

# **THE DISCRIMINATION & HARASSMENT PREVENTION PROCEDURE - COMPLAINTS AGAINST STUDENTS**

Authorizer: Vice-President Academic / Student Affairs & Human Resources

Version: V1

Effective Date: 11/25/2020

## **PROCEDURE STATEMENT:**

This procedure outlines the process for dealing with complaints from members of the College community of discrimination and harassment by a student.

## **DEFINITIONS:**

See Harassment and Discrimination Prevention Policy for definitions.

## **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 students are outlined below:

### **College Employees:**

- to review, understand, and adhere to this policy and its procedures;
- to identify and discourage discrimination and harassment
- to promptly report incidents of harassment or discrimination;
- to cooperate in the investigation and/or resolution of complaints pursuant to this Policy;
- contact Security immediately if safety is at risk.

### **Students:**

- to review, understand, and adhere to this Policy and its procedures;
- to identify or discourage discrimination and harassment;
- to promptly report incidents of harassment or discrimination;
- to cooperate in the investigation and/or resolution of complaints pursuant to this Policy;
- contact Security immediately if safety is at risk.

**Student Rights & Responsibilities Office:**

- where possible, support with facilitating informal resolution of harassment and discrimination complaints according to this Policy;
- provide a copy of the Harassment and Discrimination Prevention Policy and Procedures to the complainant, respondent, and other involved parties;
- provide a copy of the Harassment & Discrimination Complaint Form to complainants, when necessary;
- receive the completed Harassment & Discrimination Complaint form which initiates the Formal Complaint process of this procedure;
- investigates or arranges for an impartial investigation of complaints of harassment and discrimination as outlined in the Formal Complaint Process;
- prepares or arranges for the preparation of an investigation report;
- based on the contents of the investigation, will make determinations as to whether or not this or related policies/procedures were breached
- provides the Investigation Report to the decision-making committee;
- provide students with a copy of the Academic Dispute Resolution and Appeals Procedure if the outcome of the decision-making committee affects the students academic status at the college (i.e. suspension, discontinuance);
- ensures orientation for students with respect to this policy.

**Note:** Where a conflict of interest exists within the Student Rights & Responsibilities Office in relation to a complaint under this Policy, the Associate Vice President, Student Affairs or designate shall appoint a suitable alternate to deal with the complaint.

**Decision Making Committee:**

- will review the investigation report and decide on an appropriate resolution and/or sanction

**PROCEDURE:**

The following stages suggest an orderly way to approach the resolution of harassment or discrimination problems. While it is strongly recommended that the stages outlined below be followed in sequence, depending upon your situation, you may decide that it is not possible to use the informal part of this procedure. At that point you may decide to proceed directly to Stage two formal complaint. Please note that failure to report concerning behavior in a timely manner could have an impact on the investigation and remedies available.

**Stage 1- Informal Resolution Process**

Recognizing that it is often in the best interest of all parties, individuals are encouraged, where appropriate, to attempt to resolve the matter themselves. When possible, as the initial step towards its resolution, discuss the complaint with the person whose action gave rise to the complaint. Clearly and directly describe the behaviour that is bothering you, its impact on you and ask the other person to stop. If you are concerned about talking to the other person, consider writing them an email about the concerning behaviour. Remember, there are times

when the person causing the problem is not fully aware of the impact of their actions. A copy of the correspondence should be retained.

If you require assistance in approaching the person who is the source of the unwelcome behavior, or if you are unsure of what to say or do, or if after talking to this person, the offensive behavior continues, you should discuss the situation, in confidence with the following:

- the person who is the source of the behaviour that it is unwelcome (in person or in writing), or
- an employee who is directly involved in the supervision of the activity, or
- the Student Rights and Responsibilities Office
- the College representative to whom you have gone will either give you advice, assistance or a referral. You will be given information regarding the policy and procedure including:
  - your right to file a formal written complaint
  - the availability of Counselling
  - the importance of contacting campus security if you believe that your safety is at risk or threatened
  - the time limits which apply to filing a formal complaint
  - the options available to address a complaint, including facilitated discussion between the parties involved
- the College representative will gather pertinent information including
  - the name and location of the respondent
  - the nature of the complaint
  - the time and date of the complaint
  - and your requested proposed remedy

The College Representative may consult with the Student Rights & Responsibilities Office who will provide advice or recommendations regarding whether it seems, on the face of the information provided, that the complaint falls within the jurisdiction of the policy.

It may be determined that an alternative dispute resolution mechanism is in order. If you and the respondent are agreeable such a mechanism will be put in place.

