

**PROCEDURES**

<b>TITLE:</b> Harassment and Discrimination Prevention Procedures – Complaints against Employees	<b>Number:</b> HR 105 - 07
	<b>Date of Implementation:</b> Sept. 2007

**Complaint Procedure – Complaints against Employee(s)**

The Complaint Procedures contained in this document outline the process for dealing with complaints against an Employee.

**RESPONSIBILITIES:** Responsibilities under this Policy to prevent and/or resolve complaints of harassment and/or discrimination by one or more persons against one or more employees 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.

**Managers**

- must know and understand this Policy and its procedures;
- act immediately on observations of discrimination and/or harassment (may be found culpable if aware of an incident but fails to take any action to resolve or address it);
- respond immediately to allegations of harassment or discrimination at the Informal/ Early Resolution Stage by handling Level 1 complaints;
- provide a copy of the Policy and Procedures to the complainant, respondent, etc;
- inform complainants about filing a formal complaint if there is no resolution under the Early Resolution Stage and/or for referring matters to Level 2 or another process, as applicable to the circumstances;
- provide student complainants with a copy of the H & D Complaint Form.

**Human Resources**

- review this Policy to enhance its effectiveness and ensure that it is consistent with the Ontario Human Rights Code, the College’s collective agreements, Terms and Conditions of Employment for Administrative Staff, and other legislative requirements;
- facilitate training and education in respect of this Policy;
- ensure this policy is available in the Human Resources Policies and Procedures section of the College Website at [www.centennialcollege.ca](http://www.centennialcollege.ca).

**Staff Relations Consultant (SRC) - Human Resources Department**

- provides advice and assistance to Managers on handling complaints filed under the Informal or Early Resolution process (Level 1);
- receives and handles formal complaints at Level 2 and determines the appropriate vehicle for resolution;

Originating Dept. : Human Resources and Organizational Development	Date Issued: August, 2007	Approved by: Executive Team	Approval Date: August 15 <sup>th</sup> , 2007	Page 1 of 6
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- provides a copy of the Policy and Procedures to the complainant, respondent, etc;
- provides a copy of the H&D Complaint form to complainants;
- maintains a list of experienced mediators and investigators and, where appropriate, appoint mediators or investigators to assist in the resolution of conflicts;
- reviews investigation reports to ensure that they meet the quality standards required by this Policy and makes recommendations on sanctions and/or redress or referral to another process;
- collects statistics on the operation of this Policy.

### **Sexual Harassment Officer**

- facilitates informal “Early Resolution” of sexual harassment complaints according to this Policy;
- provides a copy of the 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 determines the appropriate vehicle for resolution;
- investigates complaints of sexual harassment as outlined in the Formal Complaint Process and prepares an investigation report;
- makes a determination as to whether there was a breach of the Human Rights Code and/or any other misconduct and makes recommendation(s) where appropriate (e.g. sanctions, redress, referral to a different process, etc).

### **Student Relations Office**

- provides students with a copy of the Policy and Procedures;
- informs students of the appropriate manager, Chair, etc;
- provides student complainants with a copy of the H&D Complaint form;
- provides students with a copy of the Appeals and Hearings for Students policy.

Note: In the event of direct involvement by either the Staff Relations Consultant or Sexual Harassment Officer with a complaint under this Policy, as a complainant, respondent or witness, or where a conflict of interest otherwise exists, the College President or designate shall appoint a suitable alternate to deal with the complaint.

## **LEVEL 1 -- INFORMAL “Early Resolution” PROCESS**

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:

### **Employees:**

- (a) the person who is the source of the behaviour that it is unwelcome (orally or in writing), or
- (b) their immediate supervisor, Chair of School, etc or
- (c) the Human Resources Consultant or Staff Relations Consultant, or
- (d) the Sexual Harassment Officer with regards to sexual harassment

### **Students:**

- (a) the person who is the source of the behaviour that it is unwelcome (orally or in writing), or
- (b) the Chair of School for a complaint against an employee in the school, or
- (c) the Student Relations Office (e.g. Conflict Coach) for a complaint against any other employee or a contractor, or
- (d) the Sexual Harassment Officer with regards to sexual harassment.

The Initial Intake Process:

The person receiving the complaint, usually the supervisor or Chair, will conduct an initial intake followed by a determination as to whether the complaint must be advanced to another process or level or, alternatively, ought to be handled by the supervisor. The intake process is as follows:

- meet with the complainant to determine the general nature of the concerns and the requested remedy;
- 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), and under the Collective Agreement (as applicable) and the Ontario Human Rights Code.

At this point, the supervisor should consult with the Staff Relations Consultant or the Sexual Harassment Officer to determine whether the complaint falls within the definition of this Policy and, accordingly, the appropriate actions and/or process.

The following cases will result in referral to another process:

- for disputes involving the security, health or safety of an individual or group or possible offences under the Criminal Code of Canada, refer directly to Facilities & Services Security Manager;
- For sexual harassment cases, refer to the Sexual Harassment Officer;
- For complaints against students, refer to the Student Relations Office.

The following cases may be more appropriately directed to level 2:

- If serious Human Rights allegations exist, i.e. harassment or discrimination;
- If the complaint involves multiple complainants and/or multiple respondents;
- If the supervisor has a bias for or against either party to the complaint, or if the supervisor otherwise feels uncomfortable dealing with the complaint.

