PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

A. Definitions

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.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

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
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

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).
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

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. Procedure Purpose

The following procedures support the Harassment and Discrimination (Respectful Environment) policy and set out the options available and the processes to be followed in the event that an incident or complaint of harassment or discrimination comes to, or is brought to, the attention of the College.

C. Procedure Statements

1. What do I do if I am being harassed or discriminated against or if I witness or reasonably suspect harassment or discrimination of a student or employee?

If you believe you are being subjected to harassment or discrimination, you are a bystander to discrimination or harassment, or you reasonably suspect that a student or employee is being harassed or discriminated against, you are encouraged to do the following:

Speak to the respondent
This is a voluntary step. If you feel able to do so, it is your right to inform the respondent that the behavior is unwelcome through verbal or written communication or inform supervisor. In many cases, when the respondent is aware that his or her conduct is unwelcome and will not be tolerated, he or she stops and the concerning behavior is resolved. Harassment and discrimination negatively affects everyone. Bystanders are also encouraged to speak up and ask the respondent to stop.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

Some things you can say that might stop the behaviour include;
   a) I don't want you to do/say that
   b) Please stop doing or saying that
   c) It makes me uncomfortable when you do/say that
   d) I don't find it humorous when you do/say that

Document the conduct
Take notes of the offensive conduct by writing down what happened, the time and date(s) when it happened and the names of those who were present. Write down what was said and done by both you and the person whose conduct is alleged to be offensive.

2. Who is expected to report an incident or make a complaint?
Any member of the College community:
   a) who feels that his or her rights under the practice have been violated;
   b) who witnesses harassment or discrimination; or,
   c) 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.

3. Where do I report an incident or make a complaint of harassment or discrimination?
As a member of the College community you have the right to make a report or complaint under the Harassment and Discrimination policy.
   a) If you are a student making a report or complaint contact the Director, Student Services (or designate) by calling 905-735-2211 ext. 7783, who will also contact the Director, Human Resources (or designate) if the report/complaint is against an employee, worker or volunteer.

   b) If you are an employee, worker or volunteer making a report or complaint, contact your Manager and/or Director, Human Resources (or designate) 905-735-2211 ext. 7534 who will also contact the Director, Student Services (or designate) if the report/complaint is against a student.

   c) Any other members of the College community making a report or complaint, contact the Manager, Campus Security (905) 735-2211 ext. 7350.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

d) If the person that you are directed to contact above is the respondent, contact that individual’s supervisor.

Note: In accordance with privacy/confidentiality obligations and to ensure a fair process, do not make your report/complaint to individuals other than those noted above. This obligation does not, however, preclude you from contacting your union, the Ontario Human Rights Tribunal, or law enforcement.

4. What will happen when I report an incident or make a complaint of harassment or discrimination?
The College, through either the Office of the Director, Student Services, the Human Resources Department or the Campus Safety department will conduct an investigation that is appropriate in the circumstances into reported incidents and complaints of harassment or discrimination.

Preliminary Investigation
In each case a preliminary investigation will be undertaken to:

a) Provide the complainant with a copy of the practice and procedures and respond to inquiries;

b) Obtain the summary account of the complainant who brought the matter to the attention of the Office of the Director, Student Services or the Human Resources Department or the Campus Safety department including any attempts to resolve the matter;

c) Ascertain whether the concern raised, falls within the jurisdiction of the policy and, if it does not, advise the complainant of other available avenues of redress, if any;

d) Obtain the account of the complainant alleged to have been harassed or discriminated against if this is someone other than the individual who reported the incident or made a complaint;

e) Inform the respondent of the allegations, provide him or her with a copy of the policy and procedures, respond to inquiries about the process, and summarily obtain his or her account;

f) Investigate the viability of an informal process by discussing the Informal Resolution opportunities with the parties, explaining and offering these options and seeking their voluntary participation in an informal process. Unless the particular facts of the matter dictate otherwise, the College encourages Informal Resolution processes, recognizing that more formal processes can be adversarial and can compromise
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

working and learning relationships in ways that may not serve the complainant who is alleged to have been harassed or discriminated against.
g) Assess whether a Formal Investigation is appropriate.

