College Policy

Policy Group: NC500 – Health, Safety & Security
Policy Title: Harassment & Discrimination (Respectful Environment)

A. Background and Definitions

Niagara College is committed to upholding the provisions of the Ontario Human Rights Code (Code) and the workplace harassment provisions of the Occupational Health & Safety Act (OHSA).

All members of the College community including students, employees, workers, visitors and volunteers, are personally responsible for their behavior and conduct at all times and the College equally expects every member of the College community to conduct themselves in a way which supports the College’s commitment.

This policy applies to all members of the College community and reinforces that all members of the College community are entitled to be free from harassment and discrimination and all members of the College community are prohibited from harassing and discriminating.

This policy applies to all harassment and discrimination occurring on campus; off campus at College related events; in the course of work assignments or placements off campus; and, during work-related travel. It may also apply if harassment and discrimination occur outside the College environment but have an adverse effect on relationships in the workplace/academic learning environment.

Academic Learning Environment is any location where a student is participating as part of their enrolment at the College.

Complainant refers to the person who is reporting an alleged breach of the Harassment and Discrimination (Respectful Environment) policy

Discrimination is any form of unequal treatment, whether intentional or not, that is based on the Code’s “Protected Grounds.”. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of imposing burdens, obligations, or disadvantages, on certain groups of people, or which withholds or limits access to opportunities, benefits and advantages available to other individuals.

Harassment is a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. It can also include behavior that intimidates, isolates or even
discriminates against the targeted individual. Harassment can also result from a serious single comment or action and intent is not necessary to prove the effect of the comment or action.

If the harassment is related to any of the Code’s “Protected Grounds” then the harassment violates the Code and this policy. Examples of this type of harassment include, but are not limited to:

a) inappropriate or insulting remarks, gestures, jokes, innuendoes or taunting about a person based on a Protected Ground;
b) unwanted questions or comments about an employee’s or student’s private life pertaining to a Protected Ground; and/or,
c) posting, displaying materials, or the electronic publication of articles or graffiti etc. that is offensive on the basis of a Protected Ground.

If the harassment does not relate to the Code’s “Protected Grounds” then it may be harassment as defined by the OHSA and violates this practice. Examples of this type of harassment include but are not limited to:

a) making remarks, jokes or innuendos that demean, ridicule, intimidate or offend;
b) displaying or circulating offensive pictures or materials in print or electronic form;
c) bullying;
d) making repeated offensive or intimidating phone calls or emails;
e) gossiping or spreading rumors; and/or
f) belittling an employee’s or student’s opinions.

Harassment does not include reasonable action taken by the College or a Manager relating to the management and direction of workers or the workplace even if there are unpleasant consequences for the employee. Examples include but are not limited to:

a) changes in work assignments or scheduling
b) job assessment and evaluation
c) workplace inspections
d) implementation of dress codes
e) disciplinary action
f) difference of opinion or minor disagreements between students or employees;
g) consensual relationship between students, employees, workers or volunteers (i.e. relationships that are voluntary, mutually acceptable, and where there is no power imbalance between the parties to the relationship).
Manager includes supervisors as defined by the OHSA.

Poisoned Environment is a form of discrimination that can arise from hostile, unwelcoming, insulting or degrading comments or actions being made in the workplace/academic environment based on a Protected Ground, regardless of who the comments or actions are being directed towards. For example: Being subjected to offensive jokes about members of a Protected Group.

Protected Grounds makes reference that every person is protected from discrimination and harassment in: employment; services, goods, facilities; membership in a vocational association; in contracts; and housing because of:

a) race
b) ancestry
c) place of origin
d) colour
e) ethnic origin
f) citizenship
g) creed
h) sex (includes pregnancy and breastfeeding)
i) sexual orientation
j) gender identity
k) gender expression
l) age (for housing, must be 18 years of age unless no longer under parental control)
m) record of offences
n) marital status
o) family status
p) disability
q) receipt of public assistance (for housing only)

Respectful Workplace/Learning Environment is one where all members of the College Community are treated equitably, inclusion is valued, communication is open and civil, conflict is addressed early and there is a culture of empowerment and cooperation.

Respondent refers to the person alleged to have breached the provisions of the Harassment and Discrimination (Respectful Environment) Policy
Sexual Harassment violates both the Code and the OHSA. It is:

a) engaging in a course of vexatious comment or conduct against a member of the college community because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the employee/student and the person knows or ought reasonably to know that the solicitation or advance is unwelcome, or

c) taking or threatening a reprisal against an employee/student who has rejected a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the employee/student.

Examples include but are not limited to:

a) unwanted remarks, jokes, innuendoes or taunting about a person’s body, attire, gender, gender identity, gender expression, or sexual orientation;

b) unwanted physical contact of a sexual nature such as touching, kissing, patting, hugging, or pinching;

c) unwelcome inquiries or comments about a person’s sex life or sexual preference;

d) leering, whistling, or other sexually suggestive or insulting sounds;

e) posting or displaying (including electronic publication of) offensive materials of a sexual nature;

f) unsolicited sexual advances or demands for sexual favours;

g) inappropriate jokes of a sexual nature; and/or,

h) sexual assault (also an offence under the Criminal Code).

Volunteer refers to a person approved by the College who freely offers to take part in an enterprise or undertakes a task free of charge. Members of advisory committees and members of the College’s Board of Governors are considered volunteers under this practice.

