



HUMAN RIGHTS

ADMIN. GUIDELINES

SECTION:

ISSUED:

REVISED:

PAGE:

GENERAL

IV – A

21

NOTE: This policy will replace 21, 24,30 & 31

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NOTE: This policy will replace Northern Lights current policies which include Harassment (21), Investigations of Complaints (24), Violence in the Workplace (30) and Dignity in the Workplace (31).

Purpose/Rationale

Northern Lights College (NLC) is committed to providing a working and learning environment that is free of discrimination, supportive of academic excellence, and one that upholds the dignity, self-esteem and fair treatment of all members of the Northern Lights College Community. The College seeks to create a climate that encourages and values each person's contribution to the development and well being of the community.

Scope/Limits

1. This policy applies to all members of the Northern Lights College Community. The College Community includes the College's Board of Governors, committees, societies, unions and associations, employees (support staff & faculty), students, contractors, service providers, visitors, guests, and applicants for employment.
2. This policy applies to allegations and incidents of discrimination or harassment in the College's employment, educational, business, or other dealings. In order for this policy to apply to incidents occurring off any of the campuses, there must be a connection to the College and a potential for an adverse impact on work or study.
3. All complaints must be made within three (3) months of the last alleged incident. In unusual circumstances, a complaint filed beyond the three-month limitation may be pursued under this policy with the approval of the Director, Human Resources, or in the case of students the Dean responsible.
4. This policy will not prevent an individual from pursuing action through alternate resolution procedures including legal action, however there is no entitlement to duplication of process. This is defined as:
 - a) No action will proceed under this policy if the complaint has already been dealt with through some other process.
 - b) If a complainant makes a complaint under this policy and also pursues the complaint through some other process, proceedings under this policy may be adjourned or terminated as appropriate.
5. This policy is subject to the *Human Rights Code*, the *Freedom of Information and Protection of Privacy Act (FIPPA)*, and laws of general application.

6. This policy and its procedures will not interfere with rights and obligations specified in the current collective agreements between the College and the BCGEU.
7. Nothing in this policy limits the rights of faculty to academic freedom in teaching, research, or in the evaluation of student performance.
8. Nothing in this policy limits the right of the individual to seek legal advice and/or legal representation in the complaint process.

Principles

1. Northern Lights College will not tolerate discrimination or harassment.
2. All members of the College community share responsibility for creating and maintaining a working and learning environment free from discrimination and harassment. This means not engaging in, allowing, sanctioning or ignoring behaviour contrary to this policy.
3. College personnel who supervise employees or classrooms carry the primary responsibility for maintaining a working and learning environment free from discrimination and harassment. They will act on this responsibility whenever necessary, whether or not they are in receipt of a complaint.
4. Those responsible for interpreting, administering, and applying this policy will do so objectively, giving equal regard to the rights of both the complainant and respondent.
5. All members of the College community have a right to bring forward a complaint of discrimination or harassment in instances where they have reason to believe discrimination or harassment have occurred.
6. Complaints that are trivial, frivolous, vexatious, or made in bad faith may result in the College taking action against the complainant.
7. The respondent has the right to know the allegations made against him or her, by whom the allegations were made, and to be given an opportunity to respond to the allegations made.
8. The respondent and the complainant have the right to a fair and timely process of resolution.
9. In appropriate circumstances, the College may direct that a complaint be investigated and/or determined by an external party.

Confidentiality

1. The College and those involved in the complaint process on the College's behalf will maintain confidentiality throughout the complaint process to the extent possible under the circumstances. Personal information pertaining to a complaint will not be disclosed except as required by law.

2. Failure to maintain confidentiality may result in the College taking disciplinary action.
3. If the College, or outside third party, determines that the safety of an individual is at risk the procedures and rights outlined in this policy, including confidentiality may be set aside.
4. Excepting letters of discipline or censure, all records related to the complaint in any way will be held in the strictest confidence in a file separate from an employee's personnel or a student's file either in Human Resources or in the Registrar's office.

