
SECTION A: POLICY

Policy Statement:

Assiniboine Community College is committed to providing a safe and respectful workplace and learning environment where all members of the College Community are free from discrimination, harassment and personal harassment (bullying).

The College will endeavor to prevent discrimination and harassment by educating students and staff about their rights and responsibilities under this Policy; delivering relevant training; providing early assistance to resolve interpersonal conflicts; and by taking reasonable steps to prevent further harassment once it becomes aware of any allegations of disrespectful or harassing behaviour.

This Policy is not intended to discourage or prevent anyone from exercising any other legal rights they may have pursuant to other law, including the right to file a complaint with the Manitoba Human Rights Commission or Manitoba Workplace Safety and Health.

All members of the College Community, and particularly those in positions of leadership and authority, share the responsibility of maintaining a climate of respectful behavior and addressing any situations where respect is lacking.

1. Scope of the Policy

This Policy applies to all staff, students and third parties (including but not limited to contract workers, volunteers, and visitors) on campus or in any situation related to employment and/or learning with the College. Compliance with this Policy shall be a term of all contracts and agreements with the College and is a condition of access to the College.

The Human Rights Code (Manitoba) applies to the College as both a “workplace” and a “service to the public.” “Workplace” is broadly interpreted by the Manitoba Human Rights Commission and would include:

- any location where the business of the College is being carried out (e.g. classrooms, offices, regional and extension centers, work/co-op placements, cafeterias, gyms, parking lots, etc.)
- other locations and situations such as during travel, college related social gatherings, or other locations where the prohibited behaviour may have a subsequent impact on the work/learning relationship, environment, or performance.

2. Definitions

2.1 Complainant: The individual or group who reports a potential incident of discrimination, harassment or personal harassment (bullying).

2.2 Respondent: The person or group of people alleged to have committed the discrimination, harassment or personal harassment (bullying).

2.3 Manager: For employees, “manager”, as outlined in this Policy, refers to the immediate reporting supervisor. For students, “manager”, as outlined in this Policy, refers to the Vice-President Academic or designate.

2.4 Respectful College Coordinator: The person designated by the College to provide information about discrimination and harassment. This person will oversee the administration of this Policy. This person is impartial and is not an advocate for either the complainant or the respondent. This person will review possible contraventions of this Policy; will work with all parties to try to resolve issues informally or through a formal investigation. The role of the Respectful College Coordinator is more fully defined in Sections A6 and B2.

3. Discrimination and Harassment

3.1 Protected Characteristics as defined by The Human Rights Code

The following protected characteristics will apply to subsections 3.2 (Discrimination) and 3.3 (Harassment):

- ancestry, including colour and perceived race
- nationality or national origin
- ethnic background or origin
- religion or creed, or religious belief, religious association or religious activity;
- age
- sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy
- gender identity *
- sexual orientation
- marital or family status
- source of income
- political belief, political association or political activity
- physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device
- social disadvantage

*The College recognizes “gender expression” as being innately recognized under “gender identity”

3.2 Discrimination

The College adopts the definition of discrimination as per *The Human Rights Code*:

- differential treatment of an individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit; or
- differential treatment of an individual or group on the basis of any protected characteristic; or

- differential treatment of an individual or group on the basis of the individual's or group's actual or presumed association with another individual or group whose identity or membership is determined by any protected characteristic; or
- failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any protected characteristic

3.3 Harassment

The College adopts the definitions of harassment set out in *The Human Rights Code* and *Manitoba Workplace Health and Safety Regulations* with respect to harassment, sexual harassment and personal harassment (bullying).

3.3.1 Harassment is defined by *The Human Rights Code* as follows:

- a course of abusive and unwelcome conduct or comment based on a protected characteristic; or
- a series of objectionable and unwelcome sexual solicitations or advances; or
- a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance, if the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or
- a reprisal or threat of reprisal for rejecting a sexual solicitation or advance

3.3.2 *Manitoba Workplace Safety and Health Regulation #217* more broadly defines personal harassment as:

- objectionable conduct that creates a risk to the health of a worker; or
- severe conduct that adversely affects a worker's psychological or physical well-being

Conduct is considered to be “objectionable” if it is based on any of the protected characteristics outlined in *The Human Rights Code (Manitoba)* and also includes comments made about appearance, physical size, or weight. Conduct is considered “severe”, if it could reasonably cause a worker to be humiliated or intimidated and is repeated, or in the case of a single occurrence, has a lasting, harmful effect on a worker.

