



## Human Rights Discrimination and Harassment Policy

|                          |   |
|--------------------------|---|
| Category:                | Equity & Accessibility                    |
| Policy Number:           | GA 01                                     |
| Responsible Authority:   | President                                 |
| Approval Authority:      | President                                 |
|                          | 1996 – Approved by the Board of Governors |
| Last reviewed:           | 2016-06-25                                |
| Mandatory Revision Date: | 2018-08-25                                |

### PURPOSE

1.0 This policy is intended to ensure that every member of the George Brown College community experiences and contributes to an understanding and respectful study and work environment that is free from discrimination and harassment.

George Brown College adheres to the Ontario *Human Rights Code* (the *Code*). The *Code* states that 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. The *Code* aims to create a climate of understanding and mutual respect for the dignity and worth of each person so each person feels part of the community and feels able to contribute to the community.

### SCOPE

2.0 This policy applies to all members of the George Brown College community engaged in college-related study, work, travel, social interaction or other contact. Specifically:

- full-time and part-time students;
- full-time, part-time, temporary, probationary, casual and contract employees, including academic and non-academic;
- members of the Board of Governors;
- members of program advisory committees, and standing and ad hoc committees established by George Brown College;
- members of societies and associations that have a direct relationship to or are under the authority of George Brown College;
- contractors, such as those undertaking construction, providing services or conducting research for George Brown College;
- volunteers; and
- visitors on campus and at college-related functions off-campus.

2.0.1 It is understood that any organizations that provide student experiential or field placements for George Brown students comply with the *Code*.

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2.0.2 Contractors will be governed by a standard contract compliance clause. The clause will require contractors to comply with the *Code* and with this policy, including cooperating in the complaints resolution process.

2.1 This policy applies to incidents of discrimination or harassment that occur on George Brown 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.

2.2 This policy applies to incidents of discrimination or harassment that occur between members of the George Brown College community when involved in college-related academic or work 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.

2.2.1 For this policy to apply to incidents that occur off college premises, the discrimination or harassment must have the potential to adversely affect an individual's study or work performance at the college, or create a negative study or work environment within the college.

2.2.2 Incidents that occur off college premises which have little or no likelihood of adversely affecting an individual's study or work environment at the college should be pursued through external avenues of redress, such as the process established by the Social Justice Tribunal of Ontario, or through the courts.

2.3 This policy and its procedures incorporate and supersede previous statements of policy and procedures regarding discrimination and harassment.

2.4 This policy is a companion policy to the Sexual Assault and Sexual Violence Policy and Protocol of George Brown College 2015.

## DEFINITIONS for Purposes of this Policy

Additional clarification and examples for terminology are provided in Appendix B.

| <u>Word or Term</u>           | <u>Definition</u>   |
|-------------------------------|---|
| Administrator                 | The individual with whom a formal complaint is lodged, or their designate. The identity of the Administrator will vary depending on the complainant (i.e., student, employee, placement organization, contractor, etc.).  |
| Advisor                       | Human Rights Advisors employed by George Brown College, including the Human Rights Advisor to the President.  |
| 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.  |
| Balance of Probabilities Test | A test used in civil law that asks: Based on the evidence presented, is it more reasonable than not that the incident took place? For complaints of discrimination or harassment, the test can be stated as: Based on the evidence presented, is it more reasonable than not that discrimination or harassment took place?  |
| <i>Code</i>                   | <i>Ontario's Human Rights Code, R.S.O. 1990, Chapter H.19</i>   |
| Complainant                   | The party bringing the complaint about a conduct or concern.  |
| Case Manager                  | A Human Rights Advisor assigned to provide appropriate assistance to complainants, respondents and Administrators throughout the complaints resolution process.   |
| Discrimination                | Unfair or differential treatment based on the prohibited grounds outlined in the <i>Code</i> that results in disadvantage, or barriers to or preferential access to opportunities, for one group over another.  |
| Duty to Accommodate           | The responsibility of George Brown College, as an employer and service provider, to make every reasonable effort, short of undue hardship, to ensure that a student or employee who comes under a protected ground of discrimination in the <i>Code</i> has equal rights and equal access to opportunities. These efforts must respect the individual's dignity, worth, privacy, autonomy, individuality and integration.   |
| 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. The grounds of family status and marital status intersect to cover a range of family forms including lone-parent families, blended families and families where the parents are in a common-law relationship. |

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| <b><u>Word or Term</u></b>   | <b><u>Definition</u></b>  |
|--|---|
| Gender-based Violence  | Any form of behaviour, including psychological, physical and sexual behaviour, that is based on a person's gender and is intended to control, humiliate or harm the person. The form of violence is generally directed at women, trans, gender-queer and gender-variant people. It reflects an attitude or prejudice at the individual or institutional level that aims to subordinate an individual or group on the basis of sex and/or gender identity. |
| 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   | One or a series of vexatious comments or behaviours related to one or more of the prohibited grounds that are known, or might reasonably be known, to the person doing the harassing to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate.  |
| <ul style="list-style-type: none"><li>• Cyber Harassment; Cyber Bullying</li></ul>       | Repeated, unsolicited comments by a person or group using cell phone or internet technology with the intent to bully, harass or intimidate a victim. It can occur in any electronic environment that allows communication with others (e.g., on social networking sites, on message boards, in chat rooms, through text messages or through email). The terms are often used interchangeably.   |
| <ul style="list-style-type: none"><li>• Gender-based Harassment</li></ul>                | Any behaviour that enforces traditional heterosexual gender-norms. It is a type of sexual harassment that may look the same as harassment based on sexual orientation or homophobic bullying.   |
| <ul style="list-style-type: none"><li>• Harassment Based on Sexual Orientation</li></ul> | One or a series of vexatious comments or behaviours related to an individual's perceived sexual orientation that are known, or might reasonably be known, to the person doing the harassing, to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate.  |
| <ul style="list-style-type: none"><li>• Racial Harassment</li></ul>                      | One or a series of vexatious comments or behaviours related to race, ethnicity or culture that are known, or might reasonably be known, to the person doing the harassing to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate.   |
| <ul style="list-style-type: none"><li>• Sexual Harassment</li></ul>                      | One or a series of vexatious comments or behaviours related to gender, or of a sexual nature, that are known, or might reasonably be known, to the person doing the harassing to be unwelcome, unwanted, offensive, intimidating, hostile or inappropriate.   |

