratic or other moral grounds. David Thomas and Robin Ely (1996) point out that a more diverse workforce will

increase organizational effectiveness, bring greater access to new segments of the marketplace, and enhance productivity by embracing the varied perspectives and approaches to work that members of different identity groups bring. They also suggest that:

“Minority groups and others outside the mainstream of corporate North America ... bring different, important, and competitively relevant knowledge and perspectives about how to actually do work – how to design processes, reach goals, frame tasks, create effective teams, communicate ideas, and lead. When allowed to, members of these groups can help companies grow and improve by challenging basic assumptions about an organization’s functions, strategies, operations, practices, and procedures (Thomas and Ely 1996: 80).

Managing diversity is to empower a diverse group to reach their full potential. Rather than add on supplementary efforts, managing diversity questions if a system works naturally for everyone. This could mean changing the system and modifying the core culture, which requires a considerably longer time frame than implementing an affirmative action initiative. Often affirmative action and valuing difference initiatives are instituted while managing diversity is generated as a long-term initiative.

A review of various web sites on the internet reveals that universities and colleges use affirmative action, valuing differences education, and policy as a way to recruit students by presenting the campus climate as one that welcomes, celebrates, and promotes respect for the entire variety of human experience. In the universities and college’s commitment to diversity, people from all backgrounds and ethnocultural diversity are welcomed and they seek to include knowledge and values from many cultures in the curriculum and extra-curricular life of the campus community. The universities and college’s commitment to work toward an environment that values

diversity requires that they create, promote, and maintain activities and programs which further our understanding of individual and group diversity. The universities and colleges also develop and communicate policies and promote values that discourage intolerance and discrimination. Statements to eliminate discrimination, sexual harassment, intimidation, and barriers to people with disabilities can be found on websites for Saint Mary's University, Dalhousie University, Mount Saint Vincent University, York University, Nova Scotia Community College, Centennial College.

Of the four institutions included in this study, both Dalhousie and the Nova Scotia Community College state that with the current year-end recruitment (June, 2001) of full-time faculty for the 2001-2002 academic year, all Selection Committees will be guided in the implementation of a 3-year special hiring initiative aimed at increasing the representation of designated group members within the full-time faculty. The overall objective of the Program is to make progress towards the goal of diversity by having the majority of faculty hires from members of designated groups (see www.nsc.ca, www.Dalhousie.ca). In reviewing the websites for the other two institutions, either they are silent on the issue, or the information is embedded where it can be difficult to find. All four institutions include a statement on recruiting from designated groups in their employment advertisements. Of the four institutions, the NSCC is the only one with an institutional committee to explore diversity initiatives, as well as a diverse Board of Governors.

Perhaps something else is needed to insure sustainability. That something else consists of enabling people to perform to their potential. Thomas describes diversity as getting "from a heterogeneous workforce the same productivity, commitment, quality,

and profit that we got from the old homogenous workforce (Lynch 1997: 60).

Refusing to expand the concept of diversity reflects traditional thinking where one group gains at another's loss. Managing diversity calls for recognizing that people are different without condemning them for those differences.

We are being told that the new economy in many respects is an equal opportunity employer. With talented professionals in short supply, no organization can afford to discriminate on "any basis other than ability" (Reich 2000:139). Reich views gender, ethnic or racial bias as affordable only to managers who had the discretion to do as they pleased. The new economy has competition to please customers and investors, more of who are racially visible and women. North America has seen more racially visible people moving into the middle class and higher. Women are beginning to ascend the professional and managerial ranks (Reich 2000:140). And yet, women and racially visible people continue to be underrepresented among "corporate chieftains, law, consulting partnerships, fund managers, tenured professors, top ranks of foundations and hospitals, and other non-profits" (Reich, 2000:140). The glass ceiling we so often hear of is still thick.

Implications for Sexual Harassment Policy

A philosophy of diversity management could assist sexual harassment policy in that broad inclusiveness can reduce resistance and backlash. It can also result in complaints that issues of gender and race are being buried. Valuing all differences may seem to ultimately value none. Humphries and Grice (1995) in their critical take on diversity as assimilation warn that celebrations of diversity can be seen to normalize differences and "mask homogeneous values and practices". The much-needed work on

racism and sexism can seem to be lost in discussion of all the ways we differ – it can be seen as avoidance of the real issues, or letting white males off easy. And yet Hayes and Russell stress that broad inclusion will enhance the work on race and gender, not dilute it (1997).

These initiatives require constant critical analysis. For instance, as we saw in the previous chapter, the University of Western Ontario was awarded an Ontario Employment Equity Award in 1987, and yet Constance Backhouse (a Professor at Western) argued that in 1987-88 “Western employed under 15% of full-time women faculty, significantly down from the 1930s” (Backhouse in Tancred: 22).

From reviewing literature, the experiences of local harassment advisors (including myself), it is clear that the majority of initiatives at recognizing diversity begin with individuals and are not initiated by organizations, institutions, or corporations unless spurred by litigation or threat of litigation. True diversity management initiatives cost money, and demand deconstruction of power and privilege.

In a poem by Adrienne Rich a woman is in conversation with a man. He acknowledges that he *knows* that women are oppressed, he *understands* their position, he *sympathizes* with women, and he feels the *guilt* of his gender, of being a man. In each case, in response to him, the woman asks one simple question: “What will you undertake?” (Rich 1975:243). Becoming involved in many ways, especially engaging in critical analysis to avoid repeating the same mistakes is important as we move through this new social movement called diversity management. Social change rests on the shoulders of individuals, as they see the passion of “equality” from which small groups

emerge as a mechanism to the “expansive power of the equations of identity “
(Jameson 1991:319).

In universities and colleges classroom climate can be addressed by faculty training. Our curriculum creates a distinct worldview, one that is traditionally Eurocentric. As Chet Singh of York University points out, attempts at expanding the curriculum is often viewed as “politicizing – failing to recognize that universities have been political since their inception” (Singh 1991: 14). After many years working with organizations and individuals, it is clear that people will have difficulty promoting organizational change unless they themselves have internalized the change they would like to see the institution make. This involves going through the stages of being in that uncomfortable borderland, reflecting on internal bias and conditioning, which simultaneously motivates and enhances credibility.

Motivation, credibility based on knowledge and personal experience are essential when approaching a challenge such as diversity management. Anne Bishop suggests that we need to sort out our own business – “our pain at facing ourselves as a member of an oppressor group, our confusion between individual and collective responsibility, our inability to distinguish between supporting and patronizing, and above all, our need to set aside our ego and listen” (Bishop 1994:106). Commitment from those in the position to mandate changes may not be forthcoming. However, those who are in a position to influence both other administrators and students can make individual and personal commitments.

Other than the initiatives of individuals, there is a trend toward diversity consultants and businesses advancing diversity management. One such consultant with

the Federal Government brought a video to a group of students at the College. It was an excellent 10-minute animated video, suitable for all ages. I called to inquire about purchasing a copy of the video, and was informed that the 10-minute video cost \$575.00, outside the budgets of post-secondary institutions, and well outside the budgets of public school systems. To be truly inclusive wouldn't these resources be readily available to all sectors of society? Once the diversity initiative is "owned" by corporations, resources are out of the reach of educational and non-profit organizations, returning the power to the corporations. Richard Barnet and Ronald Muller describe the top managers of multinational corporations as "world managers" because they are "the first men in history to make a credible attempt at managing the world as an integrated unit" (Bishop 1994:36). Consciously or not, multinationals and banks have an "investment in hierarchy, competition, and divide and conquer tactics, placing vast resources into keeping the world the way they want it" (Bishop 1994:36).

As we have seen, the initiatives of the Civil Rights Movement, legislation, women's movements and immigration, have co-created a change in attitude. That transformation can lose forward momentum to effect change in a messy, complicated task of making the puzzle fit together. Ellen Bravo suggests that "people have described in a trivializing, minimizing, and parodying way those of us who fight sexual harassment, as if what we want is a repressive workplace where no one can tell a joke, no one can flirt, no one can date. What we want is an end to unwelcome, offensive behavior of a sexual nature" (Bravo in Jacobs 1999: 186).

What many of us might ask is how we decide what behavior is acceptable. We can't simply teach a set of rules and expect people's behavior to change. There are

those who take great exception to having any behavior legislated. It takes communication and dialogue over a period of time – not a one-day training session or the reading of a manual. The organization has to set the standard for organizational culture – what is and isn't acceptable.

There is a great deal of discussion of institutions requiring legislation concerning equity issues. There is always the danger that once the legislation is in place, implementation gets lost. For instance, the Canadian Federal Employment Equity Act of 1986 issues a fine of \$50,000 for non-compliance of firms under federal jurisdiction in filing an annual report on employment equity. According to Dr. Tancred, the first report was due in 1988 and *The Globe and Mail* reported that officials seemed hesitant to impose fines on those guilty of non-compliance (1992:22). The previously mentioned Federal Contractors' Program holds very specific provisions for instituting commitment of employment equity to any contract awarded \$200,000. And yet Carol Agosh of the University of Western Ontario, found that one-third of firms awarded contracts over \$200,000 "did not sign certificates of commitment, one-half had no equity statements, and 98% had known preferential hiring" (Agosh in Tancred: 22).

Exploring notions of difference in teacher education is essential. Teachers and professors need support and examples of what can be done in practical terms, and they need the support of administration as they experiment with alternative teaching styles. They also need time to develop ideas and feel safe so that they, too can learn from their mistakes.

The Sexual Harassment Advisors interviewed find that sexual harassment is often seen as problematic for women only. Male faculty and staff often do not attend

training as they don't see sexual harassment as "their" problem. Rather than grounding a feminist analysis solely on the examination of women's status, or non-status as "Other," Gentile (1985) suggests we ground it in an analysis of the practice of constructing the "Other" in all individuals.

Any "marginal" group experiences this dissonance, be they women or men and women of color or the working class or the disabled or children or the elderly or gays and lesbians. Gentile also suggests that individual members of the dominant class, race, sex and so on, also experience such a dissonance. Everyone is someone else's Other, although the dissonance may be less intense, easier to ignore, and it may not threaten their basic survival in the ways it does for marginal groups. It does, however, trigger a defensive reaction. Those who "just miss the ideal will be more invested in presenting and defending it, in disguising all signs of nonconformity and in passing" (Gentile, 1985:7).

Members of non-dominant groups are often expected to speak for, control, or represent their group, as if they perfectly matched the stereotype in someone's mind. There is often an assumption that someone else knows how you think or feel (or ought to think or feel) because of your sex, race, class, age, sexual orientation, or physical condition. Women may be criticized both for fitting stereotypes and for not fitting them. Racialised women confront both the stereotypes about women and those about the racial or ethnic groups in which they are classified (President's Advisory Committee on the Status of Women – University of Saskatchewan, 1995:186).

There are those who fear women's issues will be lost in a generalization of issues. This notion of difference does not suggest the denial of difference that draws

attention away from the oppression of women, for example by asserting the victimization of all. Gentile (1985) suggests that it will call attention to difference, in all its forms and manifestations, “to find a commonality in the experience of difference without compromising its distinctive realities and effects” (7). This difference would speak to a diverse or multiple perspective that can comprehend alternate viewpoints, not so as to excuse oppression but rather to clarify it, to expose the pain of one individual group without denying that of another. Placing the experience of many individuals or many groups in such a relationship “prevents oppressive simplification” (Gentile, 1985:7).

This difference does not deny the necessity to continue to focus upon the oppression of women and sex discrimination, its history, manifestations, causes and implications, and the process to eradication. As Gentile (1985) believes that the way we see determines what we see, an emphasis upon ways of seeing is the only way we can understand and change the content of our daily experience. Understanding/experiencing the compelling quality of contradictory realities is the only way, short of violence, to resolve their differences. Mary Gentile (1985) also speaks to how we can explore identity and difference as unifying forces and not as instruments of division. Rather than analyses based on an oppressed group’s status as other, we examine the practice of constructing the other in all of us. As she argues,

“as soon as we begin to recognize the ways in which theory and practice function to construct our image and our sense of ourselves, we also begin to recognize the ways in which this theory and practice create limitations and conflict for any group or individual that feels slightly out of sync with the ideal reflected back to this group by society” (Gentile, 1985:7).