### **Stage Two -Formal Complaint**

Failing resolution of the complaint through informal means, or if the complaint is unsuitable for informal resolution, you may submit a formal complaint in writing. The formal complaint must be submitted to Student Rights & Responsibilities Office on the Discrimination & Harassment Complaint Form.

Within five business days of receipt of a written complaint, SRR shall acknowledge receipt of the complaint in writing, and inform you whether the complaint falls under the jurisdiction of the policy. If the complaint does not fall under the jurisdiction of the policy, you will be informed in writing that it will not be pursued for that reason.

If it has been determined that the complaint will be pursued under this policy then the SRR will inform the respondent in writing of the complaint, providing a summary of the complaint, and giving the respondent an opportunity to respond to the allegations in a scheduled meeting. A written summary of the meeting will be provided by the SRRO to the respondent for their review and confirmation. The respondent will also receive a copy of this policy as well as be informed of their rights and responsibilities under the policy, including the right to have a representative and the importance of confidentiality and the significance of any threats of reprisal.

If, after the clarification of the submissions from the parties, the complaint has not been resolved, the Student Rights & Responsibilities Office shall facilitate the appointment of an investigator by Conestoga. The investigation shall commence within ten business days of this appointment.

The investigator may:

- interview the complainant and/or the respondent
- interview witnesses suggested by the parties
- interview other witnesses who may provide useful information for the investigation
- gather documentary evidence
- request written statements from parties involved and/or witnesses
- submit, within 30 calendar days from the beginning of the investigation, an investigation report to the Decision-Making Committee.

Note: If required, the investigator may request an extension of this time frame. The parties must be informed if further time to complete the investigation is required. Requests for extension will be sent to the Associate Vice President, Student affairs.

### **Investigation Report/Decision Making Meeting**

The Decision-Making Committee, which may include representatives from Academic Administration, program areas, and Student Affairs, will review the investigation report to ensure that it meets the necessary standards of thoroughness and analysis. If required, the investigator will be asked to provide more information.

### **NOTES:**

- If the committee finds that a complaint was made in bad faith and/or is trivial, frivolous or vexatious, they may determine that action should be taken against the complainant. The severity of the action will be determined based on the seriousness and impact of the complaint.
- If the committee finds that a complaint was made in good faith but is not supported by evidence gathered during the investigation, the complaint will be dismissed and no record of it will be retained on file
- If the committee finds that the complaint is founded, they will progress to determining sanctions.

### **Determining Redress and Consequences**

It is most important to recognize that human rights are restorative rather than punitive in nature. When determining appropriate disciplinary action and corrective measures, the Decision factors such as:

- nature of the harassment or discrimination;
- whether the harassment or discrimination was an isolated incident or part of an ongoing pattern;
- the nature of the relationship between complainant and respondent;
- whether the respondent had been involved in previous discrimination or harassment incidents;
- whether the respondent admitted responsibility and expressed a willingness to change;
- whether the respondent retaliated against the complainant
- the impact of the discrimination or harassment on the complainant
- the type of sanction requested by the complainant.

### **PROCEDURE ADMINISTRATION:**

#### **Costs:**

Conestoga shall be responsible for the costs of the administration of this policy including the costs of any mediation services. All parties retaining legal or any other assistance shall be solely responsible for the cost involved.

#### **Records:**

- All documentation related to complaints made under this policy shall be filed Confidentially with the Student Rights & Responsibilities Office.
- Disciplinary Record Documentation regarding substantiated acts of harassment will be maintained in secure locations which may include the Student Rights & Responsibilities Office and the Security Office.

#### **Policy Review:**

This policy will be reviewed at least every three years, thus ensuring that it addresses the concerns of the Conestoga community, is updated, and adheres to any legislative changes. In the case of a significant revision of the Ontario Human Rights Code, or as a result of finding that a procedure contained in the policy is either contrary to legal practices or inoperable, the policy may be reviewed and revised when appropriate.

#### **Accommodation:**

Conestoga is committed to providing accommodations where needed and requested throughout the complaint process. If you require access to accommodations, please identify this need either to the college representative from whom you've sought support, or directly to the Student Rights and Responsibilities Office.

**REFERENCES:**

Note related policies, procedures, forms, legislation, Ministry or other directives that are pertinent and support the policy. If a procedure or a form is web based, a hyperlink should be provided.

**REVISION LOG:**

|            |                                 |
|------------|---------------------------------|
| 11/18/2020 | Academic Forum                  |
| 11/25/2020 | Academic Coordinating Committee |