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| <b><u>Word or Term</u></b>            | <b><u>Definition</u></b>  |
|---------------------------------------|---|
| Human Rights Advisor                  | <p>Human Rights Advisors are employed by George Brown College to:</p> <ul style="list-style-type: none"><li>• provide information to complainants, respondents and administrators on the nature of discrimination and harassment as defined by this policy and the <i>Code</i>;</li><li>• offer expert opinions and advice related to this policy and procedures;</li><li>• serve as case manager when a student or employee brings forward a complaint of discrimination or harassment under the <i>Code</i>;</li><li>• set up a safety plan, if necessary, to ensure there is no adverse impact on a student or employee who brings forward a complaint of discrimination or harassment under the <i>Code</i>; and</li><li>• develop, lead and assist in education programs intended to inform and educate students and employees about harassment and discrimination.</li></ul> <p>Human Rights Advisors maintain confidentiality unless required to reveal information to ensure due process or as required by law. They do not investigate complaints, act as advocates or offer legal advice.</p> |
| Human Rights Advisor to the President | <p>The manager of Diversity, Equity and Human Rights Services who reports to the President and oversees all functions of Diversity, Equity and Human Rights Services at the College.</p>  |
| Intersectionality                     | <p>Occurs when individuals experience discrimination or harassment based on more than one of the prohibited grounds, such as harassment based on race and creed.</p>  |
| Marital Status                        | <p>The status of being married, single, widowed, divorced or separated, including the status of living with a person in a conjugal relationship outside marriage. It includes both same-sex and opposite-sex relationships.</p>   |
| Mediation                             | <p>A facilitated discussion or negotiation where a neutral third party helps others work toward a realistic solution to a problem.</p>  |
| Negative Environment                  | <p>Occurs when one or a series of vexatious comments or behaviours that are related to a prohibited ground, and are of a significant nature or degree, create an offensive or intimidating study or work climate for individuals or groups. A complainant does not have to be a direct target to be adversely affected by a negative environment. Can also be referred to as a “poisoned environment.”</p>  |
| Prohibited Grounds                    | <p>Ontario’s <i>Human Rights Code</i> prohibits discrimination and harassment on the basis of seventeen (17) prohibited grounds: age, ancestry, citizenship, colour, creed, disability, ethnic origin, family status, gender expression, gender identity, marital status, place of origin, race, receipt of public assistance (applicable in housing only), record of offences</p>  |

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| <b><u>Word or Term</u></b> | <b><u>Definition</u></b>  |
|----------------------------|---|
|                            | (applicable in employment only), sex (including pregnancy) and sexual orientation.  |
| Respondent                 | The party accused of the conduct prohibited under an Ontario <i>Human Rights Code</i> ground.   |
| Sexual Orientation         | Includes, but is not limited to bisexual, lesbian, gay, queer, heterosexual, pansexual, fluid or asexual.   |
| Sexual Violence            | A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence can take different forms, including sexual abuse and sexual assault.   |
| Stalking                   | A form of criminal harassment involving behaviours that occur on more than one occasion, and which collectively instill fear in the victim/target or threaten the victim's/target's safety or mental health. It can include threats of harm to the victim's/target's friends and/or family. These behaviours include, but are not limited to, non-consensual communication (face-to-face, phone, email, social media), threatening or obscene gestures, surveillance, sending unsolicited gifts, "creeping" via social media/cyber-stalking, and uttering threats. Stalking is prohibited by the <i>Criminal Code of Canada</i> . |
| Systemic Discrimination    | Policies, practices, procedures, actions or inactions that appear neutral but have an adverse impact associated with one of the prohibited grounds.   |
| Trans                      | An umbrella term for people who identify with a gender different from the gender they were assigned at birth, some of whom choose to change their bodies through the use of hormones and/or surgeries. This can include people who identify as transsexual, transgender, and gender-queer.  |
| Undue Hardship             | Significant difficulty or expense precipitated by a proposed remedy, such as excessive costs to the college, or health and safety concerns.   |

**ADDITIONAL clarification around terminology**

| <b>Word/Term</b> | <b>Clarification and Examples</b>   |
|------------------|---|
| Discrimination   | Discrimination need not be intentional. Acts of discrimination may unfairly limit a person's access to or success in studies or employment. If pervasive, acts of discrimination may create a hostile or poisoned environment within a place of study or work. Examples include, but are not limited to, refusing to provide goods, services or facilities; excluding someone from employment or employment benefits; refusing to work with, teach, or study with someone; or failing to provide physical access. |

**Word/Term**

**Clarification and Examples**

Harassment

Acts of harassment may unfairly limit a person's access to or success in studies or employment. If pervasive, acts of harassment may create a hostile or poisoned environment within a place of study or work. People who experience harassment may not object to the comments or behaviours, and may, at times, appear to be going along with or participating in the acts. Persons being harassed may not feel that they are able to object because they feel they are in a vulnerable position or in a lower-power/status position, and may fear the consequences of speaking out.