The reality is that those in a position of authority may have a difficult time opening to the voice of other. "Refusal to pose oneself as the Subject, unique and absolute, requires great self-denial" (Gentile, 1985:19). Those who are in the place of the Other, the place of oppression, are the ones who must see through it. As women, we must find our way to a functional identity that does not rely upon the construction of an Other; moving away from the duality, the "binary opposition of "I" and not I" (Gentile, 1985:20). Perhaps we could begin to see ourselves as in a network of multiple possibilities, multiple perspectives, multiple identities, where there is no clear split between Gentile's "I" and "not-I", but rather a range or continuum of existence?

As women's struggle to have their issues recognized has been a long one, one of the challenges in this way of seeing is to embrace an uncertainty to which we are not accustomed. Where issues are not compartmentalized and directions are unclear, emphases spill over onto one another. How can we expand issues without losing the work already done in terms of sexual harassment? How can one be "for" something if this does not imply one is "against" something else? I would suggest that this politic calls for a complicated community and a methodology that is flexible and introspective in its development.

The value of diversity management initiatives such as valuing difference would expose sexual harassment as part of recognizing multiple differences. In recognizing multiple differences, white men might see themselves as othered in terms of ageism, disabilities, and socio-economic status. There would be potential that we would recognize that in the process of othering, we are othered. Sexual harassment would then be seen as more than a woman's problem, with the potential of breaking down more

barriers. Rather than focusing on codifying behavior, a philosophy of difference would encourage everyone to articulate the knowledge we gain from our experience.

Chapter 5

Conclusion

This chapter summarizes challenges facing the Sexual Harassment Advisors interviewed. Possible areas for future research are identified. I also explore challenges for the entire learning community as the movement to diversity management emerges.

In this thesis I have demonstrated that rarely are all stakeholders in the educative community consulted as to sexual harassment policy, procedures and revisions. Administrative appointments to the committees are often done late in the academic year or not at all. Any archived documentation is done through voluntary individual effort. Yearly reports on conflict resolution are not made public, if indeed they are completed. Sexual Harassment Advisors are stretched beyond their limits, assigned responsibilities including: the supervision of student peers, the administration of policy and committees, their own professional development as well as that of the educative community and the preparation of reports. The Sexual Harassment Advisors also find themselves responsible for consultations, counseling, revising policy, and maintaining liaison with other institutions. Any and all of the above could reflect a lack of commitment, an attitude of insignificance, or could become barriers to conflict resolution, yet the institutions can be seen as acting with “due diligence” as they have policy and procedures in place.

As stated earlier, sex discrimination in the workplace was first recorded in 1890. In May of 1999 the Nova Scotia Human Rights Commission reported that sex-related discrimination in the workplace is the most common complaint. The commission’s annual report showed that 41% of complaints to the Human Rights Commission cited

mistreatment based on matter of sex, breaking down into 60 complaints of sexual harassment, 50 gender discrimination, 28 were related to pregnancies, and 7 regarded sexual orientation (Rodenhiser, 1999).

Jakeman and Muha (1984) argue that although sociological survey research may reflect a relationship between greater tolerance and levels of education, the better educated may simply be more sophisticated and subtle in demonstrating levels of intolerance. There are few rewards for those who question a sexualized or racialized society, and there are also those who see danger in that questioning. As many of the above authors have indicated, whenever we create a duality – a sense of “other”, we seem to give ourselves license to treat the objectified “other” as less than ourselves.

There are those who believe that critical pedagogy needs a language that would allow for “competing solidarities and political vocabularies that do not reduce the issues of power, justice, struggle, and inequality to a single script, a master narrative that suppresses the contingent, historical, and the every day as a serious object of study” (Giroux 1991: 49). Can we create a discourse that is power-sensitive and developed as part of a wider analysis of the struggle at the levels of knowledge, pedagogy, and the exercise of institutional power?

bell hooks suggests that we need to “shift the focus away from mere naming of one’s experience To talk about identity in relation to culture, history, politics”. It is important to encourage critical analysis of victimization or expression of voice so as to connect rather than separate from notions of solidarity, struggle, and politics (hooks, 1989:110). To become more inclusive, organizations need to listen to, accommodate and incorporate alternative ideas, perspectives, views and goals. A culture of

sustainable diversity will include, for example, policy making processes that are far more consultative, open and inclusive so that they incorporate the diverse perspectives of diverse groups, giving them voice, value and finally power.

As we have seen, the prevalence of sexual harassment appears fairly stable during the past two decades. While the institutions studied have formal policies, little formal training is available and often unwelcome by staff and students. Simply having a policy in place does little to deter the behavior, whereas awareness and training programs send a clear message to the college/university community that it is committed to preventing sexual harassment.

I've heard faculty complain that students these days are ill prepared for post-secondary coursework and that institutions are incapable of dealing with a diverse student population. Many post-secondary institutions in Nova Scotia face decaying physical plants, increased demands for technical and scientific equipment, indeed increased costs in all departments. Public institutions must also deal with dramatically reduced revenues from government. Students have fewer avenues to pursue for receiving grants or loans as the costs of higher education increase. There are huge class sizes where students passively sit and take notes from a lecturer. In fact, public confidence in higher education is not at its highest. Two Sexual Harassment Advisors report that their budgets have been cut this year, and that with the move to broaden sexual harassment to include other forms of harassment their duties have been expanded.

As previously mentioned CAASHHE (Canadian Association Against Sexual Harassment in Higher Education) has changed to CAPDHHE (Canadian Association for

the Prevention of Discrimination and Harassment in Higher Education). At the 1998 conference of CAASHHE there were suggestions that the mandate should be expanded to include other forms of discrimination and harassment. There were many frustrated Sexual Harassment Advisors in the audience. The Sexual Harassment Advisors interviewed report that the decision to widen the mandate of CAASHHE was contentious.

The CAASHHE conference is the only major networking and professional development organization for sexual harassment advisors in Canada. Will the expansion of its mandate assist with challenges? As the Sexual Harassment Advisors pointed out, all the positions on the CAASHHE executive are volunteer, as are the conference planners, web master, etc. These positions are filled by overworked advisors. If there were challenges in meeting the requirements of the position of Sexual Harassment Advisor, will providing services to many groups now be included in Sexual Harassment Advisors duties? Many who voted for the change believed that it reflected what Sexual Harassment Advisors were already doing, echoing Mary Gentile's suggestion that feminism has continually opened out onto other fields of oppression (Gentile, 1985:5). And yet many long-standing Sexual Harassment Advisors believed that they had worked long and hard to bring women's issues to the awareness of universities and colleges, and felt the change in mandate would dilute the issues. In October, 2000, the change was voted in.

The CAASHHE conference has been held nationally since 1984. We received an email in the first week of May, 2001, notifying all advisors that the conference for this year, the first one as CAPDHHE to be held at York University, has been cancelled,

leaving advisors wondering about its future, and indeed the future of sexual harassment initiatives as diversity management expands to include sexual harassment as one part of its mandate.

As one Sexual Harassment Advisor suggested, there is a distinct need for vigilance. Many dedicated women spent portions of their lives working to bring women's equity issues to the forefront and increase awareness in post-secondary institutions in Canada. As diversity management techniques are embraced, will women's issues become trivialized as just one form of difference? Is there a hidden agenda, and will those in power decide to simply move the issues back into the human resources departments and suspend advisor positions all together? As we move to equity, new careers will open for Sexual Harassment Advisors as there will be no need for them. As we move, mindfulness of current reality and the need for voices of critical analysis are essential. Persistence is required as the changes must be made in higher education for it to remain viable in today's world. Patience and persistence will not be adequate if individuals and communities are not willing to take the risks involved in building bridges among sites of difference. This bridge building must occur without duality and aggression, as Susan Griffin suggests:

"When a movement for liberation inspires itself chiefly by a hatred for an enemy rather than from this vision of possibility, it begins to defeat itself. Its very notions cease to be healing. Despite the fact that it declares itself in favor of liberation, its language is no longer liberatory. It begins to require a censorship within itself. Its ideas of truth become more and more narrow. And the movement that began with a moving evocation of truth begins to appear fraudulent from the outside, begins to mirror all that it says it opposes, for it, too, is an oppressor of certain truths, and speaks, and begins, like the old oppressor to hide from itself" (Griffin in McNay 1993: 9).

The term chilly climate underscores the notion that equality of access does not guarantee equality within workplace institutions. It recognizes that even when, and if, workplaces are populated with equal proportions of men and women, men are more equal than women. Sexual harassment undermines women's potential for equality by using their lower status in the workplace and academia to coerce them sexually, while using their sexual position to coerce them economically. By including sexual harassment within a broader context, would it make policy more potent? Can diversity management respond to the complexity and multiplicity of social relationships? One of the potential benefits to including sexual harassment in a diversity management approach is that education and awareness around difference would be the responsibility of the whole learning community.

Long standing problems of culture-specific values and how they are reproduced are identified as problematic in this study. This study has focused on specific institutions within the Halifax Regional Municipality of Nova Scotia. It would be interesting to compare harassment and discrimination policies, procedures, and prevalence between urban and rural institutions.

Future research should examine whether culture-specific beliefs and values influence interpretation of sexual harassment and whether sexual harassment is experienced differently by women of color. Because women from many cultures have lower status than men, cross-cultural research is especially important. Additionally, maintaining the codes of behavior of one's host country may present problems for foreign-born men who may have difficulty adjusting to more equitable gender roles found in Canadian society. Research is also needed around adding multiculturalism

issues to curriculum as well as developing creative ways to attract and retain minority groups.

Other areas for future research might include reviewing harassment and discrimination policy language for heterosexual bias. Research could also involve those working in equity positions in universities as change agents. As all women do not share a common social status, women in lower class and poverty groups, particularly those who are racially visible or disabled, need to have research conducted and their needs addressed. As briefly discussed, research in contrapower harassment (individual with lower status being the harasser) is scarce in local academic institutions, and could prove beneficial.

Research into the intention of sexual harassment policies and initiatives could prove beneficial. The intention of sexual harassment policy in post-secondary institutions is to eradicate sexual harassment. As this study shows, sexual harassment still exists.

In institutions where student outcomes are constantly measured, Sexual Harassment Advisors report that there is no formal evaluation as to the effectiveness of sexual harassment policies and procedures. Research into developing measurement techniques around diversity management is essential to judge its effectiveness.

During my teaching and counseling career, the students I've had the privilege to work with recognize barriers in the system and view hope as the precondition for individual and collective agency. Not a hope erasing history, rather a hope that works through difference and becomes an image of freedom and possibility. Through my experience I have come to know that more important than offering solutions is the

importance of a discourse that values the stirring of imagination. Rather than offering answers, this type of education embraces uncertainty and affirms issues of purpose, intention, and meaning as central to what it means to know, act, live, and eventually construct communities of difference. Difference is about recognizing that who we are is intricately woven with the identities of others. In this thesis, I hope to have offered the stirring of imagination around how we, as educators, manage the diversity in our classrooms to develop learning communities of difference where harmony and hope are central characteristics. Sexual harassment policy, procedures, and training that simply codifies behaviour is not effective. Rather we can offer a language that places sexual harassment within a broader context creating an awareness of how each of us carries within us the power to treat people as “other”.

The aims of equality and respect are met by highlighting differences, not by transcending them or looking beneath them for a common foundation. I have seen and experienced the power of diversity management initiatives in terms of creating an awareness of our “othering” as well as being “othered”. Likewise, I have seen and experienced the healing of diversity management initiatives where that awareness carries the possibility of creating a common bond as we realize how few really belong to a “norm”. I have watched as this awareness of our deep sense of interconnectedness begins an opening in authentic conversation, a realization that there is nothing solid to protect. I look forward to the day when we abandon our collective need for safety through homogeneity and reclaim our natural curiosity about what is not like us. Maybe that day will be the day that we no longer need to “manage” diversity, and will have no need other than to engage it and open ourselves to receive its gifts.

