



Human Rights Discrimination and Harassment Policy

Category: Academic
Policy Number: GA -2
Responsible Authority: President

Approval Authority: President

Date of Original Policy Approval: 1996 By Board of Governors

Last reviewed: 2020-03-10

Mandatory Revision Date: 2023-06-30

Contents

Human Rights Discrimination and Harassment Policy.....	1
1.0 PURPOSE.....	2
2.0 DEFINED TERMS.....	2
3.0 SCOPE	4
4.0 PRINCIPLES.....	5
5.0 PROHIBITION AND RESPONSIBILITIES.....	6
6.0 WHERE TO OBTAIN HELP OR LEARN ABOUT FILING A COMPLAINT.....	8
7.0 COMPLAINTS RESOLUTION PROCESS	8
8.0 GENERAL	12
APPENDICS A - KEY CONCEPTS.....	12
NON-COMPLIANCE IMPLICATIONS.....	15
SUPPORTING DOCUMENTATION	15
RELATED POLICIES.....	15
RELATED MATERIALS	16

1.0 PURPOSE

1.1 The College believes that:

- every member of the College community should experience and contribute to an understanding and respectful learning and work environment that is free from discrimination and harassment;
- it should foster a climate of understanding and mutual respect so each member of its community feels able to contribute to College activities and objectives;
- it is public policy in Ontario to recognize the inherent dignity and worth of every person, and to provide for equal rights and opportunities without discrimination.

1.2 The policy is to help fulfil these beliefs and to achieve and maintain compliance with the *Human Rights Code*.

2.0 DEFINED TERMS

The following are technical terms that are defined to help make this policy clear. For legal terms and concept that are defined in the context and by applicable law, see “Appendix A – Key Concepts.”

<u>Term</u>	<u>Definition</u>
Advisor	<p>“Advisor” refers to a Human Rights Advisor employed in DEHRS (defined below). Advisors are responsible for:</p> <ul style="list-style-type: none">❖ developing, leading and assisting in education and prevention programs intended to inform Community Members about harassment and discrimination;❖ offering expert opinions and advice related to this policy and its complaint resolution process to complainants, respondents and administrators;❖ serving as case manager for formal complaints; and❖ establishing interim measures pending the resolution of formal complaints.

	Advisors do not investigate complaints, act as advocates or offer legal advice.
Balance of Probabilities	A test used in civil law that asks, “Based on the evidence presented, is it more likely than not that an action that is alleged took place?”
Community Members	<p>A community that includes George Brown College students, employees, volunteers, visitors, advisory committee members, governors and student and other groups that are formally recognized by the College.</p> <p>It also includes organizations at which College students are placed (“Placement Organizations”) and organizations who provide goods and services to the College (“Vendors”).</p>
Complainant	A Community Member who makes a formal complaint under this policy.
DEHRS	Refers to Diversity, Equity and Human Rights Services.
Human Rights Advisor to the President	The Director, Diversity, Equity and Human Rights Services, who reports to the President and oversees all functions of the DEHRS. Under this policy the Human Rights Advisor to the President hears appeals.
Prohibited Grounds	The grounds for discrimination that are prohibited by the <i>Human Rights Code</i> : race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation,

	gender identity, gender expression, age, marital status, family status, disability, receipt of public assistance (residential accommodation only) and record of offences (employment only).
Respondent	A Community Member that is the subject of a formal complaint under this policy.
Responsible Administrator	<p>Under this policy, a Responsible Administrator is responsible for resolving formal complaints.</p> <p>For employees who are Respondents, the Responsible Administrator is an employee's direct supervisor.</p> <p>For students who are Respondents, the Responsible Administrator is the Director of Student Support and Wellbeing.</p>
Senior Administrator	Under this policy, a Senior Administrator is defined as the President and the Vice Presidents of divisions across the College.

3.0 SCOPE

3.1 This policy applies to all Community Members, including students, employees and others in respect of:

- educational and other services provided by the College;

- employment by the College;
- living accommodation provided by the College.