Personal harassment or bullying is not based on any of *The Human Rights Code's* protected characteristics. *Manitoba Workplace Safety and Health's Regulation #217* includes sexual harassment, as per *The Human Rights Code*).

4. Examples of Discrimination, Harassment, and Personal Harassment (Bullying)

4.1 Examples of harassment or discrimination based on the protected characteristics include, but are not limited to:

- derogatory written or verbal comments and gestures such as name-calling, slurs, graffiti, cartoons/pictures, or jokes relating to any of the protected characteristics
- evaluations or grading that is impacted by any of the protected characteristics
- behaviours stating or implying abilities or inabilities based on any of the protected characteristics

- applying stereotypes or generalizations based on any of the protected characteristics
- not allowing a person with a service animal into a College building or activity because dogs are not allowed
- preventing a mother from breastfeeding or mandating that she cover herself while doing so
- inappropriate questions or sharing of information based on someone's actual or perceived sexuality, sexual orientation, gender identity or gender expression
- refusing to call someone by their chosen name or gender pronoun

4.2 Examples of sexual harassment covered under this Policy include, but are not limited to:

- sexist remarks, jokes, innuendoes or taunting of another person's body, appearance or clothing
- displaying pornographic or sexually explicit pictures or material
- persistent or unwelcome invitations or requests for dates
- leering, ogling, or other sexual gestures
- nonconsensual touching
- sexual violence

4.3 Examples of personal harassment/bullying covered under this Policy include, but are not limited to:

- written or verbal abuse or threats
- leering or other offensive gestures
- patronizing or condescending behaviour
- humiliating people in front of colleagues or peers
- isolating or not involving peers in conversations or college interactions (in person or virtually)
- abuse of authority that undermines job/student performance or threatens and career/education path
- cyberbullying such as disrespectful internet postings

4.4 Examples of what is not discrimination, harassment or personal harassment (bullying):

- reasonable actions by managers, supervisors or instructors to help manage, guide or direct employees and/or students
- the proper use of legitimate authority by an instructor when determining grades and managing classroom behavior
- consensual sexual behaviour (supervisory employees and/or instructors should consider that other employees or students may later indicate that they felt coerced into a relationship, even if it was not the manager/instructor's intent, especially if a power imbalance exists)
- providing reasonable accommodation to staff, students, or third parties when their needs are based on a protected characteristic under *The Human Rights Code*
- planning, advertising, adopting or implementing an employment equity program or any other special program that has, as its purpose, the amelioration of conditions of disadvantaged individuals or groups, including those who are disadvantaged based on any of the protected characteristics

5. Respectful College Roles, Rights and Responsibilities

All staff, students and third parties are encouraged to contact the Respectful College Coordinator for support with issues concerning discrimination and harassment, including sexual violence. Human Resources and the Union share the responsibility to educate staff and students about this Policy, their rights, early resolution options, and services available to assist and advise them.

5.1 Managers, Supervisors and Instructors

The Human Rights Code requires that the College not knowingly permit or fail to take reasonable steps to terminate harassment that should be reasonably known. Managers, Supervisors or Instructors who ignore human rights harassment allegations (based on the protected characteristics) or incidents that they witness leave themselves and the College open to legal consequences through human rights complaints, and will be disciplined pursuant to Human Resources Policy HRG 6 "Progressive Discipline".

Managers, Supervisor, and Instructors must:

- maintain a safe and respectful work/learning environment
- do everything in their power to stop disrespectful behaviour, whether or not a formal complaint is made
- take corrective action with anyone under their direction who behaves disrespectfully towards another
- report allegations of discrimination, harassment, sexual harassment, and sexual violence to the Respectful College Coordinator
- not disclose the name of a complainant or respondent, or the circumstances of the complaint to anyone except where disclosure is:
 - necessary to investigate the complaint
 - a part of taking corrective action
 - required by law