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APPENDIX "A"

DATA COLLECTION INSTRUMENT **SEXUAL HARASSMENT ADVISOR INTERVIEWS**

Jo Stern, Saint Mary's University
Susan Brousseau, Dalhousie University
Kevin MacLean, Nova Scotia Community College
Francine MacIntyre, Mount Saint Vincent University

1. (a) Description of your current position
As is described in policy?
(b) As you have experienced it?
2. Describe the role of others participating in the procedure.
Advisors, investigators, advisory councils or committees
3. When was the institution's policy first instituted?
4. Do you know of any influences on the policy? (unions, faculty associations)
5. How often has the policy been revised?
6. Describe the revision process.
7. Who do complainants see first?
8. Can you describe your training, professional development?
9. Can you describe any training others in the process receive?
10. Do you offer any inservicing, professional development, or educational promotions?
11. Who does a needs assessment to determine whether reported incidents constitute harassment?
12. What support systems are in place for you and others in the process?
13. Can you describe what part administration plays in the process?
14. What support does administration provide?
15. What, if any, challenges exist in due process?

APPENDIX “B”

MOUNT SAINT VINCENT UNIVERSITY SEXUAL HARASSMENT POLICY



Local 3912 : Halifax, Nova Scotia, Canada

Part-Time University Instructors & Teaching Assistants

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MOUNT SAINT VINCENT UNIVERSITY

University Policy and Procedure on Sexual Harassment

Preamble

Mount Saint Vincent University recognizes and accepts all the statements and guidelines concerning sexual harassment contained in Appendix "B". A summary statement of our position, however, is as follows:

Sexual harassment is a discriminatory assertion of power that has no place within the university. It is unethical and unprofessional and a threat to the integrity of the individual and the institution. Such harassment may exist in one or a series of incidents, and all such matters will be dealt with because they erode the atmosphere of trust that is essential to any institution of higher education and also to a university that is primarily dedicated to the education of women.

The sexual harassment policy applies to all those who work and study at the university.

Definition

Mount Saint Vincent University has adopted the CAUT definition of sexual harassment:

Conduct of a sexual nature such as, but not limited to, sexual assault, verbal abuse or threats of a sexual nature, unwelcome sexual invitations or requests, demands for sexual favours, or unwelcome and repeated innuendos or taunting about a person's body, appearance or sexual orientation, constitutes sexual harassment when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic status or academic accreditation, or
- b. submission to or rejection of such conduct by an individual is used as the basis

- for employment, or for academic performance, status or accreditation decisions affecting the individual, or
- c. such conduct interferes with an individual's work or academic performance, or
 - d. such conduct creates an intimidating, hostile or offensive working or academic environment.

Mount Saint Vincent University is committed to the education of all members of its community in the definition of a response to sexual harassment.

Procedures

In order to deal effectively and responsibly with complaints, the university has established both an informal and a formal procedure for resolving complaints. Parties involved in a sexual harassment complaint are encouraged to seek an informal resolution to the complaint whenever possible.

1. Complaints

An employee or student who believes that he or she has a complaint of sexual harassment is encouraged to make a direct request of the harasser that the offensive behaviour or actions cease. If the request is unsuccessful, or if it is considered inappropriate, or uncomfortable to make such a request, the complainant may seek the confidential advice of the sexual harassment advisor or unit head. A unit head who receives a complaint of sexual harassment shall immediately inform the sexual harassment advisor of the complaint. The complainant may seek advice and assistance from the sexual harassment advisor or unit head with a view to resolving the situation informally.

2. Consultation

- a. The sexual harassment advisor and unit head will assist all parties involved in allegations of sexual harassment in determining the basis, if any, for a complaint of sexual harassment; in formulating the complaint and/or response; and by explaining the options available through University policy or collective agreements.
- b. following the consultation process, the complainant has the following options:
 - i. to follow the informal procedures
 - ii. to proceed to a formal hearing
 - iii. to take no further action

3. Informal Procedures

If a complainant wishes to proceed to use the informal procedures, the following must occur:

- a. The complainant must provide the advisor and unit head with a written complaint giving details of the alleged sexual harassment, as defined on page one, including dates, times, places, names of individuals involved in the incident(s), names of any witnesses and any other relevant information.
- b. The complaint must be filed within six (6) months of the incident(s).

- c. Within five working days from the date of receipt of the written complaint, the advisor shall inform the respondent of the allegation(s) and shall provide the respondent with a copy of the written complaint.
- d. Within thirty (30) working days of the action described in (c), the sexual harassment advisor, in consultation with the unit head, shall investigate the complaint and interview the complainant and the respondent. The complainant or respondent may be accompanied during the interview by a union representative (in case of unionized staff) or by other counsel (in the case of non-unionized staff and students). The options for resolution shall be of a voluntary or informal nature and shall not include the power of formal administrative actions such as discipline. If resolution is achieved as a result of this informal process, a written copy of the resolution shall be signed by the complainant and the respondent. A copy of the written complaint and the resolution shall be maintained by the advisor in a confidential file for a period of six years from the date of the signing of the resolution, and shall be destroyed thereafter.

4. Formal Procedures

The complainant or the respondent may proceed to the formal procedures if:

- i. the respondent or the complainant does not agree to participate in the informal process, within ten working days of the rejection of the informal procedures, or
- ii. the informal process does not resolve the dispute within ten working days of the completion of the information process.

If a complainant wishes to proceed to use the formal procedures, the following must occur:

- a. The advisor shall forward a copy of the written complaint to the President and the appropriate Vice President, or, for divisions reporting directly to the President, to the Vice-President, Administration.
- b. Within five (5) working days of the receipt of the written complaint by the Vice-President, the Vice-President shall inform the complainant and the respondent of the designated arbitrator chosen from the agreed-upon list. The list will be determined by the President's Advisory Committee on the Status of Women.
- c. Unless exceptional circumstances dictate to the contrary, the arbitration shall be held within two months of the date of the identification of the arbitrator.
- d. The arbitrator shall determine whether the complaint is justified.
- e. There shall be an automatic right of appeal against the decision of an arbitrator, within a maximum 60 days of the notice of the arbitrator's decision. Notice of intention to appeal will be in writing and shall identify the procedural or substantive reasons for the appeal. The advisor will refer to the issue to the next arbitrator identified on the list. The results of the appeal shall be final.
- f. It is recognized that the arbitration procedure is meant to provide an expeditious method of resolving complaints of sexual harassment. It is intended, therefore, to operate strictly within the time limits prescribed for taking the various steps in this procedure. However, it is recognized that it will not always be possible to do so; therefore, the parties may agree in writing to extend any time limits specified. Furthermore, the arbitrator shall have the power to adjust time limits, provided that the arbitrator is satisfied that there are reasonable grounds for granting an extension and provided that granting the extension does not create prejudice to either party.
- g. Any formal disciplinary action shall be recorded and dispenses and/or acted upon, as per the existing procedures of the university.
- h. The costs of the arbitration shall be the responsibility of the university.

Sexual Harassment Advisor

The University shall appoint a sexual harassment advisor, reporting to the President.

The responsibilities of the sexual harassment advisor shall include:

1. promotion of awareness and understanding of and sensitivity to, the issues of sexual harassment among members of the University community;
2. provision of information, advice and assistance to staff members and students who have reported an incident and to administrators in order to resolve the problem;
3. investigation, in consultation with the head of the unit, of complaints of sexual harassment;
4. provision of advice to the appropriate administrative officer on action to resolve a complaint as required;
5. reporting on the education programs undertaken in this regard within the University;
6. recommendation of any changes in University procedures that may facilitate the University's ability to deal effectively with instances of sexual harassment;
7. preparation of an annual report on the number and disposition of complaints. The statistical portion of this report shall be made public.

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Appendix A

Sexual and General Harassment Policies

I. Introduction

Sexual harassment may occur both within and across different sectors of the university, and because of the nature of the charges and the possible consequences for the complainant and the respondent, the university has adopted a set of procedures for handling complaints of this nature. Such incidents may involve students, staff or faculty, both female and male. In instituting these procedures, the university recognizes its responsibility not only to deal effectively and fairly with all complaints, but also to educate members of the community in working toward the elimination of all forms of sexual harassment.

II. Definitions

The very nature of sexual harassment has fostered a number of definitions. A restatement of some of these, as well as a summary of Mount Saint Vincent's position, will support the educational intent of this policy as well as inform the discussion and investigation of complaints

within the institution.

A. CAUT GUIDELINES ON PROFESSIONAL ETHICS AND PROFESSIONAL RESPONSIBILITIES

The Canadian Association of University Teachers (CAUT) has adopted a policy statement entitled "Abuse of Professional Authority: Sexual Harassment". While Mount Saint Vincent University has adopted the CAUT's definition of sexual harassment, other aspects of the policy statement should be noted. Focused on the behaviour of faculty, the statement includes the following clauses.

- a. Sexual harassment is defined as a violation of the Policy on Professional Ethics and Professional Relationships.
- b. Members of the academic community have a responsibility to cooperate in the creation of a climate in which sexual harassment does not occur. They should not engage in practices which appear to condone or do condone sexual harassment through active encouragement of unacceptable behaviour or by implied acceptance of or support for offensive behaviour.
- c. These principles are not intended to inhibit normal social relationships or freedom of expression which are in accord with professional ethics as set out in the CAUT Policy Statement on Professional Ethics and Professional Relationships. An individual entering or involved in a sexual relationship with a consenting adult who will be or is subject to that individual for evaluation or supervision should decline or terminate the supervisory or evaluative role.

B. CANADIAN HUMAN RIGHTS ACT: COMMISSION POLICY ON GENERAL HARASSMENT

Harassment may be related to any of the discriminating grounds contained in the Canadian Human Rights Act. Such behaviour may be verbal; physical; deliberate; unsolicited or unwelcome; it may be one incident or a series of incidents. While the following is not an exhaustive list, harassment may include:

- verbal abuse or threats;
- unwelcome remarks, jokes, innuendos or taunting about a person's body, attire, age, marital status, ethnic or religious origins, etc.
- displaying of pornographic, racist, or other offensive or derogatory pictures;
- practical jokes that cause awkwardness or embarrassment; unwelcome invitation or requests, whether indirect or explicit, or intimidation;
- leering or other gestures;
- condescension or paternalism which undermine self-respect;
- unnecessary physical conduct such as touching, patting, pinching, punching; physical assault.

C. A CODE OF ETHICS ON SEXUAL HARASSMENT: MODIFIED GUIDELINES. TAKEN FROM THE ORGANIZATION OF AMERICAN HISTORIANS

- I.
 - a. Sexual harassment within academe is unethical, unprofessional and threatening to academic freedom and an individual's integrity. In the academic context, the term "sexual harassment" may be used to describe a wide range of behaviours. It includes, but is not limited to, the following: generalized sexist remarks or behaviour, whether in or out of the classroom; requests for sexual favours, sexual advances, whether

sanction-free, linked to reward, or accompanied by threat of retaliations; the use of authority to emphasize the sexuality or sexual identity of a student or any other member of the university community, in a manner which prevents or impairs that individual's or the employee's right to full enjoyment of education benefits, climates or opportunities; and sexual assaults. Such behaviours are unacceptable because they are forms of unprofessional conduct which seriously undermine the atmosphere of trust essential to the academic enterprise.

- b. the potential for sexual harassment is not limited to incidents involving members of the teaching profession and students. Use of asymmetric power by individuals, resulting in sexual harassment of colleagues or staff, is also unethical and unprofessional.
- c. Further, it is unprofessional behaviour to condone sexual harassment or to disregard complaints of sexual harassment from students, staff of colleagues. Such actions allow a climate of sexual harassment to exist and seriously undermine the atmosphere of trust essential to the academic enterprise.

- II. In addition to sexual harassment, amorous relationships that might be appropriate in other circumstances are inappropriate and should be avoided when they occur between members of the teaching profession and any student for whom he or she has a professional responsibility. Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students there is always an element of power. It is incumbent upon members of the profession not to abuse, nor seem to abuse, the power with which they are entrusted, since relationships between members of the profession and student are always fundamentally asymmetric in nature. Such relationships may have the effect of undermining the atmosphere of trust among students and faculty on which the educational process depends.

D. EMPLOYMENT EQUITY: A GUIDE FOR EMPLOYERS FEDERAL GOVERNMENT OF CANADA

Any sexually-related act, practice, comment or suggestion that injures, humiliates, insults or intimidates, invades personal privacy, undermines job performance and/or threatens economic livelihood.