A. DEFINITIONS

1. Discrimination

- a) As it applies to College students, discrimination is defined as the denial of any service, facility or opportunity that is customarily available to the public on the grounds of: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age of that person, or criminal or summary convictions unrelated to the educational program except where there is a bona fide and reasonable justification.
- b) As it applies to all College employees, and applicants for employment, discrimination is defined as refusing to employ or to continue to employ a person , or refusing to provide an opportunity, benefit with respect to employment, or any term or condition of employment, on the grounds of: race, colour, ancestry, place of origin, political belief, religion, marital status, family status, sexual orientation, physical or mental disability, gender or criminal or summary conviction unrelated to employment or intended employment except where there is a bona fide occupational requirement (BFOR).

2. Harassment

- a) Harassment is defined as any remarks, behaviour or communication which are known or ought reasonably to be known, to be unwelcome based on race, colour, ancestry, place of origin, political belief, religion, marital status, family status, sexual orientation, physical or mental disability, gender, or age, which cause offence or humiliation to any person and
 - i) submission to the conduct is made explicitly or implicitly a term or condition of employment or the learning environment; or
 - ii) submission to or rejection of the conduct is used as a basis for employment or educational decisions; or
 - iii) the conduct has the purpose or effect of interfering with work or educational performance; or;
 - iv) the conduct creates an intimidating, hostile or offensive educational or working environment.

b) Single acts of sufficient severity may constitute harassment.

3. Sexual Harassment

a) Sexual harassment is defined as one or a series of comments or conduct of a sexual nature that is known or ought to be reasonably known to be unwelcome, offensive, intimidating, hostile, or inappropriate. Sexual harassment includes, but is not limited to:

- i) unwelcome sexual remarks, jokes, including innuendo or taunting about a person's body, attire, gender, or sexual orientation;
- ii) unwelcome or inappropriate physical contact such as touching, kissing, patting, hugging, or pinching;
- iii) unwelcome inquiries or comments about a person's personal life of a sexual nature or sexual preference, or persistent requests for a date;
- iv) leering, whistling, or other suggestive or insulting sounds;
- v) posting or displaying sexually oriented materials;
- vi) requests or demands for sexual favours which include, or strongly imply, promises of rewards for complying and/or threats of punishment for refusal.

b) Single acts of sufficient severity may constitute sexual harassment.

4. Criminal Harassment

Criminal Harassment or "stalking" is a federal offence and generally consists of repeated, unwanted contact or actions carried out over a period of time. These actions cause victims to reasonably fear for their safety but do not necessarily result in physical injury. These actions may, however, be precursors to subsequent violent acts.

While criminal harassment falls outside the scope of this policy, the College is committed to full cooperation with all levels of law enforcement agencies to create an environment free from criminal harassment.

5. Disrespectful Conduct

"Disrespectful Conduct is defined as including any harassing or bullying behaviour directed against another person that a reasonable person knows, or ought to know, would cause offence, humiliation, or intimidation."

Examples of Disrespectful Conduct include;

- Profanity, name calling, yelling, abusive language;
- Verbal or physical threats;
- Malicious gossip or rumor mongering;
- Purposely ignoring questions or requests of colleagues, or withholding information.

Possible Resolution:

As a first step, the individual subjected to the conduct have an informal conversation with the other person(s). In many cases, the person acting

in an offensive way is unaware of the impact the behaviour is having on the other persons. If the parties agree – the matter is resolved.

If the matter is not resolved, the individual (complainant) can file a complaint on the form attached to this policy. The Complainant will indicate the nature of the Disrespectful Conduct.

Any one of the above noted examples can lead directly to an investigation, depending on the seriousness of the offence.

B. GENERAL GUIDELINES REGARDING THE COMPLAINT PROCESS

1. In all instances the parties are encouraged to work toward a mutually satisfactory solution to a complaint. In appropriate circumstances the College will assist in this process through the Conflict Resolution Advisor or the appointment of a mediator agreed to be the parties.
2. Any person involved in the complaint process may seek the assistance of and be represented by his or her union and/or be accompanied by another person of his or her choosing during all proceedings.
3. Either party to a complaint may object to the participation of a person administering this policy on the grounds that the person has a conflict of interest or where there is a reasonable apprehension of bias. Objections to the participation of a person will be made to the Director, Human Resources or his/her designate.
4. Interference with the conduct of the investigation or retaliation or threats of retaliation against any person involved in any way in the complaint process may result in disciplinary action by the College.
5. The College may continue to act on the issue identified in a complaint if it is in the best interests of the College community.