Harassment may occur through forms of communication such as, but not limited to, face-to-face, telephone, written note, displayed media, e-mail, text messaging or social media sites. Examples include, but are not limited to: gestures, remarks, jokes, slurs, innuendo, taunting, displaying offensive cartoons, offensive graffiti, threats, verbal assault, physical assault, imposing academic penalties, hazing, stalking, shunning, or excluding someone, when such actions are related to the prohibited grounds.

- Harassment Based on Disability

Examples include, but are not limited to: audism; gestures, remarks, or jokes based on disability; staring; pointing; or refusing to work with someone perceived to have a disability.

- Harassment Based on Sexual Orientation

Examples include, but are not limited to: gestures, remarks, jokes, slurs, insults, mocking or imitating based on sexual orientation, whether or not they are used to suggest that an individual has specific attractions.

- Racial Harassment

Examples include, but are not limited to: gestures, remarks, or jokes based on racial, ethnic, or cultural differences; racial, ethnic, or cultural slurs; inappropriate displays of racial stereotypes.

- Sexual Harassment

Examples include, but are not limited to: gestures; remarks; jokes; text messages; unwanted attention; slurs; innuendo; demands; threats; invitations; solicitation; taunting; leering; emailing nude photos; unwanted physical contact; physical, verbal or sexual assault; sharing links to sexual web sites; displaying sexually offensive material; imposing penalties related to sexual orientation, marital, or family status; implied or express promise of reward or benefit in return for sexual favours; implied or express threat or act of reprisal if sexual favours are not given.

Negative Environment

A negative or poisoned environment may operate to undermine the self-esteem and self-respect of students and employees, contribute to low morale and poor productivity, and result in unnecessarily high absenteeism, student drop-out rates and employee turnover. Examples include exposure to graffiti, signs, cartoons, remarks, exclusions or other adverse treatment related to one or more of the prohibited grounds.

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| <b>Word/Term</b>        | <b>Clarification and Examples</b>   |
|-------------------------|---|
| Intersectionality       | Competing rights claims may emerge under any of the prohibited grounds. Examples have involved the grounds of disability, creed and family status, and creed and sexual orientation.  |
| Systemic Discrimination | Examples include, but are not limited to, exam schedules that conflict with important religious observances, or lack of policies in place to ensure renovations of new space or new buildings are built to be accessible to all members of the college community. |



## POLICY

### 3.0 Principles Governing this Policy

3.1 Discrimination and harassment are prohibited by the Ontario *Human Rights Code*.

3.2 Work and learning can best be accomplished in an environment of understanding and mutual respect for the dignity and rights of each and every individual.

3.3 George Brown College is committed to preventing discrimination and harassment as part of fostering a climate of inclusion, equal opportunity and mutual respect for all members of the college community.

3.4 George Brown College will not tolerate discrimination or harassment in its academic, employment or business dealings.

3.5 Each member of the college community is responsible for helping to create a study and work environment that is free of discrimination and harassment by supporting this policy and co-operating in the resolution of complaints.

3.6 George Brown College is committed to dealing quickly, fairly and effectively with complaints of discrimination or harassment.

3.7 George Brown College will safeguard the rights of the complainant and the respondent throughout the complaints resolution process.

3.8 When human rights intersect, George Brown College will make every effort to recognize legitimate competing claims and reconcile them in a way that respects the rights of all of the parties involved.

3.9 George Brown College will maintain the confidentiality of all information relating to a complaint throughout the complaints resolution process in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act (Ontario)*, subject to due process and where disclosure may be required by law. However, George Brown College cannot guarantee complete confidentiality if a complainant or a respondent, regardless of the college's direction on confidentiality, decides to break the confidentiality conditions.

3.10 The objectives of any remedy proposed in response to a finding of discrimination or harassment will be to:

- 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 George Brown College generally; and
- correct the behaviour of the respondent, if appropriate, pursuant to the college's *Student Code of Conduct* and employee progressive discipline policy. In some cases, expulsion from the college or termination of employment may be deemed necessary.

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3.11 George Brown College will continue to apply reasonable and *bona fide* employment and academic requirements, where those requirements are deemed essential to employment or academic programs.

3.12 Special programs designed to benefit disadvantaged groups or individuals within the George Brown College community do not constitute systemic discrimination within the meaning of this policy.

3.13 Employees required to serve as mediators will have received training in mediation and conflict resolution.

3.14 Employees have a right to consult with their union if they choose to use this policy to address a concern or if they are named as a respondent or witness in the processes outlined in this policy.

3.15 Every individual has the right to seek assistance from the Human Rights Tribunal of Ontario, whether or not the process outlined in this policy leads to internal resolution of incidents of discrimination or harassment.

## 4.0 Policy

4.1 This policy prohibits discrimination and harassment on the seventeen (17) prohibited grounds defined in the *Code*:

- age;
- ancestry;
- citizenship;
- colour;
- creed;
- disability ;
- ethnic origin, including culture, language, dialect, accent or custom;
- family status;
- gender expression;
- gender identity;
- marital status, including being married, single, widowed, divorced or separated, in a civil union, common-law, or a conjugal relationship outside marriage;
- place of origin;
- race;
- receipt of public assistance (applicable in housing only);
- record of provincial offences or pardoned federal offenses (applicable in employment only);
- sex (including pregnancy); and
- sexual orientation, including perceived sexual orientation.