### The Fact Finding Process

If it is decided that the supervisor will deal with the complaint at level 1, the supervisor will ask the complainant to complete and submit a formal complaint on the "Discrimination & Harassment Complaint Form". The supervisor will then conduct a fact finding process by meeting with the alleged offender to present the complaint, provide a copy of this Policy and advise them of their rights under the Policy. The supervisor will then get the respondent's side of the story. Witnesses identified by the complainant and/or respondent may also be interviewed, as appropriate.

In consultation with the appropriate parties, the supervisor will facilitate a resolution to the complaint, if possible. 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 through various means such as coaching, counselling, facilitation and/or mediation. If a resolution results, the supervisor will document the complaint and the outcome with copies to the complainant, respondent and the Staff Relations Consultant. If no resolution occurs or it is determined that the complaint must proceed directly to the Formal Process (level 2), the complaint file will be submitted to the Staff Relations Consultant for resolution.

The Level 1 process is to be concluded within one month following the initial discussion of the complaint. In most circumstance, it is anticipated that this process will result in: (a) an informal resolution, or, (b) withdrawal of the complaint.

Note: If the complaint is against the supervisor, the complainant will direct it to the supervisor's superior (e.g. Chair, Director, etc). If the respondent's supervisor is not the complainant's, the

complainant's supervisor will work with the respondent's supervisor (following an initial intake), for possible resolution.

### **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. Complainants and respondents may receive advice and counselling regarding the complaint process and external avenues of redress through their supervisor, the Human Resources Department, OPSEU (Locals 558 or 559 as applicable), the Employee Assistance Program or the Career and Counselling Centre.

### **Voluntary Mediation:**

If no resolution or an unsuccessful resolution occurs at the informal resolution stage, 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 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 Staff Relations Consultant on the progress of the mediation and facilitate the involvement of the College, where required. Within one week of the conclusion of the meetings, the Mediator will give the parties a settlement agreement signed by them and will inform the Staff Relations Consultant that the matter has been resolved. Alternatively, the Mediator will inform the Staff Relations Consultant that mediation has been terminated.

The mediation process will not normally exceed one month. 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.

## **LEVEL 2 -- FORMAL COMPLAINT PROCESS**

### **A. Formal Complaint Initiation -- for complaints other than sexual harassment**

If there is no resolution at Level 1, the complainant may proceed with the matter as follows:

(a) students may file a complaint form with the applicable Chair or the Student Relations Officer (i.e. whoever handled the complaint at Level 1), who will redirect the complaint to the Staff Relations Consultant while remaining in contact with the student throughout the process;

(b) employees may file a complaint form with the Staff Relations Consultant.

On receipt of this formal complaint, the Staff Relations Consultant will acknowledge receipt within five (5) 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.

## **B. Formal Complaint Resolution for All Complaints**

Assuming the complaint is filed in a timely manner, the Staff Relations Consultant or Sexual Harassment Officer (as applicable) will determine whether an investigation is warranted or not.

For sexual harassment complaints, the Sexual Harassment Officer will either conduct the investigation or will appoint an independent investigator, as appropriate.

For non-sexual harassment complaints, an impartial investigator will be appointed by the Staff Relations Consultant 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;
- provide a draft investigation report to complainant and respondent for their review within one month of his/her appointment, allowing for a three (3) working day period for them to file a response
- submit his/her final report to the Staff Relations Consultant within five (5) working days of the conclusion of the three-day period allowed for the feedback

The College will determine the action, if any, that will be taken to bring closure to the complaint. This decision will be communicated in a timely manner to the relevant parties.

**SANCTIONS AND REDRESS:** The following sanctions and redress against employees are available during both the informal process and the formal process. Complaints by employees that are found to be frivolous, vexatious or made in bad faith are also subject to these sanctions and redress options. Determination of appropriate discipline against employees of the College will be made by the College considering the seriousness of the violation and the employee's history with the College. Students who file complaints found to be frivolous, vexatious or in bad faith will be disciplined according to the Harassment and Discrimination Prevention Procedures: Complaints against Students.

**Redress and sanctions may include but are not limited to:**

- Increased safety surveillance
- Cessation of offending behaviour
- Restoring a person to the position s/he would have been in had the breach not occurred

- Offering employment or reinstatement
- Counselling, education and corrective measures
- Apology to the victim (verbal or written)
- Reprimand or warning (verbal or written)
- Section, job or program transfer
- Behavioural contract
- Demotion, suspension, dismissal

**RECORDS:** The Human Resources Department will retain all closed files, including cases resolved at Level 1 - Early Resolution. All information retrieved or generated relating to the complaint will be maintained in a secure manner. Only records of reprimand or discipline will be placed in an individual's personnel file in the Human Resources Department. In the event of subsequent allegations, reference may be made to previous complaint files.

**APPEALS:** Complainants and/or respondents 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.
- **Students** may seek appeals through the Appeals and Hearings for Students policy and procedures.

**CROSS REFERENCES:**

Collective Agreements (Support Staff and Academic)  
 Administrative Staff Terms and Conditions of Employment  
 Ontario Human Rights Code  
 Criminal Code of Canada  
 Violence Prevention Policy  
 Harassment and Discrimination Prevention Procedures against Students  
 Disruptive Student Behaviour in the Classroom or Learning Environment  
 Student Code of Conduct  
 Appeals and Hearings for Students  
 Acceptable Computer Use Policy  
 Process for Supervisors – Addressing Level 1 Complaints

**Appendices**

Process chart  
 Complaint form