Worker refers to a person who performs work or supplies services for monetary compensation and also to students (secondary school, college or university) who perform work or supply services for no monetary compensation under a program-approved work experience placement as defined in the OHSA. All employees and students on unpaid placements at the College are “workers” under the OHSA.
Workplace is any location where any employee is carrying out any work-related function. The meaning of workplace may also be extended if harassment and discrimination occur outside the workplace but has an adverse effect on employee relationships in the workplace.

B. Purpose

Niagara College is committed to ensuring a working and academic environment that recognizes the dignity and worth of all employees and students and in which all individuals are treated with respect.

C. Policy Statements

1. Harassment and discrimination at the College are not and will not be tolerated.

2. The College treats all incidents and complaints of harassment or discrimination seriously, whether they are made informally or formally. The College will act on all incidents and complaints in accordance with Appendix A – Harassment and Discrimination Complaints Procedure to ensure that they are resolved quickly and fairly.

3. Employees who are found to have harassed or discriminated against another individual, who have created a poisoned environment, or managers who do not act properly to end harassment or discrimination may be subject to disciplinary action up to and including termination. This includes any employee who:
   a) interferes with the resolution of a harassment or discrimination complaint;
   b) reprises against an individual for making a harassment or discrimination complaint or participating in the complaint resolution process;
   c) breaches the confidentiality of a harassment or discrimination inquiry or investigation; or,
   d) makes an unfounded harassment or discrimination complaint in bad faith or that is vexatious or frivolous.

4. Students who are found to have harassed or discriminated against an employee, worker or volunteer, or who have created a poisoned environment for an employee, worker or volunteer are subject to disciplinary action up to and including expulsion.
5. Any employee is free to pursue harassment or discrimination complaints at the Ontario Human Rights Tribunal.
   
a) Employees who are part of a bargaining unit may wish to first consult their union and file a grievance under the collective agreement.
b) Full time administrative staff may access their Terms and Conditions of Employment for Administrative Employees.

6. In order to protect the integrity of the process for resolving complaints and to ensure fairness for all participants, all parties to a harassment or discrimination complaint are expected to respect the privacy and confidentiality of all other parties involved and to limit the discussion of a harassment or discrimination complaint to those that need to know.

7. The College will strive to maintain confidentiality in its handling of any incident or complaint of harassment or discrimination. Information obtained about an incident or complaint of harassment or discrimination, including identifying information about any individuals involved will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

8. Roles and Responsibilities. Managers are responsible for:
a) ensuring that no employees are subjected to harassment or discrimination in the workplace;
b) fostering a harassment and discrimination-free work environment and setting an example about appropriate workplace behaviour;
c) dealing with harassment and discrimination situations immediately upon becoming aware of them, whether or not a harassment or discrimination complaint has been made;
d) taking appropriate action during a harassment or discrimination inquiry or investigation;
e) ensuring harassment or discrimination situations are dealt with in a sensitive and confidential manner in accordance with this practice and Appendix A – Harassment and Discrimination (Respectful Workplace) Complaint Procedures.
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9. All College employees (including Managers) are responsible for:
   a) treating others with respect in the workplace/academic environment and working together in a professional and respectful manner;
   b) reporting harassment and discrimination to the individual’s immediate supervisor (or that individual’s supervisor if the immediate supervisor is the person being complained about) or, Human Resources in accordance with Appendix A- harassment and Discrimination (Respectful Workplace) Complaint Procedures;
   c) cooperating and participating with a harassment or discrimination inquiry or investigation in good faith and respecting the privacy of others involved and the confidentiality related to the inquiry or investigation process; and
   d) attending training and information sessions provided by the College to reduce incidents of harassment and discrimination.

10. All members of the College community can expect:
    a) a harassment and discrimination free workplace/academic environment;
    b) that reported harassment and discrimination will be dealt with in a timely, confidential and effective manner;
    c) to be treated fairly under this practice and Appendix A; and
    d) to be protected from retaliation for reporting harassment and discrimination or for participating in an inquiry or investigation.

11. Any member of the College community who feels that his or her rights under the practice have been violated; who witness harassment or discrimination; or who reasonably suspects that an employee or student is being or has been harassed or discriminated against contrary to this policy; is expected to report the incident or make a complaint under the policy, in accordance with this procedure if the individual was unable to speak to the respondent, or speaking to the respondent was unsuccessful.

12. Administration Costs: The College shall be responsible for the costs of the administration of this policy and related procedures including the costs of any mediation or investigation services.

13. Document Retention: Subject to the provisions of the Freedom of Information and Protection of Privacy Act, records pertaining to an Informal Resolution or Formal Complaint, will be held in strict confidence in files separate from any academic or personnel information. Only records of reprimand or discipline will be placed in an individual’s student or personnel file.
In the event of multiple or subsequent allegations, reference may be made to previous complaint files and informal resolutions.

D. Related Documents

Policies:
- NC500 Sexual Assault & Sexual Violence
- NC500 Workplace Violence Prevention
- NC500 Occupational Health & Safety
- NC800 Student Discipline Associated with Disruptive Behavior
- NC800 Student Complaints and Issues
- NC800 Academic Honesty

Procedures:
- NC500 Harassment & Discrimination

Other related documents:
- Ontario Human Rights Code
- Ontario Health and Safety Act
- Student Handbook
- Support Staff Collective Agreement
- Academic Staff Collective Agreement
- Terms and Conditions of Employment for Administrative Staff
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