4.2 This policy prohibits retaliation, reprisals or threats of reprisals against individuals who:

- are pursuing their rights under this policy;
- have participated or cooperated in a complaint resolution process;
- have been associated with someone who has pursued their rights under this policy or participated in a complaint resolution process; or
- have acted in any other role or capacity under this policy.

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4.2.1 Threats of reprisal, or acts of reprisal or retaliation, may form the basis of a complaint under this policy.

4.3 All College managers (hereafter referred to chairs/managers) have a legal responsibility under the *Code* to act immediately on observations or allegations of discrimination or harassment.

4.4 Details about a complaint will only be made known to those involved in the process, and only to the extent needed to fulfill their role.

4.5 A complainant will not be obliged to directly approach a respondent at any stage of the complaints resolution process.

- Complainants should not directly approach respondents if direct interaction may escalate the discrimination or harassment, or put the safety of the complainant at risk.
- Complainants may choose to not approach respondents in situations where there may be power imbalances or where they fear reprisals.

4.6 Throughout the complaints resolution process, all documents, including contents of meetings, interviews and reports, will be securely maintained and stored. After the process is concluded, all documentation will be stored securely in the Diversity, Equity and Human Rights Services (DEHRS) office. No documentation should remain with the Dean, Associate Dean, Chair or manager of the department(s) involved, or the Mediator.

4.7 George Brown College is committed to preventing all forms of discrimination and harassment in all college-related activities.

4.7.1 Senior administrators will exhibit strong, visible and ongoing commitment to preventing all forms of discrimination and harassment.

- Everyone in positions of authority will be made aware of their responsibilities under this policy and under the *Code* for creating and maintaining an environment free from discrimination and harassment.

4.7.2 George Brown College will continue to establish policies and procedures that clarify the responsibilities of all members of the college community. Managers and Chairs will conduct regular reviews and revisions of college policies to ensure that policies:

- reflect current human rights laws;
- account for changes in college organizational structures or resources;
- address new and developing human rights issues that affect the college community; and
- continue to be effective.

4.7.3 George Brown College will work to change institutional structures that contribute to systemic discrimination and harassment on prohibited grounds.

4.7.4 George Brown College will ensure that managers and Chairs develop the skills and knowledge needed to prevent and address problems of discrimination and harassment.

- Managers and Chairs are required to familiarize themselves with the complaints resolution process and all corresponding rights and responsibilities under this policy.

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- Employees required to mediate complaints will receive training on mediation and conflict resolution as part of professional development.

4.7.5 George Brown College will take steps to make all members of the college community aware of this policy and its provisions by:

- offering educational opportunities to increase awareness about issues of discrimination and harassment; and
- making the web link to this policy available to every existing and new student, employee and contractor.

## PROCEDURES

A summary of the procedures and responsibilities outlined below is included in Appendix A.

### 5.0 Initiating the Complaints Resolution Process

5.1 Any member of the George Brown College community who believes that they have been the subject of, or may have witnessed, discrimination or harassment on a prohibited ground should consult a Human Rights Advisor, (hereafter simply referred to as “Advisor”) and could consult with the appropriate Chair or manager, to determine:

- whether the incident may be defined as a human rights violation under this policy and the *Code*; and
- what steps may be taken to resolve the concern.

5.1.1 Chairs or managers have a legal obligation to seek to resolve concerns about discrimination or harassment under the *Code* and this policy, and must consult an Advisor in seeking such resolution.

5.2 An Advisor will serve as the case manager.

5.3 An Advisor will use this policy and the *Code* to determine whether an alleged incident of discrimination or harassment falls under this policy.

- The complainant has the burden of proving a *prima facie* case of discrimination or harassment when the complaint is presented: i.e., there must be sufficient evidence, at first appearance, that the harassment or discrimination was linked to a prohibited ground.
- The respondent does not have the burden of disproving discrimination or harassment.

5.3.1 A complaint of discrimination or harassment involving sexual assault and/or sexual violence will be processed under the [Sexual Assault and Sexual Violence Policy and protocol](#).

<http://www.georgebrown.ca/policies/sexual-assault-and-sexual-violence-policy-and-protocol.pdf>

5.3.2 Situations where a complainant’s rights appear to be competing with the rights of the respondent will be dealt with according to George Brown College’s adaptation of the Ontario Human Rights Commission’s *Policy on Competing Human Rights Claims* (<http://www.ohrc.on.ca/en/policy-competing-human-rights>).

5.4 A complainant should initiate a complaint as soon as is reasonable and, in any event, must initiate the complaints resolution process no later than one (1) year from the date of the incident or, if the complaint concerns a grade, within ten (10) working days of receiving the grade in question.

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5.4.1 An Advisor will consider whether extenuating circumstances warrant permitting the complaints resolution process to be initiated later than the time frames described above. This consideration will include the length of time elapsed and the reason for the delay.

5.5 George Brown College may take temporary measures to ensure the safety of the complainant during the complaints resolution process. Such temporary measures will not penalize the complainant for making a complaint.

5.5.1 In situations where the complainant feels threatened in conjunction with discrimination or harassment, the Advisor will involve the Public Safety and Security office in providing a safety plan.

5.5.2 In situations involving students, the college's *Student Disciplinary Policy* outlines the measures to be taken.

5.5.3 In situations involving employees, measures to ensure physical and emotional safety will be determined on a case-by-case basis in consultation with Diversity, Equity and Human Rights Services and Human Resources/Labour Relations.