Informal Resolution
Informal resolution processes are used to resolve concerns and complaints in order to move working and academic relationships forward constructively. They are not used for the purpose of assessing blame or seeking punitive actions against a respondent. In some cases, the College may determine that the matter is too serious to be dealt with informally and may require a formal investigation. Available informal resolution processes include:

a) Management Intervention: where a Manager, Human Resources staff member or Student Services staff member speaks on your behalf to the person you believe is harassing or discriminating against you or another employee or a student with the goal of resolving the issue;

b) Mediation: a neutral person meets with you and the person you believe is harassing or discriminating against you and assists in arriving at a solution to the conflict;

c) Training: in some circumstances training (such as sensitivity awareness training, leadership development or group harassment/discrimination awareness training) can be provided to respondents or the relevant work or academic unit including the person who initiated the complaint and the respondent.

The Office of the Director, Student Services and the Human Resources Department are committed to explaining these options in more detail so that you can request the option which will provide the quickest and most effective resolution of your complaint. The College nevertheless maintains the right to determine the appropriate process to resolve the complaint.

Any informal resolution should be completed within three months of its initiation.

The results of the Informal resolution process will be provided to the parties in writing in accordance with the College’s legal obligations.

5. Formal Investigation
A formal investigation will be undertaken if the informal resolution process is unsuccessful or Director, Students Services and/or the Director, Human Resources determines that a formal investigation is appropriate.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

6. **What is a Formal Complaint and how do I make one?**
   A formal complaint signifies that the person is requesting a formal investigation into his or her complaint. The College will nevertheless discuss informal resolutions options with the person making the request. A formal complaint must be completed in writing and submitted to the Director, Student Services or the Director, Human Resources. The complaint must include:
   a) the name and department and/or program of the complainant (the person making the complaint);
   b) the name and department and/or program of the respondent (the alleged offender);
   c) the time and date of all events being complained about;
   d) a description of the nature of the complaint, detailing the circumstances surrounding the incident;
   e) the names of any witnesses to the events;
   f) attach copies of relevant documents;
   g) the specific section of the policy the complaint falls under;
   h) avenues of resolution exhausted; and
   i) desired solutions.

7. **What is a Formal Investigation and how will it be conducted?**
   A formal investigation involves a neutral individual investigating your formal complaint for the purpose of determining whether harassment or discrimination has occurred.

   A formal investigation will generally be undertaken as follows:

   a) The Director, Student Services (or designate), the Director, Human Resources (or designate) or Manager Campus Safety (or designate) will conduct the investigation or appoint an investigator, which may be an investigator external to the College.

   b) The investigation will include separate interviews with the complainant and the respondent. The investigator will also interview such witnesses as the investigator deems appropriate.

   c) The investigation will be undertaken and completed in a neutral, thorough, fair and timely manner.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

d) The investigator will make findings of fact by determining what was more likely than not to have taken place and will further assess whether or not these constituted harassment or discrimination.

e) The investigator will prepare a written report of his or her findings of fact, assessments and conclusions, and forward the report to the Director, Student Services and/or the Director, Human Resources.

f) The Director, Student Services will decide the appropriate action in respect of students, the Director, Human Resources will determine the appropriate action in respect to employees and the Manager Campus Safety will determine the appropriate action for other members of the College Community. The complainant and the respondent will be advised of the outcome in person and in writing in accordance with the College's legal obligations.

g) Where a complaint is substantiated, a written record of the outcome of the investigation, including corrective action, will be retained on file in the Office of the Director, Student Services and/or the Human Resources Department as per College record retention practices and legal obligations.

h) Where a complaint is not proven, no record of the complaint will be retained in the respondent’s student file or Human Resources file but the investigation file will be retained separately in the Office of the Director, Student Services and/or the Human Resources Department as per College record retention practices.

i) During the course of a formal investigation the College will take reasonable interim measures to ensure the safety and wellbeing of the students and employees involved and the integrity of the investigation process.

