



**February 14, 2019**

## **President's Message: Gender solidarity at the University of Manitoba**

We have all seen messages from David Barnard and the Administration over the last few months regarding their distress at the instances of sexual assault and harassment at the UM and their resolve to root out this behaviour, protect members of the UM community, and discipline the offenders.

It is an employer's responsibility to ensure a safe workplace for their employees and, in the case of a university, its students. It is the responsibility of a faculty association to ensure that the employer meets its responsibilities to Members, and that Members subject to investigation or discipline are accorded due process.

If you have experienced harassment or sexual violence, our job is to ensure that the employer does their job – treats your complaint seriously, ensures you are safe and get access to the resources you need, and follows appropriate protocols. Members accused of sexual violence or harassment should contact the UMFA

office immediately to ensure that the administration acts in accordance with law and the collective agreement.

Nevertheless, there is room for improvement of the administration's actions and UMFA's interventions. Late last fall the Board of Representatives formed a Gender Solidarity Working Group to contribute to defending and promoting working relations across genders. That group includes representation from the UMFA executive, our professional staff, our grievance officers, our diversity and equity committee, and the Board Representatives.

One of the first, and most important, tasks of this group will be to hold gatherings in the coming months to hear Members' concerns and suggestions about preventing sexual harassment and assault on campus. The results of these gatherings, in tandem with solicited additional confidential/anonymous feedback, will be used to inform UMFA policy about how Members are supported, and inform demands made to the administration.

Based on that information, as well as UMFA's past experiences, the working group will:

- identify deficiencies in and alternatives to the current UM Respectful Work and Learning Environment and Sexual Assault Policies and Procedures;
- In preparation for collective bargaining, identify deficiencies in and recommend improvements to the Collective Agreement related to issues of sexual harassment and violence and report them to the Collective Agreement Committee for inclusion in our forthcoming bargaining proposals and communications;
- identify possible improvements to CAUT policies in regard to safety and health, harassment, and sexual harassment; and

- identify deficiencies in and recommend improvements to UMFA’s Bylaws and Standing Rules in regard to sexual harassment and sexual assault, including recommendations regarding gender composition for grievance officer selection procedures and complainant choice in grievances involving sexual harassment or sexual violence.

We will be in touch about the best way to meet with those who’d like to share their experience and knowledge. Please don’t hesitate to contact me or the UMFA office if you need help or have any suggestions for us.

Best wishes for the remainder of the term.

Janet Morrill  
UMFA President

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**KNOW YOUR CA** 

## **Know your CA: Discrimination, Harassment, and Sexual Assault**

*(Also available on the UMFA website [here](#).)*

You are entitled to a safe and healthy workplace, one that is free of discrimination, harassment, and violence. If you experience workplace discrimination, harassment, sexual assault or other violence, the administration must act to address it.

Suffering harassment, discrimination, or assault can be demeaning, embarrassing, and disempowering. The Association is here to offer you confidential advice, support, and advocacy based on how you want to respond to a problem and the available formal and informal tools.

If you have special needs – whether they are temporary or long term, physical or psychological – the administration has a duty to accommodate those needs. This is set out in article 15 of your CA. A union representative will help advocate for an accommodation plan that works for you.

Immediate individual psychological assistance is available via the Employee and Family Assistance Program (EAFP) by calling 1-800-387-4765 (English) or 1-800-361-5676 (French).

### **Choosing how to best advocate for your safety and health**

If you've suffered violence, harassment, or discrimination at work, UMFA can help to ensure that your rights are protected and that provincial legislation and University policy and procedures are correctly applied.

Section 15.1.1 of your Collective Agreement prohibits discrimination. Section 16.3 of your CA mandates that your workplace be safe and healthy.

Relevant University policies include the Respectful Workplace and Learning Environment (RWLE) Policy, the Sexual Assault Policy, and the RWLE and Sexual Assault Procedure. These documents apply not only to on-campus incidents, but also to off-campus events that have substantial connections to the University.