5.2 Everyone at Assiniboine should promote a safe and respectful work and learning environment by:

- treating everyone with respect
- recognizing and valuing diversity
- creating an environment that encourages the resolution of differences
- attending College offered training sessions about this Policy and discrimination/harassment
- speaking up (if they feel comfortable and safe to do so) if they experience or witness disrespectful/harassing behaviour
- seeking assistance from an Instructor, Student Success Advisor, Supervisor, Chair, Dean, Human Resources Advisor or the Respectful College Coordinator to solve issues
- reporting allegations to the Respectful College Coordinator
- cooperating in the investigation of a complaint under this Policy
- keeping details of any action under this policy confidential

5.3 Managers and Instructors should promote a safe and respectful work and learning environment by:

- modeling respectful behaviour

- educating employees, students and third parties about this Policy and reminding them that the work and learning environment is based on respect and dignity
- monitoring the work and learning environment to ensure respectful behaviour is practiced
- taking prompt, positive and constructive action to address issues when they arise

5.4 Employees' and Students' responsibilities include:

- recognizing and refraining from actions that offend, embarrass or humiliate others
- telling someone politely to stop their offending behaviour, if you feel safe and comfortable to do so, if you experience or see someone else experiencing discriminatory or harassing behaviour
- making an effort to resolve issues, where possible, in an informal manner
- not making allegations of disrespectful/harassing behaviour that are false or misleading

5.5 College Management

In addition to the responsibilities outlined above for managers and supervisors, College Management is responsible for encouraging, supporting and providing training and necessary resources for managers to fulfill their roles with respect to this Policy.

5.6 Respectful College Coordinator

The Manager of Human Resources or Vice President People & Planning is responsible for ensuring the Respectful College Coordinator promotes, supports and ensures effective implementation of this Policy.

The Respectful College Coordinator:

- is impartial and is not an advocate for any party
- serves as the first official contact in allegations of discrimination, harassment, sexual harassment, bullying and sexual violence
- in cases of sexual violence, will notify the Behaviour Intervention Team (BIT) if necessary and will report statistics as required
- provides confidential advice to persons with questions or concerns about this Policy and/or situations that may be discriminatory, harassing, or disrespectful
- assists with informal resolutions wherever is reasonably possible
- investigates formal complaints
- may recommend use of an external investigator in some cases

6. Prevention through Education

The prevention of disrespectful, harassing and/or discriminatory behaviour through a process of educating and informing the College Community is a necessary and important element of this Policy.

This will be done by:

- training new students on the Respectful College Policy at the start of every school year
- providing new employee orientation to this Policy
- providing ongoing training for employees and students on preventing disrespectful behaviour and solving problems in the work environment
- posting information about this Policy throughout the College and on the College website

7. Assistance or Information

If an employee, student or client needs information about the Policy, needs to discuss a concern or issue regarding disrespect, discrimination, harassment or bullying, or wants to request that action be taken, they should seek confidential assistance from:

- the Respectful College Coordinator
- a Manager or Supervisor
- Human Resources personnel
- MGEU staff representative or local steward
- a Student Success Advisor,
- an Instructor, Chairperson or Dean
- the ACC Student's Association

Regardless of who is approached for assistance, it is expected that the request will be responded to in a serious and sensitive manner. The foregoing applies equally to complainants and respondents.

SECTION B: PROCEDURES

1. Disrespect and Workplace Conflict

Addressing problems of interpersonal conflict between members of the College community can serve to prevent the more serious cases of disrespect and harassment. All staff and students are encouraged to seek assistance from one of the sources listed in Section A7 as early as possible when these problems arise. Behaviour that is perceived as disrespectful may be unintentional, and can often be remedied through education.

2. Complaint Procedures

Any person who believes that they have experienced disrespect, discrimination, harassment or bullying should contact the Respectful College Coordinator:

- at the confidential phone line (204) 725-8733
- on college extension 6646
- at the email respect@assiniboine.net

Any member of the College community who has witnessed another individual or group of the community being disrespected or harassed should also notify the Respectful College Coordinator. The Respectful College Coordinator will try to resolve the matter in a quick and confidential matter.

- It is not necessary for a formal complaint to be filed in order for the College to take appropriate action; it is sufficient that the Respectful College Coordinator be aware of behavior that may be seen as harassing.
- All employees of the College have a right to file a complaint directly with the President at Step 2 of the grievance process in accordance with the provisions of Article 7:07 of the collective agreement.
- If the Respectful College Coordinator is the complainant or the respondent, the Vice President, People & Planning will designate someone to assume the duties of the Respectful College Coordinator.
- If the President is the complainant or respondent, the Chair of the Board of Governors of the College shall assume the duties of the administration of this policy.
- Confidentiality of the persons involved shall be maintained as stipulated in Section 2.9 of this document.

