COLLEGE POLICY

Policy No. & Title:	**P-103 Anti-Violence, Harassment & Discrimination**
Policy Sponsor:	Vice President, People & Culture and Career Services
Reference Cmtee:	Policy & Procedure Committee
Effective:	2023-07-01
Next Review:	2027-07-31

Purpose

College members have a right to work and study in an environment that is free from any form of violence, harassment and/or discrimination. The College has **zero tolerance** for violence, harassment and/or discrimination in all its forms.

What one person finds offensive, others may not. Usually, harassment can be distinguished from normal, mutually acceptable socializing. It is important to remember ***it is the perception of the receiver*** of the potentially offensive message - be it spoken, a gesture, a picture or some other form of communication which may be deemed objectionable or unwelcome - that determines whether something is acceptable or not. The College is committed to creating a safe and positive space where individuals feel able to work and learn in an environment free from violence, harassment and/or discrimination.

Against this background, this policy seeks to prevent Violence, Harassment and Discrimination through proactive measures, and to ensure that the College effectively addresses and responds to reports of Violence, Harassment and Discrimination. The College will not tolerate violence as defined under applicable provincial health & safety legislation/regulation and College policy, and harassment, including sexual harassment, misconduct, and discrimination, which is prohibited by human rights legislation, and College policy. Any College member that engages in objectionable conduct or violence is subject to discipline up to and including termination of employment, or expulsion.

Scope

This policy applies to all College students, employees (regardless of position and location of work), delivery partners, affiliates, volunteers, and contractors. This policy also applies to members of the public, and any other individuals that College members may come into contact with within the workplace, on-campus, or off-campus.

This policy has been developed in accordance with the respective provincial health & safety legislation and any applicable regulations, and human rights legislation:

- New Brunswick: *Occupational Health and Safety, New Brunswick Regulation 91-191, New Brunswick Human Rights Act*
- Nova Scotia: *Occupational Health and Safety Act, and Violence in the Workplace Regulation, Nova Scotia Human Rights Act*

• Ontario: *Occupational Health & Safety Act* (OHSA), *Ontario Human Rights Code* (Code)

All legislated changes impacting this policy will be incorporated into the College's policy through updates on an ongoing basis. The policy will be reviewed annually in accordance with applicable legislation.

Provincial Definitions
The definitions in this Policy are applicable to all individuals as defined under the **Scope** section of this Policy.

Violence
New Brunswick –

Workplace Violence: The following is the definition of violence in the New Brunswick Regulation 91-191 under the *Occupational Health and Safety Act.*

"Violence", in a place of employment, means the attempted or actual use of physical force against an employee, or any threatening statement or behaviour that gives an employee reasonable cause to believe that physical force will be used against the employee, and includes sexual violence, intimate partner violence and domestic violence;

Some examples are statements or behaviour threatening physical force against an employee, arguments, property damage, sabotage, pushing, physical assault, and anger-related incidents.

"Intimate partner violence" means violence committed against a person by another person who is or has been in an intimate personal relationship with the person and includes the following:

a) abusive, threatening, harassing or violent behaviour used as a means to psychologically, physically, sexually, or financially coerce, dominate, and control the other member of the relationship; and
b) deprivation of food, clothing, medical attention, shelter, transportation, or other necessities of life.

Nova Scotia –

Workplace Violence: The following is the definition of violence in the Violence in the Workplace Regulation under Section 82 of the *Occupational Health and Safety Act*.

Violence means any of the following:

a) threats, including a threatening statement or threatening behaviour that gives an employee reasonable cause to believe that the employee is at risk of physical injury,
b) conduct or attempted conduct of a person that endangers the physical health or physical safety of an employee.

Ontario –

Workplace Violence: The following is the definition of workplace violence under the OHSA. Workplace Violence means,

a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker. ("violence au travail") R.S.O. 1990, c. O.1, s. 1 (1); 1993, c. 27, Sched.; 1994, c. 24, s. 35; 1994, c. 25, s. 83 (1); 1997, c. 16, s. 2 (1-3); 1998, c. 8, s. 49; 2009, c. 23, s. 1; 2009, c. 33, Sched. 20, s. 3 (1); 2011, c. 11, s. 1.

