

PROCEDURES

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| TITLE: Harassment and Discrimination Prevention Procedures: Complaints against Students | Number: SC 102 - 07 |
| | Date of Implementation: Sept. 2007 |

Complaint Procedure – Complaints against Student(s)

The Complaint Procedures contained in this document outlines the process for dealing with complaints against a Student.

RESPONSIBILITIES: Responsibilities under this Policy to resolve complaints of harassment and/or discrimination by one or more persons against one or more students are outlined below:

All College Employees

- To prevent or discourage discrimination and harassment
- to promptly report incidents of harassment or discrimination
- to know and understand this Policy
- to cooperate in the investigation and/or resolution of complaints pursuant to this Policy

Students

- to maintain and promote an environment free of harassment and discrimination
- to promptly report incidents of harassment or discrimination
- to cooperate in the investigation and/or resolution of complaints pursuant to this Policy

Sexual Harassment Officer

- facilitates informal “ Early Resolution” (Level 1) of sexual harassment complaints according to this Policy.
- provides a copy of the Harassment and Discrimination Prevention (H&D) Policy and Procedures to the complainant, respondent, etc.
- provides a copy of the H&D Complaint form to complainants.
- receives formal complaints of sexual harassment and determine the appropriate vehicle for resolution.
- investigates complaints of sexual harassment as outlined in the Formal Complaint Process (Level2) and prepares an investigation report.
- provides students with a copy of the Student Code of Conduct: Hearings and Appeals Procedures
- makes a determination as to whether there was a breach of the Human Rights Code and/or any other misconduct and make recommendation(s) where appropriate (e.g. sanctions, redress, referral to a different process, etc)

Student Relations Office

- facilitates informal “ Early Resolution” (Level1) of harassment and discrimination complaints according to this Policy.
- provides a copy of the Harassment and Discrimination Prevention Policy and Procedures to the complainant, respondent, etc.

- provides a copy of the H&D Complaint Form to complainants.
- receives formal complaints of harassment and discrimination and determines the appropriate vehicle for resolution.
- Investigates or arranges for an impartial investigator of complaints of harassment and discrimination as outlined in the Formal Complaint Process (Level2) and prepares or arranges for the preparation of an investigation report.
- makes a determination as to whether there was a breach of the Human Rights Code and/or any other misconduct and make recommendation(s) where appropriate (e.g. sanctions, redress, referral to a different process, etc)
- provides students with a copy of the Student Code of Conduct: Hearing and Appeals Procedures
- facilitates orientation for students with respect to this Policy

Note: In the event of direct involvement by either the Student Relations Office or Sexual Harassment Officer with a complaint under this Policy, as a complainant, respondent or witness, or where a conflict of interest otherwise exists, or where a suitable alternate would accelerate the process the Dean of Students or designate shall appoint a suitable alternate to deal with the complaint.

Informal “Early Resolution” Process (Level 1)

Recognising that it is often in the best interest of all parties, individuals are encouraged, where appropriate, to attempt to resolve the matter themselves. A person having a complaint should, depending on their level of comfort, discuss the matter with:

- (a) the person who is the source of the behaviour that it is unwelcome (orally or in writing), or
- (b) the Sexual Harassment Officer with regards to sexual harassment
- (c) the Student Relations Office

During the informal resolution process (Level 1), the emphasis will be on problem resolution; consequently, this stage will not involve a formal investigation.

The person receiving the complaint, usually the Student Relations Office or the Sexual Harassment Officer, will follow the following process:

- determine the general nature of the concerns;
- determine the appropriate actions and/or process;
- decide whether it falls within the definition of this Policy;
- find out what attempt, if any, the complainant has made to resolve this informally;
- advise the complainant of their rights and choices under this Policy (and provide them with a copy),
- meet with the alleged offender to present the complaint, provide a copy of this Policy and advise them of their rights under the Policy, and obtain their response to the incident.
- in consultation with the appropriate parties, facilitate an appropriate resolution to the complaint if possible;
- if a resolution results, document the complaint and the outcome with copies to the complainant, and respondent .
- if no resolution occurs or it is determined that the complaint must proceed directly to the Formal Complaint Process (Level 2), provide the complainant with a copy of the H&D Complaint Form.

The Informal “Early Resolution” Process is to be concluded within thirty (30) working days of the initial discussion of the complaint. Steps to resolve the complaint may include: helping to clarify

perceptions, raising awareness of the impact of the conduct, reconciling differences or sorting out misunderstandings. In most circumstances, it is anticipated that the informal process should result in: (a) an informal resolution, or, (b) withdrawal of the complaint.

The Informal "Early Resolution Process may include applying one or more of the following sanctions:

- Reprimand
- Warning (verbal or written)
- Behavioural contract

Counselling:

Parties to a complaint process may be encouraged to obtain counselling, recognizing the serious impact that harassment and discrimination has on an individual's well-being. The College will assist in any way deemed reasonable at the request of either party. Student complainants and respondents may seek counseling through the Career and Counseling Centre. Employee complainants may receive advice and counseling regarding the complaint process through their supervisor, the Human Resources Department, OPSEU (Locals 558 or 559 as applicable), the Employee Assistance Program.