2.1 The Respectful College Coordinator is responsible for ensuring the implementation of the complaint processes.

The Respectful College Coordinator will:

- facilitate informal resolution options with complainants and respondents to help reach mutually agreeable resolutions in a confidential, time sensitive and safe manner
- investigate all formal complaints in a thorough, expeditious, and confidential manner
- recommend to the Vice President, People & Planning, in some cases, that an external investigator be retained
- conduct proceedings in a spirit of fairness to all parties involved

- following a thorough and fair investigation, make a recommendation, based on principal of balance of probabilities, whether or not each allegation is substantiated or not

2.2 The Respectful College Coordinator will advise both the complainant and the respondent of the following:

- that the College takes its obligations to ensure a safe and respectful workplace/learning environment under *The Human Rights Code (Manitoba)* and Manitoba Workplace Safety and Health very seriously
- the options that are available to resolve concerns informally
- the right of the complainant to file a formal written complaint
- the right of the respondent to be informed of the complaint against them and given a reasonable opportunity to respond to the allegations
- the right of both the complainant and the respondent to continue to work/learn in a safe and respectful environment during the course of informal and formal processes related to any allegations
- the right of both parties to be accompanied by a friend, family member colleague, union representative, or student advocate to provide support during any interviews
- the right of the complainant to withdraw his/her complaint at any point in time or to suspend the complaint process while informal resolution options are being explored
- the right of the College to proceed with an investigation, if it is deemed reasonably necessary given the nature and severity of the allegations
- the right of the complainant to choose other avenues of recourse, including but not limited to filing a grievance, criminal prosecution or civil lawsuit, filing a complaint with the Manitoba Human Rights Commission and/or Manitoba Workplace Safety and Health or any other option permitted by law

2.3 The Respectful College Coordinator is the first person to contact to ensure the issue is managed appropriately:

- If someone else receives a complaint, they must contact the Respectful College Coordinator regarding the substance of the complaint as soon as reasonably possible.
- The Respectful College Coordinator will not pre-judge the merits of the case and will be a neutral point of contact.
- The complainant(s) shall provide the Respectful College Coordinator with details of the alleged disrespectful behaviour.
- Based on the information provided by the complainant, the Respectful College Coordinator will determine if the allegations, if substantiated, could establish a breach of this Policy. If not, the matter will not proceed as a formal complaint under this Policy. The Respectful College Coordinator may refer the Complainant to other resources for assistance.
- The Respectful College Coordinator will advise the complainant and the respondent of the informal and formal resolution options available.
- Following consultation with the Respectful College Coordinator, the complainant(s) may choose from a number of options in order to pursue the complaint.
- The College is not obligated to pursue a formal resolution where the initial complaint suggests that other methods may better address the concerns, or when if substantiated the allegations would not constitute a breach of this Policy.

2.4 Resolution options include, but are not limited to:

- i. Addressing the Concern Directly**
- ii. Informal Resolution**
- iii. Formal Complaint and Investigation**
- iv. Recourse with External Agencies**

2.4.i. Addressing Concerns Directly

In many circumstances, the affected person simply wants the objectionable comments or conduct to stop. Some individuals may feel comfortable dealing with disrespectful behaviour on their own. Wherever is reasonably possible, complainants are encouraged to communicate directly (in writing or verbally) to the offending person. The complainant may choose to politely take direct personal action by:

- letting them know that their behaviours or comments are offensive and contrary to this Policy
- asking that they stop the offensive behaviours immediately

The respondent may not realize that their behaviour is unwelcome and offensive. In many instances, this will stop the offensive behaviour. The Respectful College Coordinator can provide coaching, information or guidance to anyone who would like to first attempt to manage the situation directly.