3.2 This policy applies to incidents of discrimination or harassment that occur on College premises including, but not limited to:

- while engaged in academic- or work-related activities;
- at College-related social functions;
- over the telephone; or
- through e-mail or other electronic communication, such as text messaging or on social networking web sites.

3.3 This policy applies to incidents of discrimination or harassment that occur between Community Members when involved in College-related activities off College premises including, but not limited to:

- in the course of academic placements or academic-related work;
- in the course of work-related assignments;
- during academic- or work-related travel; or
- at College-related social functions.

3.4 For this policy to apply to incidents that occur off College premises, the discrimination or harassment must have the potential to adversely affect a Community Member's study or work performance at the College, or create a negative.

4.0 PRINCIPLES

4.1 The College learning and work environment should be free from discrimination and harassment.

4.2 Learning and work is best accomplished in a climate of inclusion, equal opportunity and mutual respect.

4.3 Every Community Member has a role in creating a learning and work environment that is free of discrimination and harassment.

4.4 Claims based on Prohibited Grounds that compete with each other should be resolved in a way that respects the rights of all of the parties involved.

4.5 Any remedy for a finding of discrimination or harassment should:

- take a constructive and reparative approach whenever possible;
- clarify the expectations and understanding of the complainant and the respondent regarding the conduct of concern;
- mitigate the impact of the discrimination or harassment upon the Complainant's study or work;
- prevent further incidents of the conduct occurring between the complainant and the respondent and, where appropriate, within the College community generally; and
- aim to correct the behaviour of the Respondent.

4.6 The College has *bona fide* academic and employment requirements that may warrant differential treatment - requirements essential to the fulfilment of legitimate work and academic purposes.

4.7 Special programs designed to benefit disadvantaged groups or individuals within the College community do not constitute discrimination.

4.8 Individuals may choose to seek a remedy from the Human Rights Tribunal of Ontario or under a collective agreement instead of seeking redress under this policy.

5.0 PROHIBITION AND RESPONSIBILITIES

5.1 No Community Member shall:

- engage in discrimination or harassment based on a Prohibited Ground;
- file a complaint to purposely annoy, embarrass or harm a Respondent;
- impede or attempt to impede an investigation conducted under this policy or fail to answer a question or request for documentation made by an investigator appointed under this policy without good cause;
- retaliate or threaten to retaliate against a person for reporting an incident, for filing a complaint, for cooperating with or participating in an investigation or decision-making process or for otherwise pursuing their rights under this policy.

5.2 The College will:

- increase community awareness of this policy, the responsibilities it imposes and its objectives;
- deal quickly, fairly and effectively with complaints of discrimination or harassment;
- safeguard the rights of complainants and respondents throughout the complaints resolution process, including by honouring all entitlement to representation that arises under a collective agreement;
- meet its *Occupational Health and Safety Act* duty to appropriately investigate all incidents and complaints of workplace harassment;
- maintain the confidentiality of all information gathered in the complaints resolution process subject to the limitations set out in this policy;
- provide appropriate training to those involved in complaint resolution;
- deal with Placement Organizations and Vendors in a manner that supports the objects of this policy;
- hold all Community Members accountable for failing to meet their responsibilities under this policy; and
- proactively change institutional structures that contribute to systemic discrimination.

5.3 Senior Administrators shall exhibit strong, visible and ongoing commitment to preventing all forms of discrimination and harassment.

5.4 Responsible Administrators shall make decisions as contemplated by the complaints resolution process as well as:

- familiarize themselves with this policy and its complaints resolution process; and
- identify and immediately address discriminatory and harassing behavior within their scope of responsibility that is amenable to correction; or
- report the discriminatory and harassing behavior to an Advisor without delay.

5.5 Placement Organizations and Vendors shall comply with the *Human Rights Code*, shall employ duly diligent oversight and supervision to protect Community

Members from discrimination and harassment and shall cooperate with any College investigation undertaken under this policy.

