

## THE DISCRIMINATION & HARASSMENT PREVENTION POLICY

Authorizer: Vice President Academic / Student Affairs & Human Resources

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### **POLICY STATEMENT:**

It is the policy of Conestoga College that all members of the College community have a right to a work and study environment that is free from discrimination and harassment on any of the prohibited grounds in the Ontario Human Rights Code including race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, age, marital status, family status, disability, sexual orientation (and same sex partnership status) and record of offences, as these terms are defined and interpreted in and by the Ontario Human Rights Code.

### **SCOPE:**

This policy applies to all members of the Conestoga College community including students, employees, members of the Board of Governors, members of committees established by the College, volunteers, visitors and guests on campus. This policy covers incidents that occur both on and off College premises, in both real and virtual environments, which affect the College working and/or learning environment. Incidents occurring off campus which have no likelihood of impact on the work/study environment are to be pursued through the Ontario Human Rights Commission or any other relevant legislation but will not be dealt with under this policy.

### **DEFINITIONS:**

**Discrimination:** Action(s) or behaviour(s) creating harmful, adverse or differential treatment related to the prohibited grounds. Common examples are refusal to provide goods, services or facilities, exclusion from employment or employment benefits, refusal to work with, teach, or study with someone and/or failure to provide physical access.

**Harassment:** One or a series of vexatious comments or conduct related to one or more of the prohibited grounds that is/are known or might reasonably be known to be unwelcome, offensive, intimidating, hostile or inappropriate. Included in this definition are behaviours or messages, both verbal and non-verbal, from individuals or groups that, in the determination of

the College, could result in psychological distress, discomfort or feelings of harassment/discrimination to vulnerable populations and/or protected identities. Examples include, among others: gestures, remarks, jokes, taunting, innuendo, verbal assault, hazing, shunning or exclusion related to the prohibited grounds. (Note: While the definition covers a wide range of conduct, violations of the Criminal Code such as threats and/or physical assault will be reported to Security.)

**Sexual Harassment:** A course of vexatious comments, conduct and/or communication based on sex, sexual orientation, gender, gender identity, or gender expression that is known or should have been known to be unwelcome. Sexual harassment includes making unwelcome sexual solicitations, attentions, or advances; the implied or expressed promise of benefits or advancement in return for sexual favors; threats of reprisals for rejecting unwelcome solicitations or advances; engaging in comment or conduct that creates a hostile or poisoned environment to persons of a specific sex, sexual orientation, gender identity, or gender expression; and incidents that occur through electronic means.

(Note: Criminal Code violations, such as sexual assault or stalking, will be handled under the Sexual Assault and Sexual Violence Policy)

**Creed:** Creed refers to religious beliefs and practices. Creed may also include non-religious belief systems that, like religion, substantially influence a person's identity, worldview and way of life. People who follow a creed, and people who do not, have the right to live in a society that respects pluralism and human rights and the right to follow different creeds. Examples include spiritual practices such as prayer, wiccanism, and Indigenous practices and beliefs including ceremonies and smudging.

**Negative or Poisoned Environment:** A series of comments or a pattern of conduct creating an environment that is hostile, intimidating or offensive for individuals or groups related to the prohibited grounds. The comment or conduct must be of a significant nature or degree and have the effect of "poisoning" the work or study environment. A complainant does not have to be a direct target to be adversely affected by a negative environment. Examples include exposure to videos, signs, emails, pictures, group chat platforms, cartoons, and remarks.

**Policy Elaboration:**

As an important part of this policy, the accompanying procedures provide an internal mechanism for receiving complaints of discrimination or harassment and setting out a process

by which the College will manage those complaints. Although the College's procedures are written in the language of an individual complaint, group complaints may be brought under this policy. Similarly, there may be more than one respondent involved in a complaint. One procedure outlines the process for managing complaints against an Employee. A separate procedure outlines the process for managing complaints against a Student. Complaints unrelated to the Human Rights Code against students are to be made under the Student Rights and Responsibilities policy and procedure. Complaints unrelated to the Human Rights Code against employees should be made to the Human Resources Department.

**Timelines:** A complaint, either formal or informal, must be reported within six (6) months of the incident except in extenuating circumstances that would explain the delay. Should a late complaint be filed, the College will assess the extenuating circumstances against any prejudice to a respondent and/or to the College to determine if the matter should proceed through the complaint process.

**Procedural Fairness:** No action will be taken against a person or group without their knowledge where there is an alleged breach of the Human Rights Code. It is intended that they be given reasonable notice, with a summary of the alleged breach and an opportunity to answer to the allegations made.

**Confidentiality:** Conestoga College acknowledges that it may be difficult to come forward with a complaint of discrimination or harassment and recognises a complainant's interest in keeping the matter confidential. To protect the interests of the complainant, the respondent and any others who may be involved, the College will use its best efforts to maintain confidentiality to the extent practicable and appropriate under the circumstances; however, confidentiality does not mean anonymity. In the instance of a formal complaint, a fundamental principle is that the respondent must be informed of who has made the allegations at the earliest possible point in the process. Investigation documents will be stored in a confidential file in Human Resources, in a location separate from the employee's HR file. Investigation documents for complaints against students will be stored in a confidential location in 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 and Responsibilities Office and the Security Office. The file will be maintained in accordance with the College's practices regarding document retention and may be retained indefinitely.

**Exceptional Circumstances:** The College has the right to take action or direct procedures which diverge from sections of this policy when the safety of the individual and/or College community is at risk.

**Parallel Processes:** It is recognised that complaints may be pursued under the Ontario Human Rights Code directly with the Ontario Human Rights Commission or by way of a grievance procedure outlined under the relevant collective agreement.

**Protection from Reprisals, Retaliation or Threats:** It is contrary to this policy for anyone to retaliate, make reprisals or threaten to retaliate or reprise against a complainant or other individual for:

- Having pursued rights under this Policy or the Ontario Human Rights Code;
- Having participated or co-operated in an investigation under this Policy or the Ontario Human Rights Code;
- Having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.

Anyone engaged in such conduct may be subject to sanctions or discipline.

**Balance of Probabilities:** This represents the standard of proof that must be met in order to draw the conclusion that it is more likely than not that the allegation or fact asserted is true, based on sufficient, relative, probative and credible evidence

**Unsubstantiated Complaints:** If a person, in good faith, files a harassment complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed and no record of it will be placed on file.

**Frivolous, vexatious or bad faith conduct:** Allegations of harassment or discrimination are serious matters. Complaints made without sufficient grounds to purposely annoy, embarrass or harm the respondent are considered frivolous, vexatious, or bad faith complaints and may result in sanctions or discipline against the complainant.

**Right to Withdraw a Complaint:** A complainant has the right to withdraw a complaint at any stage of the process. However, the College may continue to act on the issue identified in the complaint in order to comply with its legal obligations under the Ontario Human Rights Code.

**References:**

Ontario Human Rights Code

Occupational Health & Safety Act

Discrimination & Harassment Complaint Procedure Employees

Discrimination & Harassment Complaint Procedure Students

Student Rights & Responsibility Policy and Procedure

Conestoga College Sexual Assault & Sexual Violence Policy and Procedure

Investigation Protocol

Employee Code of Conduct Policy

E-mail, Voicemail, and Corporate calendar Policy and Guidelines

Social Media Guidelines for Conestoga Employees

**REVISION LOG:**

11/18/2020            Academic Forum

11/25/2020            Academic Coordinating Committee