Workplace violence can take many forms; these include but are not limited to the following.

- Physical acts, physical attacks, or assaults (e.g.,shaking fists, hitting, shoving, pushing, kicking, throwing an object at others, kicking or throwing objects, or trying to run down an individual using a vehicle or equipment such as a forklift).
- Any threat, behaviour, or action (verbal or written) which is interpreted to carry the potential to harm or endanger the safety of others, results in an act of aggression or destroy or damage property.
- Property damage – theft, destroying property, vandalism, sabotage of equipment or arson.
- Disruptive behaviour that is not appropriate to the learning or working environment (e.g., yelling, swearing).
- Bullying, intimidation, or marginalizing (i.e., showing a lack of respect).
- Road "rage" or any work-related travel incidents.
- Psychological trauma – includes stalking.
- Sexual assaults, including rape.
- Murder.

Right to Refuse Work: The OHSA also states the following:

- Section 43 (3) - Workers are permitted to refuse work if they have a reason to believe that "workplace violence is likely to endanger himself or herself."
- Section 43 (6) - Workers are permitted to refuse work if they have reasonable grounds to believe that: "workplace violence continues to be likely to endanger himself or herself."

Domestic Violence: A person who has a personal relationship with College employee or a student – such as a spouse or former spouse, current or former intimate partner or a family member – may physically harm, or attempt or threaten to physically harm, that individual. If such violence occurs while at the College, domestic violence is considered school violence.

Harassment & Discrimination

New Brunswick –

Harassment & Discrimination: The following is the definition of harassment in the New Brunswick Regulation 91-191 under the *Occupational Health and Safety Act.*

"Harassment", in a place of employment, means any objectionable or offensive behaviour that is known or ought reasonably to be known to be unwelcome, including bullying or any other conduct, comment or display made on either a one-time or repeated basis that threatens the health or safety of an employee, and includes sexual harassment, but does not include reasonable conduct of an employer in respect of the management and direction of employees at the place of employment.

Differences of opinion or minor disagreements are not generally considered to be workplace harassment.

Protected Grounds of Harassment & Discrimination: The New Brunswick Human Rights Act prohibits harassment (including bullying) and discrimination based on any of the following protected grounds under Section 2.1:

> 2.1 (a-p) The grounds of protection are: race, colour, national origin, place of origin, ancestry, creed or religion, age, family status, marital status, sex (including pregnancy), sexual orientation, gender identity, gender expression, physical or mental disability, social
> condition (which includes source of income, level of education and occupation) and political belief or activity. Situated under separate provisions, the Act also protects individuals against sexual harassment (New Brunswick Human Rights Commission, 2017).

Exceptions (Section 2.2)

> 2.2 Despite any provision of this Act, a limitation, specification, exclusion, denial or preference on the basis of a prohibited ground of discrimination is not a discriminatory practice if the Commission has determined that it is based on a bona fide requirement or qualification that justifies the difference.

Discrimination: Discrimination is defined as the following under Section 4 of the *New Brunswick Human Rights Act:*

Discrimination in Employment (Section 4)

4.(1) No person shall, based on a prohibited ground of discrimination,

a) refuse to employ or continue to employ any person, or
b) discriminate against any person in respect of employment or any term or condition of employment.

Exceptions (Section 4, Subsection 6)

4.(6) The provisions of subsections (1) as it relates to age do not apply to

c) the termination of employment or a refusal to employ because of the terms or conditions of any bona fide retirement or pension plan,
d) the operation of the terms or conditions of a bona fide retirement or pension plan that have the effect of a minimum service requirement, or
e) the operation of terms or conditions of a bona fide group or employee insurance plan.

Nova Scotia –

Harassment & Discrimination: The following is the definition of harassment (or harass) under the Nova Scotia Human Rights Act.

Harass means to engage in a course of vexatious conduct or comment that is known or ought reasonably to be known to be unwelcome.

Protected Grounds of Harassment & Discrimination: The *Nova Scotia Human Rights Act* prohibits harassment and discrimination based on any of the following characteristics, in all areas of public life:

> 5. (1) (h-v) Age, race, colour, religion, creed, ethnic, national, or aboriginal origin, sex (including pregnancy and pay equity), sexual orientation, physical disability, mental disability, family status, marital status, source of income, irrational fear of contracting an illness or disease, association with protected groups or individuals, political belief, affiliation or activity, gender identity and gender expression (Nova Scotia Human Rights Act, 2013).