Approved by the Board of Governors: November 14, 1991

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APPENDIX "C"

**SAINT MARY'S UNIVERSITY
SEXUAL HARASSMENT POLICY**

SAINT MARY'S UNIVERSITY

**SEXUAL
HARASSMENT
POLICY**

**PROCEDURES FOR DEALING
WITH COMPLAINTS**

CONTENTS

- I. Introduction**
- II. Definition**
- III. Confidentiality**
- IV. Complaint Procedures**
 - Informal**
 - Formal**
- V. False Charges**
- VI. Protection from Retaliation**
- VII. Records**

APPENDICES

- I. Sexual Harassment Committee**
- II. Sexual Harassment Advisor**
- III. Informal Resolution Procedure**
- IV. Procedural Guidelines for Formal Hearings**
- V. Consensual Relationships**
- VI. Revisions and Amendments to the Policy**
- VII. Campus and Off-Campus Resources**

Please note

All text in sections (I to V) written in *italics* are for explanatory or clarification purposes only.

I. INTRODUCTION

The primary goal of Saint Mary's University is the pursuit of knowledge. The University is committed to providing a safe environment, free from harassment and discrimination, to staff, faculty and students alike. Sexual harassment undermines the mission of the university by discouraging individuals from fully participating in academic and professional work. Not only does sexual harassment negate principles of university life, it is also against the law. In 1983, the Canadian Human Rights Act was amended specifically to include sexual harassment as a prohibited ground of discrimination. Similarly since 1991, the Human Rights Act of Nova Scotia has included sexual harassment.

Sexual harassment may take the form of **sexist remarks, sexual assault, or abuse of authority**; in all instances, it is a violation of respect and trust. Anyone can be a **victim of harassment**, although in reported cases sexual harassment is most often initiated by men against women. While it is usual for harassment to occur between individuals of different status, it may also occur among peers, for example: student-to-student harassment. **Sexual harassment will not be tolerated at Saint Mary's University** and it is the responsibility of all members of the University community to contribute to an equitable environment for work and study.

II. DEFINITION

Sexual Harassment is:

- **Unwanted or unsolicited sexual attention of a persistent or abusive nature, made by a person who knows or ought reasonably to know that such attention is unwanted;**

Quid Pro Quo

- **Implied or expressed promise of reward for complying with a sexually oriented request;**
- **Implied or expressed threat of reprisal, in the form either of actual reprisal or the denial of opportunity, for refusal to comply with a sexually oriented request;**

Hostile Environment

- **Sexually oriented remarks and behaviour which may reasonably be perceived to create a negative psychological and emotional environment for work and study.**

III. CONFIDENTIALITY

Every effort will be made to protect the privacy of all individuals involved in a case, whether formal or informal.

IV. COMPLAINT PROCEDURES: DEALING WITH SEXUAL HARASSMENT

Individuals have a range of options for dealing with sexual harassment:

- *they may take steps to stop the behaviour directly by talking to the harasser or writing a letter to him/her or sending them a copy of this policy with the offending behaviour underlined;*
- *they may report informally to the Advisor or an academic official. They may just want to talk about what has happened or they may ask the university to initiate some actions informally;*
- *they may file formal charges against the respondent with the Advisor or with the Nova Scotia Human Rights Commission;*
- *Third Party Referrals: If a member of the University Community is made aware of an incident or incidences of sexual harassment, either by observation or by being told by someone, it is advisable that they report the problem to the Advisor or the Alternate.*
- *While it is up to the complainant(s) to choose the formal or informal route and for the Advisor to deal with a complaint according to the wishes of the complainant(s), nevertheless, in rare instances where the offender(s) poses a physical threat to others - e.g. repeated sexual assault - the advisor or other party to whom the report is made, is under obligation to report to University authorities. In any case where the alleged victim is 16 years old or younger, the Advisor has a legal obligation to report child abuse.*

INFORMAL RESOLUTION (SEE APPENDIX III)

Informal resolution is a problem-solving approach in which the primary goal is to get the harassment to stop. The emphasis is on educating the harasser(s) and preventing further misconduct. No punitive or disciplinary action is sought for or taken against the respondent.

Most complainants seek informal resolution and most (90 - 95%) complaints are dealt with in this manner. Each complaint is handled on its own merit, i.e. no two cases are alike nor can they be dealt with in exactly the same way.

In cases where a pattern of harassment or complaint is detected, the Advisor may recommend professional counseling to either the respondent(s) or the complainant(s). She may also recommend to the complainant(s), the need for a formal hearing with the Sexual Harassment Committee.

FORMAL COMPLAINT PROCEDURE

The records maintained by the Advisor are confidential for the purposes of the proceedings under the policy. In the event of disciplinary action based on sexual harassment, the University shall have access to and use of these records.

FILING A FORMAL COMPLAINT

An individual seeking redress to an alleged incident of sexual harassment must submit a signed record of the time, location and circumstances including possible witnesses, if any, of the alleged harassment to the Sexual Harassment Advisor. All formal complaints must be filed within nine (9) months of last alleged incident.

- The Advisor will immediately provide the respondent with a written copy of the complaint.
- The respondent(s) will then be required to provide the Advisor with a written reply within ten (10) days of receiving the complaint.

In circumstances where the allegations could also potentially give rise to criminal charges against the respondent(s), the respondent(s) will be advised by the Advisor that he/she may seek legal counsel before participating in any meetings about and/or investigations of the complaint. The respondents should also be advised that his/her lack of participation will not impede the University's investigation and that a ruling will be based on available evidence or information.

INVESTIGATION

- The Advisor will acquire signed statements from possible witnesses, if any, and ensure that the respondent(s) receives copies.

Where the facts of a case are agreed to by the parties, and the complainant(s) does not want disciplinary measures brought to bear, the Advisor may attempt a resolution through counseling and/or mediation upon request by the complainant(s).

COUNSELING

- The Advisor will provide counseling to the complainant(s) and/or respondent(s) regarding matters related to sexual harassment. Should a pattern of harassment or complaint be detected, the Advisor will recommend professional counseling to the complainant(s) and respondent(s).

MEDIATION

- With prior consent from the complainant(s), the Advisor may also act as mediator in an attempt to resolve the complaint.

Mediation is a confidential process in which both parties are helped by a trained mediator (usually the Advisor) to find their own settlement. A settlement shall be put in writing as a Statement of Resolution signed by both the complainant(s) and the respondent(s). Mediation is an entirely voluntary process for everyone in the case. This policy does not oblige anyone to take part.

RESOLUTION

- When counseling and/or mediation is/are successful in resolving the complaint, the complainant(s) and respondent(s) will sign a Statement of Resolution a copy of which they will both receive. The Advisor will retain the case file for a period of up to one (1) year unless another complaint arises involving either the complainant(s) or the respondent(s).
- If there is no resolution after one (1) month of counseling/mediation, the Advisor will write a summary of proceedings to date and provide both the complainant(s) and respondent(s) with copies.

FORMAL HEARINGS

In instances where there is failure to reach a resolution through counseling and/or mediation, a formal hearing can be initiated by request from either the complainant(s) or respondent(s). In cases where the Advisor detects a pattern of harassment or unfounded malicious complaint from past resolved or unresolved cases, she may recommend a formal hearing with the Sexual Harassment Committee. The guidelines for a formal hearing:

- The Vice-President, Academic and Research, will convene the Sexual Harassment Committee within one (1) month of a request to do so by either the Advisor or complainant(s) or respondent(s).
- The Advisor will advise the complainant(s) and the respondent(s) of the procedure (see Appendix III) to be followed in case of a formal hearing and will ensure that both parties are dealt with fairly through all steps of the proceedings until the complaint is resolved or terminated.

In a formal hearing, the role of the advisor is confined to administration, investigation and information gathering. This restriction is necessary in order to avoid conflict of interest between the Advisor's counseling role and administrative responsibilities.

- The Advisor will ensure that the complainant(s) and the respondent(s) are informed of the progress of the hearing and of resources for support that are available to them until the resolution or termination of a formal complaint.
- The Advisor will provide the Committee with relevant information on the case. The Advisor's file will typically but not exclusively contain the following:
 - the signed complaint;
 - the respondent's written reply;
 - the Summary of Proceedings including the Advisor's counseling efforts if applicable;
 - an investigative report by the Advisor;
 - signed statements from witnesses;
 - basic background information, for purposes of identification only, about the complainant(s) and the respondent(s);
 - records of any referral to professional counseling.

The Committee may request additional information at any time during the proceedings.

- The complainant(s) and the respondent(s) will be made aware of all documents or other information to be reviewed by the Committee during the hearing and in rendering its decision. Both parties will be given equal opportunity to be heard by the Committee.
- The complainant(s) and the respondent(s) may be accompanied by a legal or union representative or other support persons for the purposes of guidance and advice. At no time during the hearing, will the legal or union representative or other support persons participate in the proceedings.
- The Committee will make a decision within two (2) weeks of receiving all required information and the decision of the majority shall be the decision of the Committee. The decision of the Committee can not be appealed.
- The Committee will send copies of its decision to the President, the complainant(s), the respondent(s) and the Advisor.
- If the complaint is sustained, the Committee will recommend disciplinary action in accordance with the terms of the appropriate collective agreement or the student disciplinary system.

- **No record of complaint will appear in the complainant's personnel file.**

SANCTIONS

FOR FACULTY AND STAFF

The Sexual Harassment Committee will recommend to the President the need for disciplinary action. Such action will be taken solely at the discretion of the President.

Examples of possible sanctions in ascending order of severity may include:

- *letter of apology to the complainant(s) by the respondent(s);*
- *letter of reprimand in the personnel file(s) of the respondent(s);*
- *suspension of employment;*
- *termination of employment.*

FOR STUDENTS

The Committee will recommend disciplinary action within the guidelines of the Student Disciplinary Code. In addition, Residence students are held responsible under the rules and regulations of the Residence Agreement which they sign with the Residence Life Office at the beginning of the fall, winter or summer sessions.

Possible sanctions, depending on the severity of the offense, include:

- *letter of apology to the complainant(s);*
- *removal from a floor or residence house;*
- *ban from a floor or residence house;*
- *expulsion from residence;*
- *academic probation;*
- *expulsion from the university.*

In cases of violation of computer privileges, such as the transmission of abusive E-mail or display of pornographic material, Computer Services may also suspend a respondent's account.

- *Sanctions and remedial actions are not limited to those listed above. A specific case may suggest other means of resolution, such as performing community service.*

V. FALSE CHARGES

False charges are very rare, however, the Sexual Harassment Committee views the filing of unfounded, malicious complaints as a serious offense which may result in disciplinary action against the complainant(s).

VI. PROTECTION FROM RETALIATION

Retaliation or the threat of retaliation against anyone reporting or thought to have reported sexual harassment is prohibited. Such retaliation shall be considered a serious violation of the policy and shall be independent of whether a charge or informal complaint of sexual harassment is substantiated. Encouraging others to retaliate also violates the policy.

VII. RECORDS

- The Advisor will retain all records relating to a case, resolved and unresolved, for up to one (1) year after which they will be destroyed unless a subsequent complaint arises involving the complainant(s) or respondent(s).
- If the complaint is dismissed by the Sexual Harassment Committee, the Advisor will retain all material relating to the case for six (6) months.
- If during an investigation or an informal resolution procedure, the Advisor detects a repeated pattern of harassment by the respondent(s) from past resolved and unresolved cases, the record of complaints against the respondents will be amended by the Advisor with a signed notation indicating the date, reason for retaining the file beyond the one (1) year period, and the length of time the file will be retained beyond that the period.
- If the Advisor detects a repeated pattern of unfounded, malicious complaint by the complainant(s), the Advisor will amend the record of complaints filed by the complainants as described above.

APPENDIX I: THE SEXUAL HARASSMENT COMMITTEE

APPOINTMENT AND COMPOSITION

The Sexual Harassment (Advisory) Committee is appointed by the President. It is chaired by the Vice-President, Academic and Research. Other members are selected from and by

- the Faculty: one (1) male and one (1) female;
- the Staff: one (1) male and one (1) female and;
- the Students: one (1) male and (1) female.