### **6.0 Step One: Informal Resolution**

6.1 The Chair / manager in conjunction with the Advisor should discuss with the complainant the types of informal resolution that may be appropriate to the situation, as long as the complainant feels comfortable and safe in approaching the respondent themselves or having the Chair or manager do so.

6.2 The Chair/manager in conjunction with the Advisor will support the complainant if the complainant decides to approach the respondent on an informal basis to identify the conduct of concern and explain to the respondent that it is unwelcome.

6.3 The complainant should allow the respondent an opportunity to respond to the concern expressed, and should suggest how the concern might be resolved.

6.4 If the concern is resolved, the complainant and respondent should note the nature of the resolution and the date on which it occurred, and inform the Chair / manager and Advisor, who will note in the case file that the issue has been resolved informally, the date and time should be noted.

### **7.0 Step Two: Mediation (Optional)**

7.1 The Chair / manager in conjunction with the Advisor must inform the complainant that mediation is available, that mediation may be used at any stage of the complaints resolution process, and that the choice to use mediation is completely voluntary.

7.1.1 In the case of unionized employees the Chair / manager in conjunction with the Advisor will ask unionized employees if they wish to consult with their union for advice prior to entering into mediation.

7.2 The Advisor will consult with the Chair/manager and the parties involved to identify a Mediator acceptable to all parties. In the case of unionized employee they may consult with their union on the choice of mediator.

7.3 The Mediator will conduct either 1) a face-to-face, facilitated discussion with the complainant and respondent both in attendance, or 2) separate discussions with the complainant and the respondent until they are able to meet and discuss face-to-face, or until agreement has been reached about a resolution.

7.4 If agreement about a resolution is reached, the Mediator will prepare a written summary of the agreement to be signed by and given to the complainant and the respondent.

7.4.1 The Mediator will send a copy of the signed agreement and all related documentation to Diversity, Equity and Human Rights Services.

## **8.0 Step Three: Formal Complaint**

8.0.1 A complainant may lodge a formal complaint if:

- circumstances are such that the complainant cannot or does not choose to approach the respondent for informal resolution (See 4.5);
- informal resolution does not resolve the conduct/behavior of concern;
- the complainant does not choose to use mediation;
- mediation is unsuccessful;
- the complaint is such that neither informal resolution nor mediation is an appropriate response;
- the conduct of concern is repeated; or
- the complainant chooses this avenue for seeking resolution.

8.0.2 In the case of unionized employees they may make a formal complaint under this policy or lodge a grievance. Only one avenue of complaint may be used at a time.

8.1 Upon the Advisor receiving notice from the complainant that they want to pursue a formal complaint, In consultation with the Advisor, the complainant and or Advisor on behalf of the complainant will notify the appropriate Administrator, as set out below, of their intent to lodge a formal complaint of discrimination or harassment:

- students should notify the Chair of their program of study;
- faculty members should notify the Chair of their department;
- members of the support staff should notify the manager of their department;
- members of the administrative staff should notify the Vice-President of their department; and
- members who have a complaint about their immediate manager should notify their manager's manager.

8.1.1 After receiving this notification, the Administrator must inform the Human Rights Advisor to the President.

8.2 The complainant must submit a signed, written complaint to the Administrator and the Advisor.

8.2.1 The complaint must include 1) the name of the respondent, and 2) as full an account as possible of the conduct of concern including:

- a detailed description of the event(s) or situation;
- the date(s) and time(s) of the event(s) or situation;

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- where the event(s) or situation happened with as much specificity as possible (e.g., in xxx classroom, the hallway, on or off campus);
- the names of witnesses, if any; and
- any supporting documentation, such as email messages, as an attachment.

8.2.2 If the complainant has a disability or another reason that prevents them from preparing the written statement independently, the complainant may submit the complaint verbally, through an interpreter, or in any other format which meets their communicative needs. The Advisor will arrange to provide the complainant with assistance in preparing a written complaint within four (4) working days of receiving the original complaint.

8.3 The complainant may withdraw a formal complaint at any stage of the complaints resolution process by notifying the Administrator and Advisor in writing. George Brown College may choose to continue to investigate the complaint at its discretion.

8.4 The Administrator and the Advisor, will meet with the complainant to:

- clarify any questions the Administrator has with respect to the written complaint;
- explore the remedy that the complainant is seeking to resolve the complaint;
- ensure that the complainant has received a copy of this policy;
- answer any questions the complainant may have about this policy and its procedures; and
- answer any questions the complainant may have about related resources available to them at the college, or provide appropriate direction so the complainant can secure answers to such questions.

8.5 The Administrator with support from the Advisor must provide the respondent with a copy of the signed, written complaint within four (4) working days of receiving it and provide a copy of the Prevention of Discrimination and Harassment Policy, outlining the time frame in which the respondent has to respond to the written complaint.

8.5.1 The Advisor will ask unionized employees if they wish to consult with their union for advice prior to entering into the formal complaint process.

8.6 The Administrator, and the Advisor, will meet with the respondent to:

- ensure that the respondent has received a copy of this policy;
- advise the respondent regarding the time frames for responding in accordance with this policy;
- answer any questions the respondent may have about this policy and its procedures; and
- answer any questions the respondent may have about resources available to them at the college, or provide appropriate direction so the respondent can obtain answers to their questions.

8.7 The respondent must submit a signed, written response to the Administrator within seven (7) working days of receiving the complaint.