There are multiple ways to seek redress for a problem or report an incident. Arranging a confidential consultation with a union representative will help you

decide the best way to go about redressing a problem, and union representatives will offer support and advocacy. This might mean helping you consider options, including but not limited to: making a report to police; making a claim with the Workers Compensation Board; making informal or formal complaints to the UM's Office of Human Rights and Conflict Management; filing a human rights complaint; and/or filing a formal grievance. Most importantly, union reps will take the time needed to hear what you have to say.

## **Confidentiality**

Confidentiality is often a key concern for those who've suffered assault and harassment. If you make a complaint, the University must not disclose your name unless it is necessary to prevent further harm, required for insurance purposes, or mandated by law. If they decide to investigate your complaint formally, however, they may have to reveal your name and the details of your complaint to the person alleged to have violated your rights and safety. Consultation with a union representative does not constitute a breach of confidentiality. It is your right to be supported by your union.

## **Workplace Accommodation and Your Health**

If you experience physical or mental health issues as a result of sexual violence, harassment, or discrimination, you have the right to reasonable accommodation, as well as sick leave. The University is also responsible for creating a safety plan for you so you can continue to work safely. UMFA representatives will help you determine how to pursue these and other relevant supports.

The University maintains a Sexual Violence Support and Education web page that offers some information on what to do if you have suffered an assault, and what to do if someone (whether student or colleague) discloses to you that they have been

assaulted. [<http://umanitoba.ca/sexual-violence/>].

If you've suffered an assault, speaking with a union rep can help you decide how you want to approach the issue, and help you advocate for a remedy.

## **Witnesses and Respondents**

The university's online resources include a guide to Helping Someone Who Has Been Sexually Assaulted, which contains a list of on-campus and off-campus resources, with contact information for each. [

<https://umanitoba.ca/student/media/Sexual-Assault-Guidelines-Resources.pdf> ] If the person who comes to you is a Member of UMFA, also suggest that they seek the support and advice of a union representative by calling 474-8272 or email [faum@umfa.ca](mailto:faum@umfa.ca).

If you're witness to an incident, or accused of violating a university policy or provincial law, you also have certain rights and obligations – these include union representation in any meeting the administration may wish to have with you. As with all meetings requested by the administration or their proxies, you have the right to...:

- be advised as to the nature of the meeting;
- have it scheduled with reasonable notice;
- if the meeting is about discipline or an investigation of your conduct or the conduct someone else, to be advised of the opportunity to bring a union representative to the meeting;
- bring a union representative to the meeting if it's about discipline or an investigation.

These rights are guaranteed by sections 17.A.8.8 (Librarians), 19.B.1.8 (Profs), and 34.10.7 (Instructors) of your CA.

No question is too small – contact the UMFA office as soon as possible:  
474.8272 or [faum@umfa.ca](mailto:faum@umfa.ca).

## **Reference Guide**

*Some of the below may appear to conflict or contradict. Speaking to an Association representative is the best way to navigate the subtleties, weigh your options when it comes to protecting yourself and your rights, and advocate for redress for wrongs you've experienced. This information is provided to help you self-advocate and ask the right questions.*

### **Your Collective Agreement:**

Your CA offers protections via **Section 16.3**, which states that “the University will maintain working conditions in classrooms, laboratories and offices in accordance with acceptable standards of safety and health and in conformity with all pertinent regulations.”

“Pertinent regulations” include but are not limited to Manitoba’s Human Rights Code, the Workplace Safety and Health Act and Regulation, the Advanced Education Administration Act, and University policies and procedures. See below for more details.

**Section 15.1** of your CA precludes “discrimination, differential treatment, interference, restriction or coercion exercised or practised by the University towards any Member by reason of age [...], language (except where the lack of language competence would clearly prevent carrying out the required duties), ancestry, including colour and perceived race; religion or creed, or religious belief, association or religious activity; national origin or nationality; ethnic background or origin; political belief, political association or political activity; sex, including pregnancy, the possibility of pregnancy or circumstances related to

pregnancy; gender-determined characteristics or circumstances, including gender identity; sexual orientation; marital status or family status; physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device, membership or activity in the Association unless the discrimination is based upon bona fide and reasonable requirements or qualifications.”

**Section 15.2** iterates the right to reasonable accommodation of your special needs. Contact the UMFA office for help advocating for an accommodation that works for you.