The members are appointed for a period of two (2) years. Should a Committee member be associated with a particular case (e.g. as a witness), the Vice-President Academic and Research, will recommend a replacement from the same constituency for approval by the other members of the Committee.

DUTIES

The duties of the Committee are:

- to hear cases brought to it in accordance with the procedures described in this policy. Members hear cases on a purely voluntary basis. Members who decline to hear cases may still serve on the Committee in an advisory capacity;
- to recommend to the President a candidate for the positions of Advisor and Alternate;
- to receive a copy of the annual report of the Advisor.
- to advise the Advisor on matters of prevention, education and policy review.

APPENDIX II: THE SEXUAL HARASSMENT ADVISOR

APPOINTMENT:

The Sexual Harassment Advisor (the Advisor) and an Alternate are appointed by the President upon recommendation by the Sexual Harassment Committee. The Advisor shall be a woman with experience and/or education in personal counseling. A male faculty member is designated as an alternate to the Advisor. The appointments may be revoked by the President upon recommendation by the Sexual Harassment Committee.

ROLE OF THE ADVISOR AND ALTERNATE:

- to be the first official contact person in allegations of sexual harassment;
- to coordinate the complaint process from initial contact through all stages to resolution or termination;
- to maintain records concerning all matters of sexual harassment;

- to maintain contact with professional agencies (e.g.: medical, psychiatric and legal) outside the University as well as with comparable personnel at other post-secondary institutions;
- to provide information to all constituencies of the University concerning matters related to sexual harassment;
- to provide a written annual report to the President, the Senate and the Sexual Harassment Hearing (Advisory) Committee which, when appropriate, may contain recommendations for changes to or revision of duties and procedure.

N.B.

In a formal hearing the role of the Advisor is confined to administration, investigation and information gathering. This restriction is necessary in order to avoid conflict of interest between the Advisor's counseling role and administrative responsibilities.

APPENDIX III: INFORMAL RESOLUTION PROCEDURE

DEFINITION

Informal resolution is a problem-solving approach in which the primary goal is to get the harassment to stop. The emphasis is on educating the harasser(s) and preventing further misconduct. No punitive or disciplinary action is sought for or taken against the respondent.

Most (approximately 95%) sexual harassment complaints are dealt informally. Although Saint Mary's policy doesn't include detailed procedures for informal complaints, here are some widely used options.

PROCEDURE

- An informal, verbal complaint is made to the Sexual Harassment Advisor or her alternate. The complainant(s) or third party making a complaint need not sign a written complaint.
- Only with the consent of the complainant(s), however, will the Advisor notify the respondent(s) of the complaint.

OPTIONS:

COUNSELING

- The Advisor will provide counseling to the complainant(s) and/or the respondent(s) regarding matters related to sexual harassment and advise them on other resources available to them.

INFORMAL THIRD-PARTY INTERVENTION

- With the consent of the complainant(s), the Advisor or another person may also act as third party between both parties until termination or resolution of the complaint. Informal third-party intervention involves having a neutral, unbiased person go back and forth between the complainant(s) and respondent(s) in an attempt to resolve the problem. No disciplinary action is taken against the respondent(s). After resolution, the Advisor will arrange follow up to ensure that the problem has stopped and that there is no reprisal.

GENERIC TRAINING

- The Advisor may, on behalf of the complainant(s), recommend to a head of department or supervisor, a training session on sexual harassment for all members of the department. Policy review may help make the offender(s) aware that his/her behaviour is unwelcome and must stop. This may help solve the problem, at the same time protecting the privacy of the complainant(s) and the respondent(s).

APPENDIX IV: FORMAL COMPLAINTS - GENERAL PROCEDURAL GUIDELINES FOR HEARINGS

Formal hearings are based on the principles of natural justice which means fairness of procedures. There are three premises for natural justice:

- the decision-maker(s) must be neutral: he/she must not have a vested interest in the case
- opportunity to be heard must be given to all parties, involved in a case, who will be affected by the decisions of the hearing;
- all parties are entitled to know of and respond to any prejudicial information (evidence) against them which may be before the decision-maker(s), such as statements from witnesses in the Advisor's file which might have a potentially prejudicial impact on the Committee's decision.

A formal hearing is not a trial and the Committee does not have the power to administer oaths nor can they issue subpoenas to witnesses. Complainants and respondents are allowed to have legal or union representatives present as observers and advisors only. Respondents or their representatives may not cross-examine a complainant or witness.

- The complainant(s) and respondent(s) should be present throughout the hearing. However, there may be situations in which the Chair will not require a complainant to confront the respondent.
- All hearings by the Sexual Harassment Committee will be held in an informal setting.
- The hearing will be chaired by the Chairperson of the Committee, the Vice-President, Academic and Research.
- At the beginning of each hearing, the Chairperson will present a summary of the complaint being considered and will remind every person present at the hearing, of the need for discretion and confidentiality.
- The complainant(s) will be given a chance to present the facts giving rise to the complaint to the Committee.

- Witnesses in support of the complainant's case will then present their facts.
- The respondent(s) will also be given an opportunity to respond and address the Committee.
- Witnesses on behalf of the respondent(s) will be allowed to speak.
- The complainant(s) will then have a final opportunity to address the Committee.
- The Committee may ask question of the complainant(s), the respondent(s) or the witnesses at any time during the hearing. Questions must be open-ended and designed to solicit more information.
- The Committee may determine that further information is required and request that the missing information be provided before continuing with the hearing. Also, persons whom are constantly being mentioned by both parties but are not present at the hearing, may be asked to appear before the Committee.
- Conversely, the Committee may determine that it has sufficient information on which to base a decision. The Chairperson will then adjourn the hearing.

It is the responsibility of all parties including the Advisor and the Committee to ensure that all proceedings are fair to both the complainant(s) and the respondent(s) throughout the entire hearing. The above guidelines are only a general framework for formal hearing procedures. Each case must be handled as befits its circumstances.

APPENDIX V: CONSENSUAL RELATIONS

Saint Mary's policy does not contain a specific prohibition against consensual relations between students and faculty or staff. However, members of the community need to be advised that such relationships are often problematic, and the complaints arising from them may be considered as sexual harassment matters. Most professional organizations have codes of conduct prohibiting relationships between professionals and their clients - relationships analogous to that of teacher and student.

It is highly recommended that a faculty member or teaching assistant who enters into a romantic relationship with a student, should declare his/her conflict of interest to the dean and/or chair and divest themselves of teaching and grading responsibilities for that student and/or involvement in decisions affecting the student.

Consensual relations between a student and a faculty or staff member possess certain characteristics which may lead to sexual harassment problems because of the potential breach of power, trust and authority.

- they often involve one person in a position to exert power (professional) over another;
- conflict-of-interests issues arise especially if the professor has to grade the student or the staff member has some influence on the outcome of the student's academic performance;
- the potential for abuse of power and exploitation is high;
- the potential for retaliatory harassment is strong when the relationship ends;

- other people may be affected and claim favoritism or may be uncomfortable in relating to both persons involved in the relationship;
- the student involved in the relationship may find it difficult to evaluate his/her achievements - was the positive evaluation deserved or was it a result of the relationship.

(Adapted from *The Educator's Guide to Controlling Sexual Harassment*. Thompson Publishing Group, Inc. 1993.)

Even if a person consents to unwanted sexual behaviour, it may be sexual harassment. A person feeling coerced who unwillingly submits to sexual activity does not lose the right to bring charges of sexual harassment.

APPENDIX VI: REVISIONS AND AMENDMENTS TO THE POLICY

- The Academic Senate must approve all revisions, amendments and changes to the definitions and procedures outlined in this policy following recommendations from the Advisor, the Sexual Harassment Committee and/or the President.
- The President has the responsibility for revising or amending the terms of reference of the Advisor and Alternate with exception to their roles as first official contact persons and as coordinator of the complaint process from initial contact to termination or resolution of a case. The roles of counselor and mediator are also excluded.
- The Senate is responsible for informing the University Administration and Union officials of all bargaining units of changes to this policy and for negotiating their endorsement of the changes.
- Appendix VII will be updated annually by the Advisor to include all relevant contact information for the academic year.

ON-CAMPUS AND OFF-CAMPUS RESOURCES

On-Campus:

The Sexual Harassment Advisor: Jo Stern

Office: SC 416 (Student Union Building)

Phone #: 420-5113

E-mail: jstern@stmarys.ca

The Male Alternate: Albert Mills

Phone #: 420-5778

E-mail: almills@shark.stmarys.ca

SPAROS: (Student Answering Real Questions About Sex)

Phone #: 420-5075

Campus Security

Open 24 hours a day, 7 days a week

Location: Basement of McNally Main

- **Emergency #: 420-5000** (All payphones on campus are equipped with red emergency button. Use it if you feel you are in immediate danger).
- **General Inquiries: 420-5577**

Residence Security

- **Loyola Desk (Open 24 hours a day, 7 days a week)**
Location: Loyola Residence Lobby

- **Rice Desk**
Location: Rice Residence Lobby

Phone #: 420-5591

Counseling Services

Counselor	Office	Phone #
Theresa Emberley	SC 401	420-5610
Sarah Morris	SC 430	420-5601
Tim Walker	SC 429	420-5614
Donnie Jeffrey	SC 402	420-5431

Health Services

Jane Collins	SC 405	420-5611/496-8778
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International Centre

Alana Robb (Advisor)	EC 115	420-5436
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Off-Campus:

Avalon Centre

Rape crisis support for victims of sexual abuse

Daytime (8:30-4:00 p.m.): 422-4240

Evenings and Weekends: 425-0122

Help Line

24 hours a day, 7 days a week: 421-1188

OUTLINE

Peer Counseling for Gay/Lesbian/Bisexual Youth

Saturdays (5:30 p.m. -9:30 p.m.): 1-800-566-2437

Police Emergency

In Halifax: 911

Medical Emergency

QE-11: 473-2700

Dartmouth General: 465-8333

IWK (children under 16):428-8050

Nova Scotia Human Rights Commission:

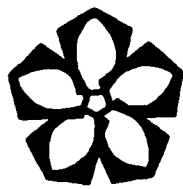
Human Rights Violations: Discrimination and Harassment

Location: 5675 Spring Garden Road

Phone #: 424-4111

APPENDIX “D”

NOVA SCOTIA COMMUNITY COLLEGE SEXUAL HARASSMENT POLICY



**Nova Scotia
Community College**

Procedures on
***Discrimination/
Harassment***

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Statement of Intent

It is public policy in Nova Scotia to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination or harassment. According to the Nova Scotia Human Rights Act, 1969, as amended in 1991, every person has the right to equal treatment, including the right to freedom from harassment and discrimination.

The Nova Scotia Community College is a post-secondary institution dedicated to the pursuit of knowledge, skills and training. All those who study, work, or teach at the College must be concerned with maintaining the freedoms essential to achieving these purposes. Therefore, the College shall endeavour at all times to provide an environment that is supportive of working and learning and of the equitable treatment of all members of its community. The College community includes, but is not limited to, students (full and part-time), support staff, faculty, administrators, invited guests, those who are in a contractual relationship with the College, and College committees, boards, councils, and associations.

Responsibility

It is the responsibility of every person in a College community to foster a climate of understanding and mutual respect for the dignity and rights of each individual by providing equal treatment in the area of services, facilities, employment, and memberships on committees and in associations. Equal treatment will be provided without discrimination on the grounds of age, race, colour, sex, religion, creed, aboriginal origin, physical disability, mental disability, ethnic or national origin, marital status, source of income, sexual orientation, family status, political belief, affiliation or activity, or an individual's association with another individual or class of individuals protected under the Nova Scotia Human Rights Act. In providing equal treatment the College will not discriminate on the basis of an irrational fear of contracting an illness or a disease.

It is the responsibility of the College to inform and educate the members of the College community about discrimination and harassment. As well, it is the personal responsibility of every member of the College community to know the College's policies on and redress procedures for discrimination and harassment.