8.7.1 If the respondent has a disability or another reason that prevents them from preparing the written response independently, the respondent may submit the response verbally, through an interpreter, or in any other format which meets their communicative needs. The Advisor will arrange to provide the respondent with assistance to put the response in writing within four (4) working days of receiving it.

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8.8 After receiving the signed response, the Administrator with support from the Advisor will provide a copy of the response to the complainant within four (4) working days.

8.9 If appropriate to the complaint, the Administrator may attempt to resolve the complaint through informal resolution or mediation without further investigation.

8.9.1 If the complaint is resolved, the Administrator with support from the Advisor must:

- prepare a written Memorandum of Agreement setting out the terms of resolution to be signed by the complainant, the respondent and the Administrator;
- provide copies of the signed Memorandum of Agreement to the complainant and respondent; and
- forward all documentation related to the complaint, including a copy of the signed Memorandum of Agreement, to Diversity, Equity and Human Rights Services.

8.10 If further investigation is required to resolve the complaint, the Administrator must identify whether any conflict of interest or bias could prevent the Administrator from conducting an objective investigation.

8.10.1 If a conflict of interest or bias exists, the Administrator must inform the Human Rights Advisor to the President. The Human Rights Advisor to the President will designate an alternative investigator to conduct the investigation.

8.11 In investigating a complaint, and with the assistance of the Advisor, the Administrator may:

- collect and review documents that may contain information relevant to the complaint;
- interview individuals, including witnesses, who may have information relevant to the complaint;
- conduct additional interviews with the complainant or the respondent;
- consult with the Advisor and relevant college resource persons (e.g., Human Resources Consultants, Labour Relations, Disability Services, Public Safety and Security); and
- take any other steps consistent with college policy.

8.12 Investigations should be completed within thirty (30) working days, subject to extenuating circumstances.

8.12.1 The Administrator in consultation with the Advisor may extend this time frame if it is deemed reasonably necessary.

8.12.2 The Administrator must inform the complainant, respondent and Advisor of any extension.

8.12.3 A complainant or respondent who is dissatisfied with the timeliness of the complaints resolution process should advise Diversity, Equity and Human Rights Services of their concern.

8.13 The Administrator with support from the Advisor must prepare a written decision within 4 working days that summarizes:

- the complaint;
- the response;
- the Administrator's conclusion about whether the complaint was 1) substantiated, 2) partially substantiated, 3) unsubstantiated, or 4) frivolous, vexatious or made in bad faith; and
- the reasons for the decision.



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8.13.1 In making a decision, the Administrator will consider:

- the complaint;
- the response;
- the results of meetings with the complainant and respondent;
- the results of the steps taken to investigate the complaint; and
- the balance-of-probabilities civil legal test: Based on the evidence presented, is it more reasonable than not that discrimination or harassment took place?

8.13.2 The remedy will remain confidential between the Administrator, Advisor and the respondent.

8.13.3 In cases involving intersectionality, the decision will detail how the competing human rights were reconciled and why they were reconciled in that way.

8.14 The Administrator will provide the complainant, the respondent and the Advisor with a copy of the decision, including a notice about the parameters and process for initiating a review.

8.15 Once the complaints resolution process is completed, the Administrator must send all documentation related to the complaint to Diversity, Equity and Human Rights Services.

\* note all time lines in the formal complaint process may be adjusted in extenuating circumstances

## **9.0 Opportunity for Review**

9.0.1 The complainant or respondent may request a review of the complaints resolution process by the Human Rights Advisor to the President and or their designate on the following grounds:

- that the procedures outlined in this policy were not followed; or
- that there were compelling or extraordinary circumstances that were not considered.

9.1 The complainant or respondent must request a review within ten (10) working days of receiving the copy of the Decision. The request must include the reasons for requesting the review, and evidence to support the request.

9.2 The Human Rights Advisor to the President and or their designate will review the decision with the Administrator to identify whether there is evidence that:

- the procedures outlined in this policy were not followed;
- procedural fairness was not demonstrated; or
- compelling or extraordinary circumstances that were beyond the complainant's or respondent's control, and that could have had a bearing on the decision, were not considered.

9.2.1 If evidence is identified, the Human Rights Advisor to the President and or their designate, in consultation with the Administrator, will make amendments to the decision. If no evidence is identified, the decision will stand.

9.3 The Human Rights Advisor to the President and or their designate will provide a letter to the complainant and respondent that sets out the outcome of the review, and informs both parties that the decision is final with no internal avenue for further review.

9.4 In the case of unionized employee they may consult with their union on the steps available to them, as set out in their collective agreement, about any discipline that may be a result of the investigation.

### **Non-Compliance Implications**

## **10.0 Legal Obligation to Prevent and Act on Complaints of Discrimination or Harassment**

10.0.1 Under the *Code*, George Brown College has a legal duty to maintain an environment free from discrimination and harassment, and a legal obligation to act on complaints of discrimination or harassment. Failure to take steps to prevent and respond to violations of the *Code* constitutes a breach of institutional responsibility as a provider of educational services and as an employer, and may result in penalties or consequences such as fines or orders from a tribunal or court.

10.1 Where disciplinary action resulting from a complaint of discrimination or harassment under this policy is appropriate, the Administrator will:

- in the case of students: consult the major infractions section of the *Student Disciplinary Policy*; or
- in the case of employees: consult with a Human Resources Consultant.

10.2 If a field placement organization is found to have not complied with the *Code*, George Brown College may 1) enter into discussions with the field placement organization to remedy the situation for both current and future students, 2) remove student(s) from the placement and 3) bar the agency from providing future field placements for George Brown College students.