As per Section 5 (2) and (3) of the *Act:*

> 5. (2) No person shall sexually harass an individual.
> 5. (3) No person shall harass an individual or group with respect to a prohibited ground of discrimination. 1991, c. 12, s. 1; 2007, c. 41, s. 2; 2012, c. 51, s. 2

Discrimination: Discrimination is defined as the following under Section 4 of the Nova Scotia Human Rights Act:

Meaning of discrimination (Section 4)

> 4. For the purpose of this Act, a person discriminates where the person makes a distinction, whether intentional or not, based on a characteristic, or perceived characteristic, referred to in clauses (h) to (v) of subsection (1) of Section 5 that has the effect of imposing burdens, obligations or disadvantages on an individual or a class of individuals not imposed upon others or which withholds or limits access to opportunities, benefits and advantages available to other individuals or classes of individuals in society. 1991, c. 12, s. 1

Exceptions (Section 6)

6. Subsection (1) of Section 5 does not apply,
(e) where the nature and extent of the physical disability or mental disability reasonably precludes performance of a particular employment or activity;
(f) where a denial, refusal or other form of alleged discrimination is
(i) based upon a bona fide qualification,
(ia) based upon a bona fide occupational requirement; or
(ii) a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society;
(g) to prevent, on account of age, the operation of a bona fide pension plan or the terms or conditions of a bona fide group or employee insurance plan;
or,
(i) to preclude a law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or classes of individuals including those who are disadvantaged because of a characteristic referred to in clauses (h) to (v) of subsection (1) of Section 5. 1991, c. 12, s. 1; 2007, c. 11, s. 1.

Ontario –

Harassment & Discrimination: The following is the definition of harassment under the Code. The definition of harassment used in the OHSA is the same definition as the Code.

Harassment means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

For harassment to occur under the Ontario Human Rights Code, it has to fall under one of the prohibited grounds outlined in Section 5 (1) and (2) of the Code:

Employment

5. (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 5 (1); 1999, c. 6, s. 28 (5); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (5); 2012, c. 7, s. 4 (1).

Harassment in employment

5. (2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 5 (2); 1999, c. 6, s. 28 (6); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (6); 2012, c. 7, s. 4 (2).

For harassment to occur under the OHSA, it does not have to fall under one of the prohibited grounds. This type of harassment can be referred to as **"Personal Harassment"** which is most often considered bullying, or emotional or psychological harassment.

Harassment can take many forms; these include but are not limited to the following:

- *Verbal:* repeated sexual innuendoes, obscene language or abusive or insulting words, bullying, gossiping, racial or sexual epithets, derogatory slurs, inappropriate or practical jokes, taunts, propositions or unwelcome invitations, threats, abuse of authority that undermines someone's performance or threatens their career, suggestive or insulting sounds or inappropriate or unwelcome comments about a person's body, physical appearance or attire or other personal characteristics.
- *Visual/Non-Verbal:* derogatory posters, e-mails, postings on social media sites, cartoons, or drawings; suggestive objects or pictures, graphic commentaries, leering or obscene gestures.
- *Physical*: unwanted physical contact including touching, interference with an individual's normal work movement, assault, or molestation.
- *Communication Systems*: attainment and/or distribution of any related information on
- the internet (including social networking sites), computers and laptops, handheld devices (including but not limited to smart phones), iPhones, iPods, cell phones, PDA's (personal digital assistants), iPads, software, two-way communication devices or voicemails.
- *Other:* making or threatening reprisals as a result of a negative response to harassment.

Racial/Ethnic Harassment: Any conduct or comment which causes humiliation to an individual because of their racial or ethnic background, their colour, place of birth, citizenship, or ancestry. Examples of conduct which may be racial or ethnic harassment include:

- Unwelcome remarks, jokes, or innuendos about a person's racial or ethnic origin;
- Colour, place of birth, citizenship, or ancestry;
- Displaying racist or derogatory pictures or other offensive material;
- Insulting gestures or practical jokes based on racial or ethnic grounds which create awkwardness or embarrassment;
- Refusing to speak to or study/work with someone or treating someone differently because of their ethnic or racial background.