6.0 WHERE TO OBTAIN HELP OR LEARN ABOUT FILING A COMPLAINT

- 6.1 Any Community Member who has a concern about discrimination or harassment may speak with an Advisor.
- 6.2 Advisors will provide objective and confidential advice about this policy and options for seeking resolution.
- 6.3 In most situations Community Members may choose whether or not to proceed with a complaint. In some circumstances, however, providing specifics to an Advisor may compel the College to act in order to protect other Community Members.
- 6.4 When appropriate and desired by the Community Member who brings forward a concern, Advisors may facilitate informal resolution in the absence of a formal complaint. This will be done together with the Responsible Administrator and will be documented.

7.0 COMPLAINTS RESOLUTION PROCESS

Parameters of the complaints resolution process

- 7.1 Complaints that allege sexual violence will be addressed under the College's *Sexual Assault and Sexual Violence Policy*. Complaints that allege harassment that is not based on a Prohibited Ground will be addressed by Labour Relations, Human Resources or the Director of Student Support and Wellbeing as appropriate.
- 7.2 The College is solely responsible processing complaints and pursuing sanctions against Respondents. The College will respect Complainants' significant interest in the manner in which their complaints are resolved, but Complainants only have rights to participate in this process that are set out in this policy.
- 7.3 The College may depart from this process as it deems appropriate, with a view to achieving the just, most expeditious and least expensive resolution to every complaint. Complaints against Placement Organizations, Vendors and visitors, in particular, may be dealt with through a more expeditious process than set out below. Respondents who believe the process to be followed by the College is not sufficient in the particular circumstances should write the College and explain why without delay.
- 7.4 All decision-making responsibilities under this process may be delegated.

- 7.5 The College may resolve a complaint informally as it deems appropriate. It may, for example, mediate a resolution between a Complainant and Respondent. Mediation is only appropriate if voluntary. Mediated resolutions will be reduced to writing and signed by the Complainant and Respondent.

Step 1 – Filing a complaint

- 7.6 Complaints must be made in writing to an Advisor and must set out all the facts alleged to constitute harassment and discrimination, with dates and times, with the names of witnesses and with supporting documentation.
- 7.7 Complaints should be made within one year after the incident to which the complaint relates or if there was a series of incidents, within one year after the last incident in the series. Complaints that do not meet this requirement should explain the reason for delay.

Step 2a - Preliminary complaint assessment

- 7.8 The Director, DEHRS (DDEHRS) will receive and assess complaints to determine whether they should be resolved under this process or another process.
- 7.9 If a complaint does not set out a *prima facie* case of discrimination or harassment, the DEHRS will advise the Complainant that it will not be investigated. Advisors may also advise of alternative forms of support.
- 7.10 If a complaint is untimely, the DDEHRS will consider whether it should nonetheless be investigated in light of the reason for the delay, the potential prejudice caused by the delay and the College's interest in maintaining a harassment and discrimination free learning and work environment.
- 7.11 If a complaint is already the subject of a grievance or an application before the Human Rights Tribunal of Ontario, the DDEHRS may temporarily suspend the complaint resolution process.

Step 2b - Interim measures and notification

- 7.12 After deciding to initiate an investigation, the DDEHRS will consider whether interim measures are needed to protect a Complainant and the investigation process, ordinarily in consultation with Public Safety and Security, Human Resources/Labour Relations and the Responsible Administrator.
- 7.13 The DDEHRS will take steps to minimize the impact of interim measures on respondents. Interim measures are not punishment and do not represent a finding of misconduct.

- 7.14 The DDEHRS will then notify the Complainant and Respondent or respondents in writing of the investigation and any interim measures.

The notice will include a summary of all the allegations made and will describe the interim measures to be implemented. The DDEHRS will attach all relevant documents provided to the College by the Complainant.

The notice will also advise Complainants and Respondents (a) of potential sources of support and (b) that any concerns about the appropriateness of the interim measures may be raised with the DDEHRS without delay.