8. **What if someone accuses me or makes a complaint against me?**

   If any member of the College community approaches you directly and asks you that you stop engaging in conduct that he or she finds harassing or discriminatory, or tells you that they feel harassed by you, listen carefully, reflect and think before you respond. If you wish, you may tell the person that you would like some time to reflect on their statement and will respond later within a reasonable time frame. You can respond directly to the individual or seek out a member of management, Student Services or the union for assistance.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

If any member of the College community brings a formal or informal complaint against you, you can be assured of the following:

a) You will be advised of the allegations
b) You will be treated fairly and the allegations considered objectively
c) You will have a full opportunity to present your side of the story
d) You will be expected to co-operate fully and in good faith in the investigation process
e) Upon completion of the investigation, you will be advised of the outcome in person and also in writing.

9. **Do I have to participate in an investigation or other processes under the Harassment and Discrimination policy?**
   You are required to participate in an investigation under this practice. The College expects that every member of our Community will cooperate and participate fully in good faith in any investigation. Participation in mediation is voluntary.

10. **Am I able to have someone attend an investigation with me?**
    Yes. Complainants, respondents and witnesses who are unionized may attend an investigation interview with a union representative as a support person. The union representative is expected to maintain confidentiality in respect of the complaint and the investigation.

    Complainants, respondents and witnesses who are students or who are non-unionized may attend an investigation interview with an individual as a support person with the agreement of the investigator who will have the right to assess the appropriateness of the chosen support person in order to protect the integrity of the investigation.

    If the investigator determines that it would be an impediment or otherwise negatively impact the integrity of the investigation for the chosen support person to participate, the investigator retains the right to require the individual to select a different support person.

11. **Do I have to continue to deal with the alleged offender during an investigation?**
    Interim measures may be taken depending on the complaint and, if safety and wellbeing is a concern, individuals may be separated. The College will make every effort to protect complainants and witnesses from retaliation for participating in the investigation process.
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

12. Do I have the right to withdraw my report or complaint?
   Yes, a person who has reported an incident or made a complaint of harassment or discrimination may withdraw the complaint at any stage in the process. The College, however, may be required to continue to act on the issue identified in the report or complaint in order to comply with its legal obligations.

13. Will the complaint, response, content of the investigation and report remain confidential and private?
   All parties to a harassment or discrimination report or complaint are expected to respect the privacy and confidentiality of all other parties involved and to limit discussion to those that need to know in order to protect the integrity of the process and for fairness reasons.

   The College will strive to maintain confidentiality in its handling of any incident or complaint of harassment or discrimination however, confidentiality cannot be guaranteed. 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.

   Confidentiality does not mean anonymity. The respondent will be informed of the identity of the individual who made the allegations in both the informal and formal stages of resolution. In addition, it is often necessary for the identity of the complainant to be identified to third parties for the successful completion of an investigation.

   If the College determines that the safety of an individual or the community is at risk, the procedures outlined in this policy, including confidentiality, may be set aside.

14. What if the complaint is determined to be unfounded?
   If the complaint is not proven, this will be communicated clearly to the complainant and respondent. There will be no negative consequences against any party to the complaint and no record of the complaint will appear in any of the student’s records or employee’s Human Resources file. If, however, the complaint is found to be bad faith, frivolous or vexatious, appropriate disciplinary action may be taken.

15. What if I’m not satisfied by the outcome of my complaint or the way it is being handled?
   Any person who feels that his or her human rights have been violated in the workplace/academic environment, or any complainant who is not satisfied with the outcome of his or her complaint and/or the investigation, may at any time file a complaint directly
PROCEDURE TITLE: Harassment & Discrimination

RELATED POLICY: NC500 Harassment & Discrimination (Respectful Environment)

with the Ontario Human Rights Tribunal. Unionized employees also have the right to file a grievance.

16. **What is the timeframe for making a complaint?**
   It is important that concerns and complaints are made as soon as possible so that the problem does not escalate or happen again. The longer the period of time between an incident and reporting of the incident, the greater the chance that witnesses may be unavailable or will not recall the events and/or the respondent will be able to assert that the delay has compromised his or her ability to properly respond to the complaint.

   In any event, a complaint must be filed within twelve (12) months of the incident being complained of. This time limit may be extended at the College’s discretion in the event of extenuating circumstances.

**D. Forms**

As required.