Definitions

Discrimination

Discrimination, as defined in these Procedures, means any action, behaviour or attitude, which could or does negatively affect the employment status and/or the academic status of any member of the College community that is based on age, race, colour, sex, religion, creed, aboriginal origin, physical disability, mental disability,

ethnic or national origin, marital status, source of income, sexual orientation, an irrational fear of contracting an illness or disease, family status, political belief, affiliation or activity, or an individual's association with another individual or class of individuals protected under the Nova Scotia Human Rights Act.

Bias against a person or persons because of their inclusion in any of the above categories, which results in the imposition of a restriction against or the exhibition of negative behaviour toward that person or persons constitutes an act of discrimination as defined in these Procedures.

Examples of discrimination include, but are not limited to, behaviours such as:

- restrictive job recruitment, employment advertising, or promotion
- refusal to provide services or facilities or deferential treatment in the provision of services or facilities
- exclusion of a woman because she is or may become pregnant
- refusal to work with or teach someone
- failure to provide appropriate means of access to premises, services, or facilities.

Harassment

Harassment as defined in these Procedures means unwelcome vexatious comment or conduct consisting of words or actions that disparage or cause humiliation, offense or embarrassment to a person, which may negatively affect performance or mental or physical health.

Examples of harassment may include, but are not limited to behaviours such as:

- unwelcome remarks, jokes, slurs, innuendos or taunts about a person's or group's colour, race, physical characteristics, place of birth, dress, citizenship, ethnic or aboriginal origin, class, age, sex, disability, sexual orientation, religion, or political affiliation *or*
- the distribution or display of derogatory, offensive, racist, or sexist pictures, graffiti or materials, *or*
- threatening conduct or comments, *or*
- refusal to converse or work with a member of the College community because of his/her background, age or disability, *or*
- verbal or physical assault of a member of the College community.

Sexual Harassment

For the purposes of these Procedures, sexual harassment is defined as:



a course of vexatious comment or persistent or abusive sexual solicitation or advance directed at an individual by another individual or group of the same or opposite sex who knows, or ought reasonably to know, that this attention is unwelcome, and /or any implied or expressed promise of reward for complying with a sexual solicitation or advance, and/or any reprisal or threat of reprisal for refusing to comply with an implied or expressed sexual solicitation or advance.

Examples of sexual harassment include, but are not limited to, behaviours such as:

- demeaning remarks, jokes, slurs, innuendos or taunts about a person's sex, sexual orientation, marital or family status, *or*
- inappropriate comments about an individual's dress, appearance or conduct, *or*
- use of derogatory language to describe a person's gender, sexual orientation, marital or family status, *or*
- the inappropriate display of sexually suggestive objects, pictures or graffiti, *or*
- unnecessary or lewd physical contact, offensive gestures, leering, suggestive or insulting sounds, *or*
- compromising invitations, *or*
- demands for sexual favors, *or*
- physical or sexual assault and/or battery.

Framework

Discrimination/Harassment Committee

At the beginning of each College year, the Principal at each campus will establish a Discrimination/Harassment Committee consisting of the Vice Principal, where appropriate, as Chairperson and two to four additional members drawn from the campus community. There should be an equal balance in terms of male/s and female/s.

A similar Committee will be established at the College central office by the Manager, Human Resources. The central office committee will consist of a chairperson and two to four additional members drawn from central office staff. Because of the small numbers involved and the low rate of staff turnover at central office, committee members will serve for a two-year term, with no member serving more than two consecutive terms.

The Chairperson shall have sole responsibility to co-ordinate and supervise the investigation of any complaint brought to the Committee. Upon completion of the investigation process, the Chairperson will present his/her findings to the Principal or, in the case of central office, to the appropriate Senior Manager, who in each instance will pursue an appropriate course of action.



If a complaint is filed against the Principal, the Chairperson will report it to the appropriate Vice-President or his/her designate, who will direct the investigation, following the process outlined in these Procedures.

If a complaint is filed against the Manager of Human Resources or a Vice-President, the Chairperson will report it to the President who will direct the investigation, following the process outlined in these Procedures.

If a complaint is filed against the President of the College, the Chairperson will report it to the Chair, Board of Governors, Nova Scotia Community College who will direct the investigation, following the process outlined in these Procedures.

Conflict of Interest

Committee members have an obligation to conduct any investigation in such a manner that confidence and trust in the integrity, objectivity and impartiality of the Committee are enhanced. To prevent real, potential or apparent conflict of interest with a complainant and/or a respondent, a Committee member may be asked to withdraw from an investigation. In such a case another member shall be appointed.

Confidentiality and Sensitivity

Any complaint of harassment or discrimination will be acted upon with due regard to confidentiality for all parties concerned insofar as such confidentiality does not interfere with the College's obligation to investigate allegations of misconduct and to take corrective action. Throughout the process, both the complainant and the respondent must be dealt with in a sensitive and respectful manner.

Complainant - refers to a person who believes that he/she has been subjected to harassment or discrimination. A complainant may also bring forward or initiate a complaint on another person's behalf, with his/her consent. Depending on the nature of the complaint, the College may notify external agencies.

Respondent - refers to a person against whom a complaint of harassment or discrimination has been lodged.

Frivolous, Vexatious or Mischievous Complaints

Complaints of harassment or discrimination which are determined to be frivolous, vexatious or mischievous shall be considered to be violations of these Procedures, and shall by themselves be considered grounds for disciplinary action by the College.

Retaliation Against an Individual

Retaliation against an individual who has filed a complaint or against a witness for the complainant, whether or not the complaint is substantiated, shall be considered to be a serious violation of these Procedures and grounds for disciplinary action by the College. *(This does not preclude the individual's right to legal recourse.)*



Process

Whereas it is the primary obligation of the College to provide an environment that is free from harassment and discrimination, it is incumbent upon members of the College community to act assertively should they feel that they are victims of harassment or discrimination. Ideally the complainant should make his/her unequivocal disapproval known to the respondent immediately. While both formal and informal routes are available, **all reasonable efforts should be made to have the complainant and the respondent resolve the matter *informally*.**

Informal

- a) Make a direct request of the respondent, either in person or by letter, that the offensive behaviour cease *or*
- b) Ask a member of the Discrimination/Harassment Committee to intervene and to discuss the matter with the respondent

All enquiries will be kept in strictest confidence, and no records will be kept of informal complaints.

Formal

If the informal process proves unsuccessful or is not advisable, a formal complaint, in writing, should be registered with the Discrimination /Harassment Committee Chairperson.

Formal complaint forms are available from members of the Discrimination/Harassment Committee. The complaint can be given to any member of the Committee. A complainant is advised to document all incidents to ensure credibility.

Steps in the Formal Process

1. Once a formal written complaint is filed, the Committee Chairperson will meet the respondent to present him/her with a letter stating that a complaint has been made against him/her, stating the nature and source of the complaint and requesting the respondent to attend a further meeting with the Committee Chairperson and the complainant within ten (10) working days.

It is desirable that the matter be satisfactorily resolved at this level, if at all possible. (Both the complainant and the respondent may be accompanied by an observer during any meeting or interview.)

If it is possible to resolve the problem at this level, both parties will sign a report indicating their agreement with the description of the event/s in question and how the complaint was resolved.



Note: If a student files a complaint against his/her instructor, the Chairperson may arrange, through the Principal, for another faculty member to evaluate the student's work for the remainder of the semester at the complainant's request. An instructor who files a complaint against a student has the right to make a similar request.

2. If the complaint cannot be resolved at the preceding level, the Chairperson will expand the investigation, interviewing the complainant and respondent, as well as any witnesses. All information should be documented accurately and completely. The Chairperson will attempt to complete the investigation within ten (10) working days.
3. The respondent is advised in writing of any evidence (without sources being named) that substantiates the complaint and is given the opportunity of rebuttal. Such written rebuttal should be provided to the Chairperson within ten (10) working days of receipt of the evidence.
4. A written report shall be presented to the Principal, or in the case of central office, to the appropriate Senior Manager, who may wish to initiate further investigative action to facilitate his/her understanding of the situation.
5. The Principal, or the in the case of central office, appropriate Senior Manager, will render a decision within ten (10) working days of receiving the investigative report and inform all individuals concerned. Should the complaint be substantiated, he/she will consult with the appropriate Vice-President prior to initiating any disciplinary action.

Appropriate disciplinary action can range from a written warning to dismissal.

Alternate Location

If a complaint is filed against a faculty/staff/administrative member or student who is subsequently employed/enrolled at a different location/Campus than the site where the alleged incident occurred, the complaint will be investigated by the Chairperson of the Discrimination/Harassment Committee where the alleged incident occurred. The investigation will be conducted according to the process outlined in these Procedures. The Committee's written report will be forwarded through the appropriate channels to the Principal or, in the case of central office to the appropriate Senior Manager, at the present location. In accordance with the process outlined above, the recipient will render a decision within ten (10) working days of receiving the investigative report and inform all individuals concerned. Should the complaint be substantiated, he/she will consult with the appropriate Vice-President prior to initiating any disciplinary action.

Appropriate disciplinary action can range from a written warning to dismissal.



Appeals

A respondent or complainant has the right to appeal to the President. An appeal must be lodged with the President within ten (10) working days of receiving formal notice of the decision. The President shall hear the appeal, ensuring fair procedures for hearing such appeals; and the decision of the President will be final.

In the case of a complaint against the President, the respondent or the complainant has the right to appeal to the Board of Governors. An appeal must be lodged with the Board within ten (10) working days of receiving formal notice of the decision. The Board shall hear the appeal, ensuring fair procedures for hearing such appeals; and the decision of the Board will be final.

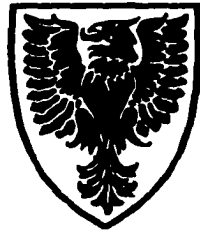
Rights to Seek Resolution Outside the College

These procedures are to ensure that the College, its employees and students comply with the College Policy on Discrimination/Harassment. However, it does not preclude any individual from seeking other opinions available to him/her; such as, the Nova Scotia Human Rights Commission, the Nova Scotia / Federal Courts and/or the Collective Agreement(s).



APPENDIX “E”

**DALHOUSIE UNIVERSITY
SEXUAL HARASSMENT POLICY**



DALHOUSIE
University

Sexual Harassment Policy

Courtesy of the Sexual Harassment Office
Arts and Administration Building, Room 2
Dalhousie University
Halifax, Nova Scotia
B3H 3J5
(902) 494-1137
email: susan.brousseau@dal.ca
<http://www.dal.ca/sexualharassment/>

Dalhousie University's Sexual Harassment Policy

PART ONE • POLICY STATEMENT

- (1) The university occupies a special place in society as an intellectual community with a responsibility for the discovery and sharing of knowledge. This aspiration demands a commitment to an atmosphere of reciprocal respect among all members of the university community. Sexual harassment potentially undermines the full and free participation of all members of the community by negatively impacting on an individual's employment conditions or academic status or performance or by creating an intimidating, hostile or offensive working or academic environment.

Dalhousie University does not condone or tolerate sexual harassment of any kind. Indeed, the University regards sexual harassment as unacceptable behaviour that is subject to a wide range of disciplinary measures, including dismissal or expulsion from the University.

All members of the University community have a responsibility to ensure that the University's working and learning environment is free from sexual harassment. Administrative Heads of Units, as defined in section 37 of this policy, bear the primary responsibility for encouraging and maintaining a working and learning environment free from sexual harassment. They are free to act, and should act, on this responsibility, whether or not they are in receipt of individual complaints. It is the obligation of Administrative Heads of Units to be generally familiar with this policy and, where appropriate, to undertake training, in order to ensure that they are able to fulfill these responsibilities.

PART TWO • PURPOSE

- (2) The purposes of this policy are:
- (a) to be educational, in that its existence will increase awareness of and sensitivity to the negative impact of sexual harassment;
 - (b) to prevent sexual harassment by indicating the seriousness with which Dalhousie University views this issue;
 - (c) to provide fair procedures for handling complaints when they do occur.