Step 3 - Investigation

- 7.18 The Responsible Administrator will then conduct an investigation or direct an internal or external investigator to conduct an investigation. An investigation will be conducted by an individual capable of conducting an unbiased investigation who was not involved in the events in issue.

Internal and external investigators will ordinarily be directed to:

- start the investigation by obtaining a written response and all documents upon which the respondent relies
- interview the Complainant, Respondent and Witnesses
- record all interviews in writing (i.e., produce witness statements)
- gather additional relevant documents and physical evidence
- produce a confidential written investigation report

The investigator will conduct the investigation fairly, and will give the Complainant and Respondent an opportunity to comment on all disputed facts before producing a report.

Throughout the investigation, Complainants and Respondents may invite a support person (including a union representative) to meetings with the investigator, though the investigator may exclude a support person from all or part of an interview if the investigator believes the presence of the support person will affect the quality of the interview. For example, an investigator may believe that a student is unlikely to be forthright about private matters in the presence of a parent.

The time required to commence and complete an investigation may vary, but investigations should ordinarily start and finish within 30 days.

- 7.19 When the Respondent is an employee, the investigator's confidential written

investigation report will summarize the evidence, draw conclusions about credibility, make findings of fact and conclude whether the policy has been breached.

When the Respondent is a student, the investigator's confidential written investigation report will only summarize the evidence and draw conclusions about credibility.

Step 4 – Decision-making

- 7.19 Responsible Administrators will make a decision about what happened (on a Balance of Probabilities), whether it constitutes discrimination or harassment and, if so, how it should be addressed.
- 7.20 Respondents will be given a chance to address the results of the investigation in a meeting with the Responsible Administrator before the Responsible Administrator makes a decision.
- 7.21 Responsible Administrators will invite Respondents to a meeting by sending a written notice at least five working days in advance. The notice will describe how the meeting will be conducted, who else has been invited to attend and who may attend at the Respondent's invitation. The notice will also include a summary of the evidence that the Responsible Administrator wishes the Respondent to address. Respondents should raise any questions they have about the meeting promptly, in writing.
- 7.22 The meeting will ordinarily be conducted informally, though the Responsible Administrator may vary the meeting procedure to ensure fairness. Respondents may attend with a support person or union representative.

Step 5 - Written decision

- 7.22 Responsible Administrators will provide respondents with a written decision that includes reasons.
- 7.23 Responsible Administrators will provide complainants with a document that describes results of the investigation and any corrective action that has been taken or that will be taken.

Respondent's appeal

- 7.24 A respondent may file a written appeal to the within ten days of receiving a decision from the Responsible Administrator by writing the DDEHRS.
- 7.25 The appeal will be heard by a College administrator who has had no prior involvement in the matter under appeal and who is not in an apparent or real conflict of interest. The Administrator is not required to discuss the written appeal with the respondent before deciding the appeal.

- 7.25 An appeal is not a reconsideration of Responsible Administrator decisions. The Administrator who hears an appeal will affirm the Responsible Administrator’s decision unless (a) the procedure employed the Responsible Administrator was unfair and reconsideration is warranted or (b) the Responsible Administrator’s decision is unreasonable in light of the evidence put before the Responsible Administrator.
- 7.26 The Administrator who hears an appeal shall receive appropriate training for this role and may seek confidential legal advice. The appeal decision is final.

Recordkeeping

- 7.27 All records relating to this complaints resolution process shall be kept in the DEHRS, including records of decisions, appeal decisions and informal resolutions.

8.0 GENERAL

- 8.1 Breach of this policy or failure to meet the duties set out in this policy may result in discipline, up to and including discharge (for employee Respondents) and up to and including expulsion (for student Respondents). Student discipline will be administered in accordance with any guidelines or principles set out in the *Code of Student Behavior and Community Standards*. Visitors may be trespassed, and Placement Organizations and Vendors may be sanctioned appropriately.
- 8.2 This policy shall have force and effect from the day it is approved (the “Effective Date”), shall replace and supersede all prior versions of the policy and shall apply to and define all alleged misconduct that falls within the scope of this policy regardless of when such conduct is alleged to have occurred, except in the case of a complaint for which an investigation, hearing or appeal has commenced prior to the Effective Date.
- 8.3 This policy is not intended to conflict with provisions in a collective agreement. To the extent such conflict arises, the collective agreement shall prevail.