2.4.ii. Informal Resolution

A complainant who feels uncomfortable or believes that it is inappropriate to address the offending behavior directly may choose to have the matter addressed through mediation options. This option:

- must be agreed upon by both the respondent and complainant
- provides a means of obtaining information, voicing the concern, and developing a way of dealing with the situation with the assistance of the College
- has the objective of finding a resolution mutually agreeable to the complainant(s) and the respondent(s)
- recognizes that often disrespectful or harassing behaviour is the result of a simple misunderstanding
- is encouraged, but individuals are not required to engage in this step and may choose to proceed directly to formal resolution
- may consist of separate and/or joint interviews and/or exchange of written communication and/or any other resolution techniques agreed upon by both the complainant(s) and respondent(s)
- shall be initiated within 30 days from the date of receipt of the complaint by the Respectful College Coordinator, and concluded within 90 days, unless the Respectful College Coordinator, the complainant(s) and the respondent(s) all agree that the progress is being made and the process should continue
- may result in a mutually acceptable resolution signed by all parties involved

The complainant(s) may also decide to halt the informal process that they have opted for and proceed directly to the Formal Complaint process. If an acceptable result is not achieved through the process of informal resolution, the complainant(s) may proceed to a Formal Complaint and Investigation.

Given the nature and the severity of the allegations, the Respectful College Coordinator may also decide that informal resolution options are not sufficient and that a full investigation is necessary.

2.4.iii. Formal Complaint and Investigation

The objective of Formal Complaint and Investigation is to ensure that all formal complaints of discrimination, harassment, personal harassment (bullying) or sexual violence are resolved by due process. The complainant shall not be compelled to proceed with a complaint and shall have the right to withdraw a complaint at any point. Depending upon the nature and the severity of the allegations the College may, however, find it necessary to proceed with the complaint as an institutional response.

a) Receipt and Documentation of the Complaint

- The complainant must provide a written account of his/her allegations.
- The written complaint will be signed and dated by the complainant as a true statement. It will require the complainant to outline:
 - The particulars of the allegations, including: the dates, times and nature of the concerning behaviour;
 - the name and, if available, contact information of the respondent;
 - names and, if available, contact information of witnesses;
 - copies of any physical evidence such as emails, cartoons, texts, etc.;
 - any other relevant information; and the steps already taken to resolve the matter.
- Timely receipt of complaints is essential to ensuring that they are resolved swiftly and, where an investigation is warranted, it can be undertaken when memories are fresh. The complainant should submit his/her written complaint as soon as possible but preferably within 1 year of the alleged incident(s) to the Respectful College Coordinator or other resource person listed in Section A7 of this Policy. In exceptional circumstances, the time limitation may be extended at the discretion of the Vice President People & Planning.
- Anyone who receives a written complaint will provide it to the Respectful College Coordinator as soon as reasonably possible.
- The Respectful College Coordinator will interview the complainant to obtain further relevant details concerning the allegations.
- The Respectful College Coordinator will prepare a summary of the complainant's allegations that are within the scope of this Policy for the complainant to review, and if acceptable, sign.
- The Respectful College Coordinator will notify the respondent(s) in writing after interviewing the complainant(s), that a formal complaint has been received.
- The Respectful College Coordinator will provide the respondent(s) a copy of both initial complaint and the signed summary of allegations referred to above.
- The respondent(s) will be given time to read the complaint and is asked to provide a written response to the allegations within a reasonable timeframe.
- The Respectful College Coordinator will meet with the respondent(s) after receiving their written response to the complaint.

b) Investigation of the Complaint -The Respectful College Coordinator is responsible for conducting the formal investigation, except where the use of an external investigator is deemed necessary.

- The Respectful College Coordinator will interview the complainant(s), respondent(s), and any witnesses or persons pertinent to the case. The complainant(s) and respondent(s) may identify witnesses and/or others to be interviewed, but the Respectful College Coordinator will determine how many and which people need to be interviewed.
- The complainant(s) and respondent(s) may be accompanied to the interview by a person of his/her choice, as long as their support person would not also be a potential witness.
- If the respondent(s) refuses to participate in the proceedings; the Respectful College Coordinator will explain that the purpose of the investigation is to gain information, evidence and perspective from both parties so that an assessment can be made. If the respondent(s) will still not participate, the investigation will continue with it being noted, that the respondent(s) was given the opportunity to be interviewed, but declined.
- If a witness refused to participate in the proceedings, it will also be noted in the investigation file, and the investigation will continue.
- The complainant(s), the respondent(s) and all witnesses will be asked to provide any relevant physical evidence such as photographs, emails, texts, performance evaluations, etc.
- College computer accounts/messages, public messages on social media and other documents or sources of information may be accessed during the investigation.
- If, during the course of an informal or formal resolution of a complaint, concerns with respect to the investigation process may be submitted in writing to the Vice President, People & Planning for consideration.
- All processes shall be pursued with due regard for the principles of natural justice and due process of law and, whenever appropriate, in accordance with the respective collective agreement in effect between the College and the Manitoba Government and General Employees' Union (MGEU).