15.2 Members with special needs, based on one or more of the protected characteristics found in *The Human Rights Code*, resulting in their being unable to perform all of the normal requirements of their job, have a right to reasonable accommodation to the point of undue hardship.

### **Manitoba’s Human Rights Code**

The Code forbids discrimination and harassment that is based on the characteristics listed below. These are known as ‘protected characteristics’ and are found in section 9(2) of the Code:

(a) ancestry, including colour and perceived race; (b) nationality or national origin; (c) ethnic background or origin; (d) religion or creed, or religious belief, religious association or religious activity; (e) age; (f) sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy; (g) gender identity; (h) sexual orientation; (i) marital or family status; (j) source of income; (k) political belief, political association or political activity; (l) physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a



wheelchair, or any other remedial appliance or device; (m) social disadvantage.

The Manitoba Human Rights Commission has prepared a useful resource outlining the right to be free from harassment, including sexual harassment and violence: <http://www.manitobahumanrights.ca/v1/education-resources/resources/harassment-and-sexual-harassment.html>

### **Manitoba's Safety and Health Regulation and the Advanced Education Administration Act**

In a university environment debates about academic and administrative matters can be contentious and stressful. This in itself isn't a violation of your right to a safe and healthy workplace. What is a problem is conduct that is harassing because it is...:

Objectionable, if it is based on race, creed, religion, colour, sex, sexual orientation, gender-determined characteristics, marital status, family status, source of income, political belief, political association, political activity, disability, physical size or weight, age, nationality, ancestry or place of origin; or severe, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

This is from section 1 of Manitoba's Workplace Safety and Health Regulation. Further, the Regulation defines harassment as "(a) objectionable conduct that creates a risk to the health of a worker; or (b) severe conduct that adversely affects a worker's psychological or physical well-being."

Part 10 of the Regulation mandates that an employer have a workplace harassment prevention policy, and Part 11 mandates employers to have a policy on workplace violence prevention. Similarly, the section 2.3 of the Advanced

Education Administration Act mandates universities to have sexual violence policies. These policies and procedures are the UM's Respectful Work and Learning Environment (RWLE) Policy, the Sexual Assault Policy, and the RWLE and Sexual Assault Procedure.

### **UM's RWLE and Sexual Assault Procedure:**

The administration uses these procedures to guide its actions when it receives a complaint. Below is a list of a few key sections that will help you understand its main features. They mirror much of the legislation described above. An Association rep can help with some of the subtleties and advocate for you in various ways. The current versions of these documents are found here:

[http://www.umanitoba.ca/admin/governance/governing\\_documents/community/230.html](http://www.umanitoba.ca/admin/governance/governing_documents/community/230.html)

Section 2.3 provides a definition of a "University matter," which clarifies the situations in which the policies and procedures apply.

Sections 2.4-2.14 defines discrimination, personal harassment, human rights-based harassment, and sexual assault.

Section 2.67 outlines the University's expectations on privacy and confidentiality.

Section 2.68 specifically mentions that complainants, respondents, and witnesses may contact a union representative.

### **UM's Sexual Assault Policy:**

Section 2.7 details the administration's responsibility to provide reasonable work accommodations and a safety plan.

Section 2.9 outlines the rights of survivors of sexual assault:

“Where possible, a person who has experienced Sexual Assault will retain control over the process of reporting a Sexual Assault. However, the University also has an obligation to protect the University Community from harm. The University reserves the right to initiate a University Instituted Investigation in accordance with the Procedure, and/or to report the incident to local police services, even without the consent of the survivor, if it believes that the safety of the University Community is at risk or if reporting is required by law (for example, in the case of a minor). In cases where actions are taken without the consent of the survivor, reasonable efforts will be made to preserve the anonymity of the survivor. In addition, the survivor will be notified of the actions the University intends to take in order that the survivor can work with the University to take any additional safety precautions that may be required as a result of the University's actions.”

Sections 2.15-2.19 detail the University's complaint procedure.

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*If you have information or an event that you'd like to share in an upcoming issue, please email the item to [umfa-communications@umfa.ca](mailto:umfa-communications@umfa.ca) for consideration.*

We make **UofM** happen

UNIVERSITY OF MANITOBA  
**Faculty Association**



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