10.3 If a contractor is found to have not complied with this policy or the *Code*, George Brown College may 1) enter into discussions to remedy the current situation and future expectations, 2) impose penalties, 3) cancel the contract, or 4) bar the contractor from future contractual arrangements.

10.4 If a complaint of discrimination or harassment against a visitor is substantiated, George Brown College will take appropriate action and apply appropriate remedies or sanctions, up to barring the visitor from George Brown College premises or functions.

10.5 If a complaint is determined to be frivolous, vexatious or made in bad faith, the Administrator may impose corrective measures or sanctions against the complainant.

### **OVERARCHING and/or SUPPORTING DOCUMENTATION**

Ontario Human Rights Code <http://www.ohrc.on.ca/en/ontario-human-rights-code>

### **RELATED POLICIES**

AODA Policies and Standards

Captioned Media and E-Text Policy

Code of Conduct: Academic Employees

## GA 01 George Brown College Human Rights Discrimination and Harassment Policy

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

Sexual Assault and Sexual Violence Policy

### RELATED MATERIALS

## 11.0 Resources at George Brown College

Copies of this policy are available on the [George Brown College web site](http://www.georgebrown.ca/diversity/).  
<http://www.georgebrown.ca/diversity/>

11.1 Questions about this policy may be directed to the Human Rights Advisors in Diversity, Equity and Human Rights Services:

- In person: Casa Loma Campus - 500 MacPherson Avenue, Room 102; St James Campus - 200 King Street East, Room 126; Waterfront Campus - 51 Dockside Drive, Room 230.
- By email: [dehrs@georgebrown.ca](mailto:dehrs@georgebrown.ca).
- By telephone: 416-415-5000 (ask for Diversity, Equity and Human Rights Services).
- By mail: Diversity, Equity & Human Rights Services, George Brown College, P.O. Box 1015, Station B, Toronto, Ontario, M5A 2T9.

11.2 Counselling services are available to all students and full-time employees of George Brown College:

- Students may access counselling through the Student Affairs Department, Counselling Services.
- Full-time employees may seek access to counselling through the Employee Assistance Programme. Information on the Employee Assistance Programme is available through the Benefits Office in Human Resources and on insite. [www.shepellfgi.com](http://www.shepellfgi.com)

11.3 Additional Resources

[Ontario Human Rights Code](http://www.ohrc.on.ca/en/ontario-human-rights-code)

<http://www.ohrc.on.ca/en/ontario-human-rights-code>

[Disability and the Duty to Accommodate](#)

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<http://www.ohrc.on.ca/en/policy-and-guidelines-disability-and-duty-accommodate>

[Discrimination because of Age](#)

<http://www.ohrc.on.ca/en/policy-discrimination-against-older-people-because-age>

[Discrimination and Audism](#)

<http://www.chs.ca/position-paper-discrimination-and-audism>

[Discrimination because of Family Status](#)

<http://www.ohrc.on.ca/en/policy-and-guidelines-discrimination-because-family-status>

[Discrimination because of Gender Identity and Gender Expression](#)

<http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>

[Racism and Racial Discrimination](#)

<http://www.ohrc.on.ca/en/policy-and-guidelines-racism-and-racial-discrimination>

[Preventing Sexual and Gender-based Harassment](#)

<http://www.ohrc.on.ca/en/policy-preventing-sexual-and-gender-based-harassment-0>

[Prohibited Grounds](#)

[http://www.ohrc.on.ca/en/code\\_grounds/creed](http://www.ohrc.on.ca/en/code_grounds/creed)

[Discrimination and Harassment because of Sexual Orientation](#)

[http://www.ohrc.on.ca/sites/default/files/attachments/Policy\\_on\\_discrimination\\_and\\_harassment\\_because\\_of\\_sexual\\_orientation.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/Policy_on_discrimination_and_harassment_because_of_sexual_orientation.pdf)

[Conflict of Interest policies and procedures](#)

[https://insite.georgebrown.ca/human\\_resources/hr\\_policies.asp](https://insite.georgebrown.ca/human_resources/hr_policies.asp)

## APPENDIX A

### SUMMARY OF PROCEDURES AND RESPONSIBILITIES

| <u>#</u>  | <u>Action</u>   | <u>Responsibility</u>     |
|---|---|---------------------------|
| <b>5.0 Initiating the Complaints Resolution Process</b> |   |                           |
| 5.1   | Consult Advisor, and possibly Chair or manager, if you have experienced or witnessed discrimination or harassment.  | Complainant               |
|   | 5.1.1 Consult Advisor if complaint is brought forward.  | Chair/ Manager            |
| 5.2   | Serve as case manager.  | Advisor                   |
| 5.3   | Determine whether complaint falls under this policy. If not take complainant to appropriate office e.g. If Workplace Violence, non-Code violation, Collective Agreement violation | Advisor                   |
|   | 5.3.1 Consult Sexual Assault and Sexual Violence Policy when appropriate.   | Advisor                   |
|   | 5.3.2 Consult Framework for Addressing Competing Rights Claims when appropriate.  | Advisor                   |
| 5.4   | Initiate complaint within 1 year of incident, or within 10 days of receiving grade.   | Complainant               |
|   | 5.4.1 Determine whether extenuating circumstances allow initiation outside time frame.  | Advisor                   |
| 5.5   | Take measures to ensure complainant's safety if necessary.  | Advisor                   |
|   | 5.5.1 Involve Public Safety and Security Office in providing safety plan.   | Advisor                   |
|   | 5.5.2 For students, consult Student Disciplinary Policy.  | Advisor                   |
|   | 5.5.3 For employees, consult DEHRS and Human Resources/Labour Relations.  | Advisor                   |
| <b>6.0 Step One: Informal Resolution</b>                |   |                           |
| 6.1   | Discuss with complainant types of informal resolution appropriate to situation.   | Advisor and Chair/manager |
| 6.2   | Support complainant if informal resolution is chosen.   | Advisor                   |
| 6.3   | Allow respondent to respond; suggest ways to resolve concern.   | Complainant/Respondent    |