PART THREE • APPLICATION OF THE POLICY

- (3) This policy prohibits sexual harassment by any member of the University community. Any student or employee may make a complaint of sexual harassment against another student or employee. Students and employees include former students and employees raising allegations of sexual harassment which occurred while they were still members of the university community.**
- (4) This policy applies to incidents of sexual harassment that occur in the course of work or study or participation in university-sponsored organizations, activities and programs, whether they occur on-campus or off-campus. Examples of off-campus settings include, but are not limited to, field trips, athletic team road trips, conferences or training events, and university-sponsored social functions.**
- (5) Persons who are not employees or students of the University (hereafter called "Third Parties") may have concerns about sexual harassment and are encouraged to express their concerns to the Sexual Harassment Officer. The Sexual Harassment Officer will advise the person raising the concern and, where appropriate, refer the matter to the appropriate individual or unit within the University. In appropriate circumstances, these procedures may be used where a Third Party makes a complaint against a student or employee who was involved in the course of her/his work or study or participation in University-sponsored organizations, activities and programs. Third parties include, but are not limited to, contractors, their employees and agents; vendors of goods and services to the University, their employees and agents; visitors to the University; volunteers; grant-paid employees; post-doctoral fellows; chaplains; persons in the community guiding practicum and internship placements, and others with similar connections to the University.**
- (6) The procedures referred to in Sections 15 and 18-44, inclusive, of this policy do not apply to Third Parties against whom a complaint is made. However, such persons are expected to conduct themselves in any University-related activity in a manner consistent with this policy. Allegations of sexual harassment against a Third Party will be dealt with by the University as unacceptable behaviour that may result in suspension of University privileges, such as access to campus, or other appropriate action. Such allegations should be reported to the Sexual Harassment Officer.**
- (7) This policy will not be applied or interpreted in such a way as to detract from the right of those in supervisory roles to manage and discipline employees and students in accordance with normal University practices, or from any existing rights or obligations contained within any existing code of student conduct, collective agreement or other approved employee agreement.**
- (8) This policy is to be interpreted and administered in a way that is consistent with the principles of academic freedom. Neither this policy in general, nor its definitions in particular, are to be applied in such a way as to detract from the right of faculty,**

staff, and students to engage in the frank discussion of potentially controversial matters, such as age, race, politics, religion, sex and sexual orientation. These are legitimate topics and no University policy should have the effect of limiting discussion of them or of prohibiting instructional techniques, such as the use of irony, the use of conjecture and refutation, or the assignment of readings that advocate controversial positions, provided that such discussion and instructional techniques are conducted in a mutually respectful and non-coercive manner.

- (9) Notwithstanding the existence of this policy, every person continues to have the right to seek assistance from the Nova Scotia Human Rights Commission or, where a criminal act is involved, the police, even when actions are being taken under this policy.**

PART FOUR • DEFINITION

- (10) Sexual harassment is defined as any sexually-oriented behaviour of a deliberate or negligent nature which adversely affects the working or learning environment. It may involve conduct or comments that are unintentional as well as intentional. It includes, but is not limited to:**
- (a) sexual solicitation or advance of a repeated, persistent or abusive nature made by a person who knows or ought reasonably to know that such solicitation or advance is unwanted;**
 - (b) implied or expressed promise of reward for complying with a sexually-oriented suggestion;**
 - (c) actual reprisal or denial of opportunity, or an expressed or implied threat of reprisal or denial of opportunity, for a refusal to comply with a sexually-oriented suggestion;**
 - (d) sexually-oriented remarks or behaviour on the part of a person who knows or ought reasonably to know that such remarks or behaviour may create a negative psychological or emotional environment for work, study or participation in a University-related activity or program. Such remarks or behaviour may include, but are not limited to, suggestive and/or derogatory comments, sounds or gestures emphasizing sex or sexual orientation; suggestive staring; inappropriate displays or distribution of sexually suggestive pictures, objects, writing or graffiti, including electronic and hard copy forms; persistent unwanted contact after the end of a consensual relationship; unnecessary or unwanted physical contact of a sexual nature such as patting, touching, pinching or brushing against; and sexual assault.**
- (11) Sexual harassment can occur between individuals of the same or different status, and both women and men can be the subject of sexual harassment by members of either**

gender. Sexual harassment can involve individuals or groups; can occur during one incident, or over a series of incidents involving single incidents, which, in isolation, would not necessarily constitute sexual harassment.

PART FIVE • PROCEDURES

Initiating a Complaint

- (12) Anyone may anonymously seek the advice and assistance of an advisor from the Sexual Harassment Resource Group. The advisor shall assist the individual in identifying concerns, and in considering the applicability of various options. The advisor shall provide individuals seeking advice with a copy of this policy and shall make them aware of the availability of counselling services, as appropriate.**
- (13) Complaints of sexual harassment may be made by any member of the University community who has been directly affected by sexual harassment, or who has reasonable cause to believe that sexual harassment has taken place. A complaint may also be made on behalf of the University by the appropriate Administrative Head of Unit against any member of the University community where there is reasonable cause to believe that sexual harassment exists.**
- (14) Individuals are encouraged to bring forward complaints as soon as possible after the incident or incidents giving rise to the complaint in order that the most thorough and fair consideration of the matter may occur. In general, it is recommended that complaints be initiated within one calendar year of the alleged incident, or in the case of a series of incidents, the last incident in a series.**
- (15) Alleged incidents of sexual harassment can be resolved by using any of the following procedures: (A) informal procedure (B) mediation procedure, (C) formal procedure. In order to use the mediation or formal procedures, the identity of the person making the complaint (hereafter called the "complainant") and the details of the complaint must be disclosed to the other party (hereafter called the "respondent"), and those involved in the application of these procedures as set out in sections 26-44. Disclosure of the identity of the complainant may or may not be required under the informal procedure, depending on the nature of the action pursued.**
- (16) At any time, complainants may choose to withdraw from these complaint proceedings. Nevertheless the University's legal commitment to provide an environment free from sexual harassment may obligate the University, through the appropriate Administrative Head of Unit, to proceed in the absence of a complaint from the person directly affected. In deciding whether to proceed in such cases, the University will take into account all relevant circumstances including, but not limited to, the availability of evidence, the accessibility of witnesses, the need for**

protection against retaliation on the part of witnesses and the need for due process on the part of respondents.

- (17) In responding to complaints of sexual harassment, persons involved in the application of these procedures should consult with the Sexual Harassment Office.**

A. Informal Procedure

- (18) If, after discussion of a concern with an advisor from the Sexual Harassment Resource Group, an individual wishes to proceed with the informal procedure, she/he may request that the advisor assist in attempting to resolve the matter. No written complaint is required to commence the informal procedure. The options available under the informal procedures are numerous and will vary depending on the nature of the complaint. However, the informal procedure does not include adjudication as to whether sexual harassment has or has not occurred. Examples of informal actions may include, but are not limited to, advice to the complainant (including advice that the complaint has not reasonably been made out or does not fall within the scope of this policy), referral of either party for counselling, investigation, letter to the respondent, meeting with the respondent, voluntary relocation of the complainant and/or the respondent, or apology from the respondent.**
- (19) The informal procedure can occur without the knowledge of anyone other than the complainant and the advisor from whom the complainant seeks assistance. Normally, however, before the advisor proceeds with any informal action other than providing information about self-help options, counselling or referring the complainant to other resources or services, the advisor shall consult with the Sexual Harassment Officer to discuss the proposed informal action. When a matter is concluded or closed, records of any informal actions taken shall be forwarded by the advisor to the Sexual Harassment Officer for entry in the confidential files of the Sexual Harassment Office.**
- (20) The complainant may, at any time prior to the matter being concluded or closed, choose to pursue alternative procedures provided under this policy.**
- (21) No informal action that adversely affects the academic, employment or professional interests of the respondent shall proceed under the informal procedure without the knowledge and consent of the respondent.**
- (22) No record of an informal procedure shall be entered into the academic or employment file of the complainant or the respondent, or in the case of a D.F.A. Member, the Principal Personal File, without the knowledge and consent of that person.**
- (23) If the advisor, after discussion with the complainant, concludes that, in the advisor's opinion, the concern raised by the complainant is unsubstantiated or**

does not fall under this policy, the advisor shall advise the complainant as to other University policies or procedures that may be relevant, such as the Code of Student Conduct or the Senate Guide to Responsible Computing, and may, if the complainant wishes, refer the complainant to the appropriate person or office with responsibility therefore. The complainant shall also be advised of their right to proceed under section 26 and section 37 of these procedures.

- (24) No person involved in the informal procedure shall give evidence or introduce documents from that process during any other subsequent University process under this policy where that evidence or those documents would disclose that any person agreed or refused to participate in the informal procedure, or if informal action occurred, the nature of that action, unless all parties involved in the informal procedure consent to that disclosure.**
- (25) Where no action has been or will be taken, or where the advisor and the complainant agree that there are no reasonable grounds to substantiate the concern or the concern does not fall under this policy, the advisor shall make a notation to this effect on the file containing any record of this matter and shall forward the file to the Sexual Harassment Officer for entry in the confidential files of the Sexual Harassment Office.**

B. Mediation Procedure

- (26) At any time after the initial contact with an advisor, a complainant may request to have the matter mediated. To initiate mediation, the complainant shall file a written statement of complaint with the Sexual Harassment Officer. The statement of complaint must include the names of the parties, a detailed description of the sexually-oriented behaviour that forms the basis of the complaint and a request to initiate the mediation procedure.**
- (27) Within five working days of receipt of the written complaint, the Sexual Harassment Officer or designate shall deliver or send by mail to the respondent, a copy of the statement of complaint, an invitation to participate in the mediation process and a copy of this policy. The Sexual Harassment Officer or designate shall also advise the respondent of the availability of support and assistance through the Sexual Harassment Resource Group.**
- (28) The respondent has the right to respond in writing to the statement of complaint and shall provide any written response to the Sexual Harassment Officer within ten working days from receipt of that complaint. The respondent may agree to enter into mediation, acknowledge or deny the validity of the complaint in whole or in part, provide new information or propose a resolution of the complaint.**
- (29) Within five working days from receipt of the respondent's written response to the statement of complaint, the Sexual Harassment Officer or designate shall deliver**

or send by mail a copy of the response to the complainant. The complainant may accept the response as full resolution of the complaint or, on the basis of the respondent's written response, may choose to pursue the informal procedure, to proceed with mediation, to proceed with the formal procedure or to withdraw the complaint. Upon notification of the complainant's choice, which shall be made in writing to the Sexual Harassment Officer within ten working days from receipt of the written response from the respondent, the Sexual Harassment Officer shall direct the complainant to the appropriate procedures.

- (30) If the respondent does not respond to the invitation to participate, or declines to participate in the mediation within the time set out in section 28, the Sexual Harassment Officer shall communicate this to the complainant who may then choose to pursue the informal procedure, to proceed with the formal procedure or to withdraw the complaint. Upon notification of the complainant's choice, which shall be made in writing to the Sexual Harassment Officer within ten working days from the communication of the respondent's response or lack thereof, the Sexual Harassment Officer shall direct the complainant to the appropriate procedures.
- (31) If the complainant and the respondent agree to attempt to resolve the complaint through a process of mediation, an advisor who is trained in mediation and alternative dispute resolution techniques shall be selected by the parties from the Sexual Harassment Resource Group to mediate the complaint. No person shall serve as mediator if that person has previously assisted the complainant or the respondent in the informal procedure stage of the complaint. The advisor selected to mediate the complaint and the format of the mediation process must be acceptable to both the complainant and the respondent, otherwise the mediation shall be deemed to have failed.
- (32) The mediator shall have two calendar weeks from the date of her/his selection in which to bring about a mediated resolution. This two week period may be extended by mutual agreement of the parties and the mediator.
- (33) If a mediated resolution is achieved between the parties, the advisor who mediated the matter shall prepare a report of the process. The report shall include the identity of the complainant and the respondent, the type of harassment alleged, the details of the terms of the resolution, the time limits within which any action promised is to be carried out and any other relevant information. The report shall be signed by both parties, indicating their satisfaction that it is accurate and giving their acknowledgment that they agree to perform any promises in it. The report shall be countersigned by the mediator. If the resolution entails action to be taken by the University, the report and the resolution must be acceptable to the appropriate Vice-President or President before it can take effect.
- (34) Once all parties have signed the report referred to in section 33, it becomes the Resolution Agreement and copies shall be provided to each of the signatories and to the Sexual Harassment Officer for entry in the confidential files of the Sexual Harassment Office. The Sexual Harassment Officer shall be responsible for

monitoring whether the parties keep any promise(s) made. If either party fails to observe the promises made within it, this failure will be treated as a breach of the Resolution Agreement and the other party may revive the complaint. A breach of the Resolution Agreement may result in disciplinary action against the party in breach. Any such disciplinary action shall be taken in accordance with section 41.