C. GUIDELINES FOR RESOLUTION OF A COMPLAINT

1. **Making a Complaint**
 - a) All complaints under this policy shall be submitted in writing using the Complaint Form (obtained from the link Conflict Resolution Advisor or the HR Department).
 - b) Where an employee is named as a respondent, the complaint must be submitted to the Director, Human Resources.
 - c) When a student is named as the respondent, the complaint must be submitted to the Conflict Resolution Advisor, who will advise the appropriate Dean.
2. **Receipt of Complaint**
 - a) The Director, Human Resources or his/her designate or, the case of student to student complaint, the Conflict Resolution Advisor will

acknowledge receipt of the complaint in writing and within ten (10) working days will inform the complainant whether the complaint will be pursued under this policy, and, if not, the reasons why.

- b) In cases where an allegation is made by a student against a College employee, the Dean/College Administrator will consult with the Director, Human Resources, to determine if the complaint will be pursued.

3. If it is determined that the complaint *will* be pursued under this policy.

- a) The Director, Human Resources or Conflict Resolution Advisor (in the case of a student), will provide a copy of the complaint to the respondent and advise the respondent that he/she is required to provide the Director, Human Resources or the Conflict Resolution Advisor with a written response within ten (10) working days.
- b) The Director, Human Resources or the Conflict Resolution Advisor will also provide the respondent with a copy of this policy and advise the respondent of his/rights and responsibilities.
- c) Where the complainant or the respondent is a member of the faculty or support staff bargaining units, the Director, Human Resources or the Dean/Administrator responsible will also advise that person of his/her right to bargaining unit representation.
- d) Upon receipt of the respondent's response to the complaint and within ten (10) working days, the Director, Human Resources or the Dean/Administrator responsible will provide a copy of the respondent's response to the complainant.

4. If it is determined that the complaint *will not* be pursued

- a) The Director, Human Resources or the Dean/Administrator responsible will inform the respondent in writing that a complaint has been made but will not be pursued further under this policy.
- b) The information provided will include the reasons for not pursuing the complaint and a statement that no response to the complaint is required. If the respondent is an employee, the College will, at the employee's request, record the disposition of the complaint in the employee's personnel file.

5. Meeting with the Complainant and Respondent

- a) The Director, Human Resources or the Conflict Resolution Advisor will meet with the complainant and respondent separately to clarify details of their submissions where necessary and identify the steps that have been taken to attempt to resolve the matter.
- b) In all instances the Director, Human Resources or the Conflict Resolution Advisor will work towards a mutually satisfactory solution to the complaint and where appropriate may with the approval of the parties appoint a

mediator to assist the parties to come to a mutually satisfactory resolution to the complaint.

6. Appointment of an Investigator

- a) The Director, Human Resources or the on the recommendation of the Dean/Administrator responsible may appoint an investigator to engage in a determination of facts. The investigation will commence within ten (10) working days of the appointment or the availability of the named investigator, which ever is sooner.
- b) The Investigator will, wherever possible, submit a written report to the Director, Human Resources within fifteen (15) working days from the beginning of the investigation.
- c) In conducting an investigation, and as appropriate, the Investigator will:
 - i) interview the complainant and respondent;
 - ii) interview witnesses, if any;
 - iii) Gather all available relevant evidence using legally permissible means.
- d) The investigator's report will not be introduced as evidence in any arbitration or legal proceeding. This does not prevent the parties from reaching an Agreed to Statement of Facts based upon the facts in the report for submission at arbitration.