A fair and thorough process supersede the need to come to a quick resolution. All efforts will be made to resolve matters in a timely manner.

c) Early Resolution

At any time through the investigation process, if the evidence gathered suggests a reasonable possibility of resolution, and if both the complainant(s) and respondent(s) agree, the investigation may be suspended to allow the possibility of a voluntary resolution. In this event, the Respectful College Coordinator will coordinate a meeting with the complainant(s), respondent(s), and managers (where appropriate) to discuss the preliminary findings and to facilitate a discussion with the goal of reaching a mutually agreed upon resolution to the issue. When an agreement is reached and the matter is deemed to be resolved, both the complainant(s) and respondent(s) will voluntary sign a statement outlining the agreed upon terms of the settlement.

The Respectful College Coordinator will prepare a summary report for the Manager(s) and the Vice President, People & Planning.

d) Determination of Findings

When a full investigation is necessary the Respectful College Coordinator will complete an Investigation Assessment Report (IAR) that will summarize and analyze the evidence gathered. Confidentiality of witnesses will be preserved, in accordance with Section B7 if this Policy.

The IAR will assess the credibility of witnesses and will make a determination, based on a balance of probabilities whether or not there is sufficient evidence to substantiate the allegations or not. The investigation findings will usually result in any of the following:

- Evidence supports that discrimination and/or harassment occurred. An appropriate course of action is recommended for the Manager, which may include a letter or progressive discipline.
- Evidence is insufficient to support that discrimination or harassment has occurred. An appropriate course of action or resources may still be recommended to help prevent future allegations or to support the complainant and the respondent's future interactions.
- Evidence clearly supports that the allegations were unfounded and were made with malicious intent to harm the respondent. In these rare cases, appropriate discipline would be applied to the complainant for making a malicious complaint.
- Evidence is insufficient to make a conclusion about the allegations. In these instances an appropriate course of action may be recommended to ensure future concerns are mitigated and to support both the complainant and the respondent in future interactions.

e) Notification and Discussion of the IAR Results and Recommendations

The Respectful College Coordinator will review the IAR with the relevant Managers and the Manager of Human Resources in the case of an employee, or the Vice-President Academic or designate for complaints involving students.

Managers, in consultation with the Manager of Human Resources or the Vice-President Academic or designate, will decide on the need for remedial action, pursuant to the appropriate discipline policy. The relevant Managers and the Director, Human Resources or the Vice-President Academic or designate will meet with the complainant and respondent separately to review the report and discuss the findings.

- if remedial action is recommended based on an investigation finding that the evidence substantiates an allegation, these actions will be discussed with the parties affected at this meeting.
- remedial action will be documented, and will be retained on the individual's file.

2.1.d. Recourse to External Agencies

A person who believes they have been a victim of harassment and/or discrimination has access to remedies at law.

The pursuit of a complaint under the internal complaint mechanism does not preclude anyone from filing a complaint with the Manitoba Human Rights Commission, Manitoba Workplace Health and Safety or under the Criminal Code. Nothing in this policy limits the rights of a person to seek these avenues of redress.

For further information about these avenues you may contact your local police/RCMP or:

Manitoba Human Rights Commission
hrc@gov.mb.ca
1-888-884-8681

Manitoba Workplace Safety and Health
wshcompl@gov.mb.ca
1-855-957-SAFE (7233)

The pursuit of a complaint under the internal complaint mechanism does not preclude any employee from seeking assistance from the Manitoba Government and General Employees' Union (MGEU) staff representative, the LifeWorks Program or any other external agency.

3. No Reprisals

The College will not tolerate any reprisal against anyone who files a complaint or participates in the investigation of a complaint.