Voluntary Mediation:

If no resolution or an unsuccessful resolution occurs at the Informal "Early Resolution" Process, and if initiated within ten (10) working days of the conclusion of the Informal Resolution Stage and agreed to by the complainant and respondent, a Mediator may be appointed by the College. The mediator must be knowledgeable about harassment and discrimination and other issues of an interpersonal nature under which conflict may arise and must have experience providing mediation services, ensuring confidentiality, impartiality and procedural fairness.

The mediation process will not normally exceed twenty (20) working days. An extension must be agreed to by all parties.

The Mediator is mandated to bring the Complainant and Respondent together to explore each other's points of view and assist them to reach a solution. The Mediator will provide interim oral reports (without revealing what the parties have disclosed, unless the parties agree to the disclosure) to the Student Relations Office on the progress of the mediation and facilitate the involvement of the College, where required. Within 5 working days of the conclusion of the meetings, the Mediator will give the parties a settlement agreement signed by them and will inform the Student Relations Office that the matter has been resolved. Alternatively, the Mediator will inform the Student Relations Office that mediation has been terminated.

Mediation is terminated when:

- The complainant and respondent reach a mutual agreement to resolve the complaint.
- The complainant or respondent decide not to pursue this process any further.
- The Mediator determines that it is not possible to resolve the complaint/issues through mediation.

If a complaint is not resolved at this stage, the complainant may initiate the formal complaint (Level 2) process without delay.

Formal Complaint Process (Level 2)

If there is no resolution under the Informal/Early Resolution Process and the complainant wishes to proceed with the matter, he/she must complete an H&D Complaint Form and file same with the Student Relations Office or the Sexual Harassment Officer after the conclusion of the informal process. On receipt of this formal complaint, the Student Relations Office or Sexual Harassment Officer (as applicable) will acknowledge receipt of the complaint within ten (10) working days. The formal complaint should be filed as soon as possible after the incident but no later than six (6) months from the date of the incident. If filed outside of this time frame, the complaint will be deemed abandoned and the complainant will only have further right to pursue the matter under this Policy at the College's discretion.

Assuming the complaint is filed in a timely manner, the Student Relations Office or Sexual Harassment Officer (as applicable) will determine whether an investigation is warranted or not. If warranted, the Sexual Harassment Officer (for sexual harassment) or an impartial investigator will be appointed to determine if the complaint has merit. The investigator will:

- be knowledgeable about harassment and discrimination and other issues of an interpersonal nature under which conflict may arise and must have experience conducting investigations of this type, ensuring confidentiality, impartiality and procedural fairness.
- interview the complainant, respondent and any witnesses of either party;
- obtain and secure evidence, notes, electronic material, etc;
- take notes and have statements signed off by the interviewees;
- consider all information/evidence and make a determination as to whether there was a breach of the Human Rights Code or other misconduct using "balance of probabilities" as the standard of proof;
- if breach of the Human Rights Code or other misconduct has been deemed to have occurred, provide recommendations on remedy;
- as appropriate, make a determination about whether a complaint is frivolous, vexatious and/or in bad faith;
- submit his/her final report to the Student Relations Office within five (5) working days of the conclusion of the three-day period allowed for the feedback

.The Dean of Students will review the report, and can find a student in breach of the Harassment and Discrimination Prevention policy, and assign a penalty. Students who file complaints that are found to be frivolous, vexatious or made in bad faith may also be assigned a penalty by the Dean.

If the Dean's decision is to recommend suspension or expulsion, this will be referred to the Vice President Student and Community Engagement who will appoint a Committee to hear the case. The respondent will be notified in writing with a copy to the Student Relations Office. Copies of the investigator's report will be sent to the complainant and the respondent.

Employees who file complaints against students that are found to be frivolous, vexatious or made in bad faith will be subject to discipline by the College according to the Harassment and Discrimination Prevention Procedures: Complaints against Employees.

RECORDS : A record of decisions and all corresponding documents will be retained by the Student Relations Office or Sexual Harassment Office and will not become a part of the students academic file. Only in cases where a breach of this Policy has been determined can such prior breaches be accessed. Access prior to breaches will be obtained from the Student Relations Office in the case of a hearing by the Office of the Vice President Student and Community Engagement. Past conduct and/or sanctions may influence the application of any new sanction (s).

APPEALS: Complainants and/or respondents who are students may appeal as follows:

- **Students** may seek appeals through the Appeals and Hearings for Students policy and procedures.

Complainants who are College employees may appeal as follows:

- **Administrative Employees** may seek appeal through the “Administrative Staff Terms and Conditions of Employment”.
- **Faculty & Support Staff Employees** may seek appeal through the grievance procedures under the relevant Collective Agreement.

CROSS REFERENCES:

Ontario Human Rights Code

Criminal Code of Canada

Violence Prevention Policy

Disruptive Student Behaviour in the Classroom or Learning Environment

Student Code of Conduct

Appeals and Hearings for Students

Acceptable Computer Use Policy

Appendices

Process chart

H & D Complaint form