7. Determination of Findings For an Employee Respondent

- a) A statement of findings will be provided by the Director, Human Resources to the complainant and respondent which may:
 - i) make a finding of facts;
 - ii) decide if, on the facts, it has been determined that an incident of discrimination or harassment occurred;
 - iii) dismiss the report;
 - iv) make recommendations to the College regarding what, if any, further action should be taken;
- b) If it is determined that the respondent has not discriminated or harassed the complainant, the complaint will be dismissed.
- c) If it is determined that the respondent has harassed or discriminated against the complainant, appropriate disciplinary action may be taken by the College, up to and including dismissal. Faculty and Support staff members have the right to grieve disciplinary action, if any, in accordance with the applicable Collective Agreement.

8. Determination of Findings for a Student Respondent

- a) A statement of findings will be provided by the Dean responsible, to the complainant and respondent which may:
 - i) make findings of fact;

- ii) decide if, on the facts, an incident of discrimination or harassment has occurred;
 - iii) dismiss the complaint;
 - iv) Make recommendations to the College regarding what, if any, further action should be taken.
- b) If it is determined that the respondent has not discriminated or harassed the complainant, the complaint will be dismissed, and a copy of the statement of findings will be provided to the complainant and respondent.
 - c) If it is determined that the respondent has harassed or discriminated against the complainant, appropriate disciplinary action may be taken by the College, up to and including suspension from the College. A copy of the statement of findings will be placed on the respondent's file.

D. THIRD PARTY DETERMINATION

1. College Employees

- a) If either party to a complaint is dissatisfied with the decision of the Director, Human Resources, he/she may have the case referred to a third party arbitrator appointed by mutual agreement of the parties.
- b) The arbitrator will hear the case on its merits and determine whether discrimination or harassment has occurred and what if any, remedial action is justified in the circumstances.
- c) The decision of the arbitrator shall be final and binding on all parties involved.

2. College Students

- a) If either party to a complaint is dissatisfied with the decision of the Dean or recommendation of the Conflict Resolution Advisor, he/she may appeal the decision as outlined in the "Student Handbook" – under Student Appeals.

E. POLICY ADMINISTRATION

Costs

Northern Lights College will be responsible for the costs of administration of this policy. If it is determined that a complaint is fraudulent, vexatious, or frivolous, the College reserves the right to seek indemnification from the complainant for costs incurred in pursuing the complaint.

F. LEGISLATIVE REFERENCES

- *Canadian Charter of Rights and Freedoms*
- *Human Rights Code RSBC 1996 c.210, Part 1*
- *Civil Rights Protection Act RSBC 1996 c. 49*
- *Multiculturalism Act RSBC 1996 c. 52 s.26*

- *Colleges and Institutes Act RSBC c. 52 s.26*
- *Criminal Code of Canada Consolidated Statutes and Regulations 1193 c.-46 s.264*

G. COLLECTIVE AGREEMENT REFERENCES

- *Faculty Common Agreement / Article2*
- *BCGEU Local 7.10 – NLC support / Article 1.07*

H. LINKS TO RELATED POLICIES

- Student Handbook p.p. 12-13
- Conflict of Interest

A. Complainant's Name: _____

Address: _____

Student Staff Faculty Other

Department/Program: _____ Campus _____

B. Respondent's Name: _____

Address: _____

Student Staff Faculty Other

Department/Program: _____ Campus _____

C. Section of the Policy that this complaint is being filed under:

D. In your own words, and in the space provided below, please indicate the details of your complaint under the Human Rights Complaint Policy and Procedure. *If you would like to provide a more detailed description, please attach to this form.*

Please describe any actions that you have taken to try to resolve this problem.

What do you require to resolve this complaint?

Signature of complainant: _____

Date: _____

To determine whom to submit this form to, please refer to the Human Rights Policy, Section C, No. 1, p. 6.

Please note that **this document and any attachments to it** that you provide in the course of filing a complaint is held in confidence by the College. The complaint form and its attachments will be disclosed to the respondent named in the complaint and to the investigator, adjudicators and mediators appointed to assist with the resolution of this complaint, as outlined in the policy procedures. **Your signature confirms that you have been made aware and give permission for the above use of this information.**