Discrimination: Discrimination is not defined in the Code but usually includes the following elements:

- not individually assessing the unique merits, capacities, and circumstances of a person,
- instead, making stereotypical assumptions based on a person's presumed traits, and/or
- having the impact of excluding persons, denying benefits, or imposing burdens.

Many people wrongly think that discrimination does not exist if the impact was not intended, or if there were other factors that could explain a particular situation. In fact, discrimination often takes place without any intent to do harm. And in most cases, there are overlaps between discrimination and other legitimate factors. (*Human Rights at Work-2008 Edition Note: the above wording and format has been taken from this publication)*

Cross Provincial Definitions

Abuse of Authority: This policy is not intended to limit or constrain the reasonable exercise of management functions in the workplace including but not limited to administering discipline, managing performance, counseling and/or coaching, as long as these are not being done in a harassing or discriminatory manner. An abuse of authority occurs when a person uses authority unreasonably to interfere with an employee or the employee's job, or with a student or the student's study environment. It includes humiliation, intimidation, threats, and coercion.

Poisoned Workplace Environment: A poisoned workplace environment is created by comments or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of management) that create a discriminatory or harassing workplace environment such that it can be said that it has become a term and condition of one's employment to have to be in such a workplace. The comments or conduct need not be directed at a specific individual, and may be from any individual, regardless of position or status. A single comment or action, if sufficiently serious, may create a poisoned workplace environment. Conduct that creates or contributes to the creation of a poisoned workplace environment will not be tolerated at the College and employees or students found to have engaged in such acts will be subject to discipline up to and including termination, or expulsion.

Workplace: A workplace includes all locations where business, social or College activities, programs, and services are conducted (including business or College-related events and activities on campuses, campus facilities/services, and off-campus). It would also include all correspondence on any College owned communication systems and devices and on any social media site. Further, a workplace may also include incidents when employees are travelling during working hours or incidents that happen away from work if the individuals involved are employees of the College. This may include any incidents on any personal social media sites.

• For the purposes of this policy, violence, harassment, discrimination, or bullying can occur:

- At a College location;
- At employee/student-related social functions;
- At internship/placement/work-learning locations outside the College;
- Over the telephone if the conversation is College-related; or
- Elsewhere, if the person is there as a result of employee/student-related responsibilities or an employee/student-related relationship.

College members: All individuals included in the scope of this Policy. May include both students and employees.

Complainant: The person who has made a complaint about other individual(s) who they believe committed an act of violence, discrimination, or harassment against them.

Respondent: The person who has been accused of committing an act of violence, discrimination, or harassment.

POLICY

Principles

- The College has zero tolerance for violence, harassment and/or discrimination in all its forms.
- The College commits to:
  - Being knowledgeable of all related legislation.
  - Training College employees on this policy.
  - Taking all reasonable precautions to prevent violence, harassment (including sexual harassment) and/or discrimination.
  - Building and maintaining a safe space and respectful workplace culture/study environment where employees and students feel able to work and learn in an environment free from violence, harassment and/or discrimination.
  - Acting immediately if incidents of violence, harassment and/or discrimination are observed. Acting immediately to investigate all reported incidents of violence, harassment and/or discrimination to the best of the College's ability in a prompt, confidential and impartial manner.
  - Assisting those who have experienced violence, harassment and/or discrimination by providing choices, including detailed information and support, such as the provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation.
  - Ensuring that those who disclose they have been subject to violence, harassment and/or discrimination are taken seriously, and that their right to dignity and respect is protected throughout the process of disclosure, investigation, and institutional response.
  - Ensuring that internal investigation procedures are available in the case of violence, harassment and/or discrimination, even when the individual chooses not to make a report to the police.
  - Using appropriate conflict communication skills to de-escalate a situation.
  - Managing the conflict where appropriate and necessary and then if possible, assisting in solving the problem or situation.
  - Respecting the freedom, rights and dignity of others and refraining from initiating or being party to any behaviour. Contributing to the creation of a college atmosphere in which violence, harassment and/or discrimination is not tolerated.
  - Administrating any disciplinary actions that are required or expulsion.