| <b>#</b>   | <b><u>Action</u></b>  | <b><u>Responsibility</u></b> |
|------------|---|------------------------------|
| 6.4        | Note any resolution and inform Advisor.   | Complainant and Respondent   |
| <b>7.0</b> | <b>Step Two: Mediation</b>  |                              |
| 7.1        | Inform complainant about the availability of and process for mediation in resolving complaints.                       | Advisor                      |
|            | 7.1.1 Advise unionized employees to consult their union as to appropriateness of mediation for resolving complaint.   | Advisor                      |
| 7.2        | Consult with Chair/manager and parties involved to identify acceptable Mediator.                                      | Advisor                      |
| 7.3        | Conduct discussion(s) with complainant and respondent.  | Mediator                     |
| 7.4        | Prepare written summary of any agreed resolution; give signed copies to complainant and respondent.                   | Mediator                     |
|            | 7.4.1 Send all documentation to DEHRS.  | Mediator                     |
| <b>8.0</b> | <b>Step Three: Formal Complaint</b>   |                              |
|            | 8.0.1 Can lodge formal complaint if appropriate.  | Complainant                  |
|            | 8.0.2 Must choose either formal complaint or grievance, if unionized employee.  | Complainant                  |
| 8.1        | Consult Advisor and notify appropriate Administrator of intention to lodge formal complaint.                          | Complainant                  |
|            | 8.1.1 Inform Human Rights Advisor to the President.   | Administrator                |
| 8.2        | Submit signed, written complaint to Administrator.  | Complainant                  |
|            | 8.2.1 Include description of incident, dates and times, location, and names of any witnesses and impact of behaviour. | Complainant                  |
|            | 8.2.2 Arrange assistance for complainant to prepare written complaint, if necessary, within 4 working days.           | Administrator, with Advisor  |
|            | 8.2.3 Send copy to Human Rights Advisor to the President.   | Administrator                |
| 8.3        | Can withdraw formal complaint at any time.  | Complainant                  |
| 8.4        | Meet with complainant.  | Administrator, with Advisor  |
| 8.5        | Provide respondent with copy of signed, written complaint within 4 working days.                                      | Administrator                |

| #    | <u>Action</u>  | <u>Responsibility</u>                  |
|------|--|--|
| 8.6  | Meet with respondent.  | Administrator, with Advisor            |
| 8.7  | Submit signed, written response to Administrator within 7 working days of receiving complaint.                                       | Respondent                             |
|      | 8.7.1 Arrange, within 4 working days, assistance for respondent to prepare written response, if necessary.                           | Administrator, with Advisor            |
| 8.8  | Provide complainant with copy of response.   | Administrator                          |
| 8.9  | Attempt to resolve complaint without further investigation, if appropriate.  | Administrator                          |
|      | 8.9.1 If resolved, prepare written Memorandum of Agreement, obtain signatures and send documentation to DEHRS.                       | Administrator                          |
| 8.10 | If investigation is required, identify any conflict of interest or bias.   | Administrator                          |
|      | 8.10.1 Inform Human Rights Advisor to the President of any conflict of interest or bias so alternative investigator can be assigned. | Administrator                          |
| 8.11 | Undertake investigation activities appropriate to the complaint.   | Administrator, with Advisor assistance |
| 8.12 | Complete investigation within 30 working days.   | Administrator                          |
|      | 8.12.1 Extend time frame if reasonably necessary.  | Administrator                          |
|      | 8.12.2 Inform complainant, respondent and Advisor of any extension.  | Administrator                          |
|      | 8.12.3 Advise DEHRS if dissatisfied with timeliness of process.  | Complainant; Respondent.               |
| 8.13 | Prepare written decision.  | Administrator                          |
|      | 8.13.1 Consider submissions, results of meetings and investigations, and balance- of-probabilities civil legal test.                 | Administrator                          |
|      | 8.13.2 Keep remedy confidential between Administrator and respondent.  | Chair/manager                          |
|      | 8.13.2 Detail how competing human rights, if any, were reconciled, and the rationale for this reconciliation.                        | Administrator                          |

| #          | <u>Action</u>   | <u>Responsibility</u>                    |
|------------|---|--|
| 8.13       | Provide complainant, respondent and Advisor with copies of the decision and information about requesting review.  | Administrator                            |
| 8.14       | Send all documentation to DEHRS.  | Administrator                            |
| <b>9.0</b> | <b>Opportunity for Review</b>   |  |
| 9.1        | Submit request for review to HRAP within 10 working days; include reasons for request and supporting evidence.  | Complainant;<br>Respondent               |
| 9.2        | Review decision with Administrator.   | Human Rights Advisor to<br>the President |
|            | 9.2.1 Amend decision if warranted.  | Human Rights Advisor to<br>the President |
| 9.3        | Send a letter to the complainant and respondent with the review outcome, and notification that the outcome of the review finalized the internal mechanisms available. This does not preclude the individual from seeking further redress via the Ontario Human Rights Tribunal process. | Human Rights Advisor to<br>the President |