

SEXUAL HARASSMENT

Article 42

- 42.10 The Board and NASA do not condone sexual harassment.
- 42.20 Sexual harassment is defined as unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature when:
- .21 submission to such conduct is made either explicitly or implicitly a term or condition of employment.
 - .22 submission to or rejection of such conduct is used as the basis for action affecting that employee.
 - .23 such conduct has the purpose or effect of interfering with an employee's work performance or creating an intimidating, hostile, or offensive working or educational environment.
- 42.30 Whenever an employee feels he has been sexually harassed he shall have the right to use the following procedure. However, this article shall not be construed as in any way limiting an employee's right to seek redress through any other legal procedure available to him and the University agrees that it will not attempt to prevent an employee from seeking redress either through the Courts or the Alberta Human Rights Commission by reason of the fact that an employee has followed this procedure.

42.40 COMPLAINTS

An employee who believes that he has a complaint of sexual harassment is in the first instance encouraged to inform the harasser that the offensive behaviour or actions must cease. If the request is ignored, or if it is considered inappropriate, or uncomfortable to make such a request, the complainant may refer the complaint to the Director of Personnel.

The Board agrees that at the initial complaint stage or at any other stage of this procedure the complainant and/or respondent

(if an employee covered by this agreement) shall have the right to be represented by NASA. The Director of Personnel will advise the complainant/respondent of this right and encourage him/them to contact NASA. Unless otherwise specified in writing by the complainant, the Director of Personnel shall, within two days of receipt of the complaint, advise NASA of the name, department and telephone number of the complainant. In conducting his investigation the Director of Personnel shall have access to all University records related to the complaint as well as all employees who might have information concerning the complaint.

42.50 FORMAL INVESTIGATION

- .51 The complainant must provide the Director of Personnel with a written complaint giving details of the alleged sexual harassment as defined in 42.20.
- .52 Within five working days from the date of receipt of the written complaint, the Director of Personnel shall inform the respondent of the allegation(s) and shall provide the respondent with a copy of the written complaint.
- .53 The Director of Personnel shall investigate the complaint and within ten working days of the action in .52 above, attempt to resolve the complaint.
- .54 The investigation by the Director of Personnel shall be concluded within 30 working days from the dates of 42.53 above. Where resolution of the complaint is achieved, it shall be communicated in writing to both the complainant and the respondent and a written copy of the resolution shall be signed by both the complainant and the respondent.

A copy of the resolution, the written complaint and the investigator's report shall be maintained by the Director of Personnel, in confidence, for a period of three years from the date of the investigation.

Unless the complainant otherwise directs, a copy of the resolution and investigator's report as well as the written complaint shall also be provided to NASA. NASA agrees that such documents shall be kept confidential to the NASA executive.

42.60 Where the complaint is not resolved within ten working days of completion of the investigation, NASA on behalf of the non-academic complainant, may proceed to file a grievance at Step II of the Grievance Procedure, Article 7. The Board agrees that NASA shall have access to all documentation concerning the complaint as well as the right to interview employees involved in the complaint during working hours. Both the grievor and the respondent shall have the right to be represented by Counsel. (In addition to the presentation of evidence, the Board and NASA shall each present the adjudication board with their recommendation regarding the resolution of the matter.)

42.70 The Adjudication Board may, if it finds the complainant has been sexually harassed, order any resolution which to it seems just and reasonable. Such resolution may involve, but will not be limited to, awarding damages and/or transferring the complainant to another position at the same salary level in another department. The award may also include recommendations to the President concerning appropriate discipline of the respondent. The Board agrees that where such recommendations affect:

- (a) A member of the Academic Staff; the recommendations shall be treated as a formal complaint to the Vice-President, Academic, under Article 12 of whichever Board/AASUA agreement is applicable.
- (b) A non-academic employee of the University (both included or excluded from the Bargaining Unit); to implement the recommendations, subject to the grievance procedure (Article 7).

- (c) A person paid in whole or in part from monies held by the University in trust; to implement the recommendations.
- (d) A student; to treat the recommendations as a complaint to the officer on Student Discipline under the Student Code of Behaviour.

42.80

The Board agrees that no employee who files a complaint or testifies concerning another person's complaint shall suffer any reprisals.

May 23, 1986