- (35) If there is no mediated resolution, the mediator shall report this in writing to the Sexual Harassment Officer. The Sexual Harassment Officer shall communicate with the complainant to discuss options including seeking the assistance of an advisor from the Sexual Harassment Resource Group (other than the advisor who acted as mediator), pursuing the informal procedure, initiating a request for commencement of the formal procedure or withdrawing the complaint. Any further action shall be initiated by the complainant within fifteen working days after mediation has terminated.
- (36) With the exception of any disciplinary procedures initiated for breach of the Resolution Agreement, as set out in Section 34, no person involved in a mediation process shall give evidence or introduce documents from that process during any other subsequent University process under this policy where that evidence or those documents would disclose that any person had agreed or refused to agree to mediation, or if mediation occurred, what took place during the mediation.

C. Formal Procedure

- (37) When the informal or mediation procedures have not been pursued or have failed to resolve a complaint and the complainant has requested that the formal procedure be commenced, or where the University determines that it should proceed to take action, the Sexual Harassment Officer shall inform the respondent's Administrative Head of Unit of the complaint if she/he is not already aware of the matter. The Administrative Head of Unit is the appropriate Dean or Director, University Librarian, Registrar, Associate Vice-President, Vice-President, President, or other supervisor normally responsible for initiating disciplinary action. For student respondents, the appropriate Administrative Head of Unit shall be the Vice-President (Student Services).
- (38) To initiate the formal procedure, the complainant shall file a written statement of complaint with the Sexual Harassment Officer. The statement of complaint must include the names of the parties, a detailed description of the sexually-oriented behaviour or comment that forms the basis of the complaint and a request to initiate the formal procedure. The Sexual Harassment Officer shall provide the respondent's Administrative Head of Unit with a copy of the statement of complaint.
- (39) Within five working days of its receipt by the respondent's Administrative Head of Unit, the Sexual Harassment Officer or designate shall deliver or send by mail to the respondent, a copy of the statement of complaint and a copy of this policy. The

respondent shall have ten working days within which to respond in writing to the statement of complaint. The Sexual Harassment Officer or designate shall also advise the respondent of the availability of support and assistance through the Sexual Harassment Resource Group.

- (40) The respondent's Administrative Head of Unit or her/his designate shall investigate the complaint in a timely manner with due regard for any time limits imposed by any relevant collective agreement, Code of Student Conduct or other disciplinary processes for employees and shall determine whether there is a reasonable basis for proceeding with disciplinary action and/or remedial measures. The Sexual Harassment Officer is available to consult with the respondent's Administrative Head of Unit throughout the formal procedure. Complaints against an Administrative Head of Unit shall be investigated by the appropriate administrator at the next higher level.**
- (41) Disciplinary proceedings taken against any person under this policy shall be taken in accordance with existing applicable collective agreements or other applicable disciplinary processes for employees and/or in accordance with the Code of Student Conduct for students. Any disciplinary action invoked under this Sexual Harassment Policy must meet the requirements of natural justice. Following the implementation of disciplinary action, the respondent's Administrative Head of Unit shall report in writing to the Sexual Harassment Officer indicating the nature of the disciplinary action taken.**
- (42) In determining what remedial measures, if any, should be taken for the complainant, the respondent's Administrative Head of Unit shall consult with the Sexual Harassment Officer and may consult with the appropriate Vice-President, the President, counselling staff or any other University personnel or group, as she or he deems appropriate.**
- (43) If the respondent's Administrative Head of Unit concludes that there is no reasonable basis to proceed with the complaint or that it does not fall within this policy, she/he shall advise the complainant, the respondent and the Sexual Harassment Officer of this in writing and may, if appropriate, direct the complainant and the respondent to other University procedures.**
- (44) If the respondent's Administrative Head of Unit has reasonable cause to believe that the complaint was made in bad faith, she/he shall, where appropriate, report the matter to the complainant's Administrative Head of Unit. A complaint made in bad faith shall constitute grounds for disciplinary action against the complainant, which shall be commenced in accordance with existing collective agreements or other applicable disciplinary processes. A bad faith complaint is a complaint that is made with a conscious design to mislead or deceive, or with a malicious or fraudulent intent.**

PART SIX • GENERAL PROVISIONS

Support and Assistance for Parties

- (45) The complainant and the respondent are, at all times during any stage of these procedures, entitled to support and assistance. The Sexual Harassment Resource Group is available to provide assistance and support to complainants and respondents, but no Advisor shall assist or support more than one party to a complaint.
- (46) Members of unions and employee associations have all rights to representation that their collective agreements confer.

Retaliation

- (47) No person shall retaliate against another for bringing forward a complaint of sexual harassment or for providing information in respect of a complaint. The University considers retaliation or the threat of retaliation at any stage to be a serious offense because it prevents potential complainants, witnesses and administrators from acting on their concerns. Any person should report threats, acts of retaliation and other safety concerns to the Sexual Harassment Officer and/or the relevant administrators. Retaliation may include, but is not limited to, unfair evaluation; unfair work or academic assignments; having information withheld or made difficult to obtain in a timely matter; not being informed about important events such as meetings or changes in policies; name-calling or ridicule (public or private); oral or written threats or bribes; or further harassment of any nature. Acts of retaliation may be subject to disciplinary action pursuant to section 41.

Confidentiality

- (48) All persons involved in a case are expected to maintain confidentiality, particularly within the work, study, or living area in question.
- (49) Terms of confidentiality, including the need to disclose information that restores a unit to effective functioning, may be agreed on during informal action or mediation between the complainant and respondent, or, in the case of the formal procedure, as determined by the Administrative Head of Unit.
- (50) For educational purposes, the Sexual Harassment Office may discuss specific cases and their resolutions without identifying information.
- (51) Confidentiality may not apply to persons subject to extra-University judicial processes or where disclosure is required by law.

Interim Measures

- (52) The University may, at any time during the processing of a complaint, take necessary steps to ensure the health, safety and security of any member of the University community.

Documents

- (53) Normally, documents created in the course of the procedures under this policy shall be treated as confidential and are retained by the Sexual Harassment Office in confidential files in accordance with that Office's policy on confidential records. However, reports and other documents used during the formal procedure under this policy may be used by the University for other purposes such as tenure, promotion, appointment, reappointment, discipline, or academic advancement in the case of students, where appropriate and where permitted by the procedures governing such processes. In addition, documents might be required by law to be released to third parties.

Multiple Proceedings

- (54) Where there are two or more complaints arising out of the same incident against the same respondent, these may be dealt with at the same time. Where there are two or more complaints against the same respondent arising out of different incidents, these may be dealt with at the same time with the consent of the complainants and respondent.

PART SEVEN • ROLES AND RESPONSIBILITIES

A. Sexual Harassment Officer

- (55) The role of the Sexual Harassment Officer is to:
- (a) provide information on the Sexual Harassment Policy and procedures to members of the University community and Third Parties having connections to the University;
 - (b) provide information on the Sexual Harassment Policy and procedures to persons bringing forward a complaint and persons named as respondents during all stages of the procedures;
 - (c) advise and assist the members of the Sexual Harassment Resource Group, Administrative Heads of Unit and others seeking direction in the handling of complaints;

- (d) assist persons wanting to initiate the mediation procedures or the formal procedures and to facilitate arrangements in connection with those procedures, as set out in Sections 26-44 of this policy;
- (e) in consultation with the Advisory Committee on Sexual Harassment, develop and provide education to the University community on the prevention of sexual harassment;
- (f) in consultation with the Advisory Committee on Sexual Harassment, coordinate and ensure appropriate and regular training for the Sexual Harassment Resource Group, Administrative Heads of Units and others involved in the application of the sexual harassment procedures;
- (g) maintain statistical information on sexual harassment at the University and report, as requested, to the President or designate on the number of complaints made, types of complaints, outcomes, and educational activities;
- (h) maintain confidential records on all allegations of sexual harassment handled by advisors from the Sexual Harassment Resource Group, the Sexual Harassment Officer and Administrative Heads of Units;
- (i) serve as a resource to the Advisory Committee on Sexual Harassment;
- (j) report to and perform such other responsibilities as the President, or her/his designate, may request.

B. Sexual Harassment Resource Group

- (56) The Sexual Harassment Resource Group shall be appointed by the President in consultation with the Sexual Harassment Officer and the Advisory Committee on Sexual Harassment. In appointing persons to serve as advisors and in filling vacancies as they occur, the President shall endeavour to ensure that the Group:
 - (a) includes an equal number of women and men;
 - (b) reflects the diversity of employee groups on campus;
 - (c) includes at least one student member;
 - (d) includes persons from various areas of campus (for example, Studley Campus, Carleton Campus, Sexton Campus, etc.);
 - (e) includes persons trained in mediation and alternative dispute resolution techniques.

- (57) The President, in consultation with the Sexual Harassment Officer and the Advisory Committee on Sexual Harassment, may appoint as members of the Sexual Harassment Resource Group one or two persons who are not members of the University community, but who have particular expertise or skills in the areas of sexual harassment, mediation and/or alternative dispute resolution.
- (58) The Sexual Harassment Resource Group shall normally have no fewer than eight members who shall serve for staggered renewable terms of two years. Names of Sexual Harassment Resource Groups members will be promulgated regularly within the University community.
- (59) The role of the Sexual Harassment Resource Group is:
- (a) to provide, on a confidential basis, information to members of the University community (including complainants, potential complainants, respondents and witnesses) concerning the Sexual Harassment Policy, and to advise such individuals regarding courses of action available to them;
 - (b) to be supportive and impartial toward those who seek their advice;
 - (c) where appropriate, to assist individuals to resolve concerns about sexual harassment informally;
 - (d) where appropriate, to refer individuals to other resources available on campus (such as the Sexual Harassment Officer, Counselling and Psychological Services, University Health Services, Security), or off-campus;
 - (e) to provide support and assistance, when requested, to complainants and respondents involved in the mediation or formal procedures set out in this policy;
 - (f) to act as mediators, as required, under the mediation procedures set out in this policy.
- (60) In making appointments to the Sexual Harassment Resource Group, the President may designate some individuals to act only as mediators.
- (61) All members of the Sexual Harassment Resource Group shall undergo regular training sessions, as established by the Advisory Committee on Sexual Harassment.

C. The Advisory Committee on Sexual Harassment

- (62) The Advisory Committee on Sexual Harassment shall be composed of:

- (a) **one representative from each of the employees unions and associations (DFA, NSGEU (Local 77), CUPE (Local 3912), IUOE, DUAG);**
 - (b) **one undergraduate and one graduate student appointed by the DSU;**
 - (c) **the Vice-President, Student Services;**
 - (d) **the Assistant Vice-President (Personnel Services);**
 - (e) **the Chief of Security;**
 - (f) **such other members as might be recommended by the Committee and approved by the President, or her/his designate.**
- (63) **Members of the Committee shall normally serve staggered two-year renewable terms. The Committee shall appoint a Chair and Secretary from among its members.**
- (64) **The role of the Advisory Committee on Sexual Harassment is to:**
- (a) **monitor the effectiveness of the Sexual Harassment Policy and to make annual reports and recommendations for changes to the President and the University Senate;**
 - (b) **advise the Sexual Harassment Officer concerning sexual harassment education and awareness programs for the University community and to assist with their implementation;**
 - (c) **maintain communication between the various University constituency groups and the Committee concerning the Sexual Harassment Policy and educational programs;**
 - (d) **advise the President with respect to the appointment of persons to serve as members of the Sexual Harassment Resource Group;**
 - (e) **advise the Sexual Harassment Officer concerning the development and implementation of regular training programs for the Sexual Harassment Resource Group, Administrative Heads of Units and others involved in the application of the sexual harassment procedures;**
 - (f) **advise the President in the selection and appointment of the Sexual Harassment Officer;**
 - (g) **undertake other functions and duties as reasonably requested from time to time by the President or her/his designate.**