- Any alleged reprisal shall be reported immediately, in writing, to the Vice President, People & Planning.
- Anyone who retaliates in any way against a person who has complained of disrespectful behaviour, given evidence in an investigation, or been found guilty of violating this policy, will be considered to have committed harassment and will be subject to corrective actions.

4. False or Misleading Complaints

Where the investigator determines that an intentionally false or malicious complaint has been made the college may:

- implement disciplinary action against the complainant; and/or
- take any other action against the complainant that in their opinion may be necessary

An unsubstantiated case is not by default a false or misleading complaint.

5. Monitoring and Remediation

Follow up is an essential component of the resolution. Unless the complaint has been dismissed, once a resolution of the complaint has occurred, Human Resources and appropriate Manager(s) will:

- develop a monitoring plan to ensure appropriate steps are taken to remedy the issue
- follow up periodically over a minimum of a six-month period from the date of resolution
- document all follow up interviews

6. Confidentiality and Records

a) Confidentiality must be distinguished from anonymity. The complainant who wishes to seek a remedy must be willing to be identified to the respondent(s). Anonymity will never be offered to complainants or witnesses.

b) Confidentiality of the persons involved in an investigation shall be maintained as appropriate to protect both the complainant(s) and the respondent(s) against unsubstantiated claims that might

result in harmful or malicious gossip. Intentional or unnecessary breaches of confidentiality by any person may result in disciplinary action.

c) It must be recognized that, to the extent that the parties choose to initiate proceedings or make comments outside the College's internal harassment complaint procedures, confidentiality cannot be guaranteed.

d) It must also be recognized that information collected and retained may be subject to release under Manitoba's *Freedom of Information and Privacy Protection Act*, *The Human Rights Code* or rules governing court and arbitral proceedings.

e) Investigations that result in findings that substantiate a breach of this policy, will result in documentation filed on the Respondent's personnel/student file. Any formal disciplinary action shall be recorded in the appropriate file and shall be maintained in accordance with procedures specified in college policy. This may also include non-disciplinary corrective action, such as letters of direction or remedial action plans.

f) Where an investigation does not find a breach of the Policy, but it is determined that education, counselling and monitoring is appropriate for the complainant and/or respondent, documentation of the complaint and the remedy recommended along with steps taken will be filed on the appropriate personnel/student file.

g) In the event the investigation fails to find evidence sufficient to substantiate the allegations and no further action is recommended, no information or record of the complaint, the investigation of the complaint, or the resolution of the complaint shall be placed on the personnel/student file of the complainant(s) without the written consent of the complainant(s), unless the complaint has been found to be false or misleading.

g) In the event the investigation fails to find evidence sufficient to substantiate the allegations and no further action is recommended, no information or record of the complaint, the investigation of the complaint, or the resolution of the complaint shall be placed on the personnel/student file of the respondent(s) without the written consent of the respondent(s).

7. Appeals

a) College students may appeal any disciplinary action taken by the college as a result of the formal resolution process in accordance with the college's "Academic and Disciplinary Appeals Policy." (A1)

b) Bargaining Unit College staff may grieve any disciplinary action taken by the College resulting from a complaint of disrespectful behavior as provided for within the collective agreement.

c) Notwithstanding the above, complaints of disrespectful behaviour may be processed as grievances.

d) Excluded staff may appeal any action taken by the college resulting from a complaint of disrespectful behavior directly to the President or to the Board of Governors in the event that the President is the respondent.

e) College clients may appeal any action taken by the college resulting from a complaint of disrespectful behaviour directly to the President.

8. Authority

The Human Rights Code (Manitoba)

Manitoba Workplace Safety and Health Act and Regulations

Sexual Violence Awareness and Prevention Act

Collective Agreement Article 7 "No Discrimination/Respectful Workplace"

Collective Agreement Article 14 "Conduct of Employees"

Freedom of Information and Protection of Privacy Act

Academic Policy A4 "Student Concerns and Complaints"

Academic Policy A1 "Academic and Disciplinary Appeals"

Academic Policy A2 "Student Conduct, Behaviour and Discipline"

Human Resources Policy HRG 6 "Progressive Discipline"

The College recognizes that *The Human Rights Code (Manitoba)* and the *Manitoba Workplace Safety and Health Act* take precedence over most provincial legislation, as well as over College Policies and collective agreements.

July 14, 2017

Date



President