APPENDICS A - KEY CONCEPTS

This section includes an explanation of KEY CONCEPTS used within Human Rights legislation.

<u>Concept</u>	<u>Explanation</u>

Audism	Giving privilege to individuals who are able to hear and speak over those who 1) cannot hear or speak, or 2) hear or speak using assistance devices or American Sign Language.
Discrimination	Unequal or differential treatment based on a Prohibited Ground outlined in the <i>Code</i> that results in a disadvantage. Can be direct, indirect or systemic in nature.
Duty to Accommodate	The duty to make every reasonable effort, short of undue hardship, to meet needs arising out of disability, family status or another Prohibited Ground. These efforts aim for integration and must respect individual dignity, worth, privacy, autonomy and individuality. A failure to meet this duty is a form of discrimination.
Family Status	The status of being in a parent-and-child relationship. This can also mean a parent-and-child type of relationship that embraces a range of circumstances without blood or adoptive ties, but with similar relationships of care, responsibility and commitment.
Freedom of Expression	<p>The right to speak, write, listen, challenge and learn, must be protected as it is essential to discovery, critical assessment and the effective dissemination of knowledge and ideas and leads to social and economic advancement as recognized by the College's <i>Freedom of Expression Policy</i>.</p> <p>Speech that violates the law, including the <i>Ontario Human Rights Code</i>, is not allowed. Speech that constitutes harassment, a threat or hate speech is not allowed. Other context-specific boundaries to freedom of</p>

	expression may also apply, such as those arising out of the terms of employment and collective agreements.
Gender Expression	How a person publicly presents their gender. This can include behaviour, outward appearance (e.g., dress, hair, make-up, body language or voice), chosen name and/or pronoun.
Gender Identity	Each person's internal and individual experience of gender. It is their sense of being a woman, a man, both, neither or anywhere along the gender spectrum. A person's gender identity may be the same as or different from their birth-assigned sex. Gender identity is fundamentally different from a person's sexual orientation.
Harassment	Engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Includes conduct commonly referred to as cyber-harassment and cyber-bullying.
Intersectionality	Occurs when individuals experience discrimination or harassment based on more than one of the Prohibited Grounds, such as harassment based on race and creed.
Marital Status	The status of being married, single, widowed, divorced or separated and includes the status of living with a person in a conjugal relationship outside marriage. It includes both same-sex and opposite-sex relationships.

Mediation	A facilitated discussion or negotiation where a neutral third party helps others work toward a realistic solution to a problem.
Sexual Orientation	A person's sexual identity in relation to the gender to which they are attracted; the fact of being bisexual, lesbian, gay, queer, heterosexual, pansexual, fluid or asexual.
Sexual Violence	Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

NON-COMPLIANCE IMPLICATIONS

This policy, sanctioned by George Brown College, is an institutional regulation requiring compliance across the college. Failure to comply with this policy may result in disciplinary measures commensurate with the offence in accordance with relevant academic and administrative codes of conduct and collective bargaining agreements.

SUPPORTING DOCUMENTATION

RELATED POLICIES

Sexual Assault and Sexual Violence Policy

Student Code of Behaviour and Community Standards

Code of Conduct: Administrative Staff

Code of Conduct: Support Staff

Code of Student Conduct: Academic

College Policy on Student Discipline in Non-Academic Matters

College Policy on Students Appeals

**Curriculum Policy – Religious Observance Accommodation
Disability Policy**

Student Acceptable Use (of Technology) Policy

Prevention of Workplace Violence Policy

Conflict of Interest Policy

Freedom of Expression Policy

Accessibility Policy

RELATED MATERIALS

Ontario Human Rights Commission <http://www.ohrc.on.ca/en>