- Informing College members that they have the right to file a complaint directly with the respective provincial governing body for human rights legislation and/or occupational health & safety legislation or report it directly to the local police authorities or take any other course of action.
- Participating in the workplace violence risk assessment process.

- The employee/student responsibilities are:

- Building and maintaining a respectful workplace culture/study environment by promoting and respecting the freedom, rights, and dignities of others. Refraining from initiating or being party to any behaviour or creating a workplace atmosphere/study environment that could constitute harassment (including sexual harassment), discrimination, and/or result in workplace violence.
- Complying with this policy.
- Attending training.
- Discouraging and reporting either verbally or in writing any instances of workplace violence, harassment, and discrimination
- Using appropriate conflict communication skills to de-escalate a situation.
- Ensuring confidentiality once a complaint has been made either verbally or in writing.
- Participating fully in all investigations of allegations of workplace violence, harassment, and discrimination.
- Participating in the workplace violence risk assessment process.

Application

1) Nothing in this Policy should be construed to limit freedom of expression as provided by law, provided such activities are orderly, do not disrupt College operations, and do not unreasonably interfere with the right of other members of the College to use and enjoy the College's learning and working environment and facilities (both on- and off-campus).
2) The College is committed to providing a safe and healthy study environment free from violence, threats of violence, discrimination, harassment, intimidation, and any other misconduct.
3) Weapons are strictly prohibited from the College's premises and violators will be subject to disciplinary action and the incident will be reported to the police.
4) Anyone knowingly making a false complaint of violence, harassment, or discrimination or providing false information about a complaint are subject to disciplinary and/or corrective action, up to and including termination or expulsion.
5) All College members are personally accountable and responsible for enforcing this policy and must make every effort to prevent violence, discrimination, or harassing behaviour and to intervene immediately if they observe a problem or if a problem is reported to them.
6) Records of all formal and informal resolutions, meetings, and reviews of violence, harassment, or discrimination will be securely retained by the College.
7) In cases where criminal proceedings are forthcoming, the College will assist police agencies, lawyers, insurance companies, and courts to the fullest extent.

8) If an individual has a legal court order (e.g., restraining order, or "no-contact" order) against another College member, the individual must supply a copy of that order to their Campus Director/Remote Education Director. The College will decide to contact legal counsel or outside assistance to determine what steps will need be taken to protect the College and College members.
9) If it is determined that a College member has been involved in violent behaviour, unacceptable conduct, personal harassment, or discrimination, immediate disciplinary action will be taken, up to and including termination or expulsion.
10) In the case of an imminent threat of violence to themselves or any person, College members are responsible to immediately move to a safe location and contact 911.
11) The College will protect the privacy of the individuals involved and to ensure that Complainants and Respondents are treated fairly and respectfully. The College will protect this privacy so long as doing so remains consistent with the enforcement of this policy and adherence to the law. Neither the name of the person reporting the facts nor the circumstances surrounding them will be disclosed to anyone whatsoever unless such disclosure is necessary for an investigation or disciplinary action. Any disciplinary action will be determined by the College and will be proportional to the seriousness of the behaviour concerned. The College will also provide appropriate assistance to any individual who is subject to violence, harassment, or discrimination.
12) Counseling, performance reviews, assessments, performance coaching, and the implementation of disciplinary actions is not a form of personal harassment or abuse of authority (refer to definition above), and the policy does not restrict a College administrator's responsibilities in these areas.

Related Policies
P-105 Sexual Harassment, Sexual Misconduct & Sexual Violence Prevention

Supporting Documents/Forms
Ontario Occupational Health & Safety Act-Part III.0.1
Ontario Human Rights Code,
New Brunswick Regulation 91-191 under the Occupational Health & Safety Act, Part XXII.I Violence and Harassment Codes of Practice
New Brunswick Human Rights Act, 2011
The Nova Scotia Violence in the Workplace Regulations under Section 82 of the Occupational Health & Safety Act
Nova Scotia Human Rights Act, 1989
P-103p Anti-Violence, Harassment & Discrimination Procedure