

Corporate Policy

POLICY NUMBER:	HR402
POLICY TITLE:	Harassment
OWNER:	Vice President, Corporate Services
APPROVED BY:	Senior Management Team
EFFECTIVE:	JUNE 15, 2010
REFERENCE:	
LINKS TO OTHER POLICY:	ERP810 - Reporting and Responding to Violence CR801 - Violence Prevention and Protection AC757 - Student Behaviour Policy

BACKGROUND

It is the policy of the Mohawk College (the “College”) to build and preserve a positive working environment for all its employees.

No one has the right to harass an employee at work or in any situation related to the workplace. This policy is one step toward ensuring that our workplace is a comfortable place for all of us.

The College promises to treat all complaints of harassment seriously, whether they are made informally or formally. We undertake to act on all complaints to ensure that they are resolved quickly, confidentially, and fairly. We will discipline anyone who has harassed an employee. We will discipline managers who do not act properly to end harassment.

A copy of this Harassment Policy shall be posted in a readily accessible location for use by all employees.

Scope

This Harassment Policy applies to all full-time, part-time, temporary and casual employees. It also applies to all contractors and volunteers who provide services to the College. This policy will use the terms “employees” to refer to those persons who are covered by the scope of this Policy.

This Harassment Policy applies to all incidents of workplace harassment perpetrated against employees by any other employees, including supervisors or other members of management, members of the Board of Governors, students, family members, visitors, or any person working

on behalf of or affiliated with the College.

Any employees who subject other employees to workplace harassment may be subject to disciplinary action up to and including termination of employment for cause or any other applicable and available disciplinary remedies.

Other perpetrators of workplace harassment will be subject to whatever measures are reasonably available to ensure a healthy and safe work environment.

Definitions

Workplace Harassment

Engaging in a course of vexatious comment or conduct against a employee in a workplace that is known or ought reasonably to be known to be unwelcome

Harassment is any behaviour that demeans, humiliates, or embarrasses a person, and that a reasonable person should have known would be unwelcome. Harassment may result from one incident or a series of incidents.

The definition includes, but is not limited to:

- making remarks, jokes or innuendos that demean, ridicule, intimidate, or offend
- displaying or circulating offensive pictures or materials in print or electronic form
- bullying
- making repeated offensive or intimidating phone calls or e-mails
- engaging in inappropriate sexual touching, advances, suggestions or requests
- spreading malicious rumours
- belittling a employee's opinions

Harassment includes Sexual Harassment, such as:

- any unwelcome sexual advance or request for sexual favours
- implied or expressed threat of reprisal for refusal to comply with a sexually oriented request
- unwelcome remarks, jokes, innuendos, propositions, or taunting about a person's body, attire, sex or sexual orientation
- physical contact with an underlying sexual connotation
- leering
- displays of pornographic or sexual material

Harassment **does not** include

- reasonable action or conduct by an employer, manager or supervisor that is part of the normal job function even if there are unpleasant consequences for the employee, e.g.,
 - ❖ changes in work assignments or scheduling
 - ❖ job assessment and evaluation
 - ❖ workplace inspections
 - ❖ implementation of dress codes
 - ❖ disciplinary action
- differences of opinion or minor disagreements between co-employees
- consensual banter or relationships

- ❖ two or more employees bantering back and forth is not harassment if everyone involved is in agreement. But if any employee feels uncomfortable with this behaviour, and the behaviour continues even after that person has expressed their discomfort, or if the other employee(s) involved should have known the person was uncomfortable, then the behaviour does constitute harassment.
- Employees flirting with each other, or becoming involved in a romantic or sexual relationship, as long as the relationship is consensual. If one of the employees changes her or his mind, and the other person persists in trying to continue the relationship, this is harassment.

Workplace

Workplace is defined as: any location where any employee is carrying out any work-related function

Examples of possible “workplaces” for the College’s employees:

- Multi-site office environment
- College-sponsored conference or training site
- Employee-accompanied student transport
- Any location employees are required to be during the course of their duties, i.e., client apartment or employee’s client meeting location (coffee shop)
- Student residences or community settings

Management

Managers who control or direct the business of the College

Supervisor

A person who has charge of a workplace or authority over an employee, whether or not they are managers

Complainant

The employee who reports harassment

Respondent

The person (employee, client, etc.) about whom a harassment complaint is made

ROLES AND RESPONSIBILITIES

Supervisors and Management

The College’s supervisors and managers must ensure, as much as reasonably practical, that no employees are subjected to harassment in the workplace.

Management will take corrective action with anyone under their direction who subjects employees to harassment.

The College, its managers and supervisors are responsible for creating a positive working environment, free from harassment. Anyone aware of harassment in the workplace must bring it to the attention of their supervisor or management so the issue can be addressed immediately.

Employees

Every employee contributes to the creation of a safe and healthy work environment by demonstrating respectful and appropriate conduct at work.

All employees must accept as a personal responsibility their own role in eliminating the risk of workplace harassment in the day-to-day activities of their own work. Therefore, employees must:

- comply with this Harassment Policy and refrain from any acts of harassment
- work together in a professional manner and resolve issues in a respectful manner. Employees are to bring issues to their supervisor, if they cannot be mutually resolved
- report to their immediate supervisor or Human Resources any incidents they experience or witness.
- attend training and information sessions provided by the College to reduce incidents of harassment
- co-operate with investigators or other authorities as required during any investigation related to harassment

REPORTING PROCEDURES

Speak Up

All employees are encouraged to speak directly to the person who is acting in an offensive, harmful or humiliating manner. The offender should be advised that their behaviour is inappropriate and you want it to stop. Employees are advised to make notes of the offensive behaviour, the date it happened, the feelings it created, what was done about it, and who else was present, if there were any witnesses.

Informal Complaint

If there are concerns about speaking directly to the person committing the offensive behaviour, or if the offender does not stop the behavior after the matter is raised with him or her, then employees are advised to seek advice from and report the matter to their immediate supervisor or Human Resources with a view to informally settling the matter. Where the alleged harasser is a student, the supervisor or Human Resources should also contact the Dean of Student Development.

Formal Complaints

If the informal route for resolving a harassing situation does not succeed or is not appropriate, the College supports its employees in filing a formal complaint on the College's Formal Complaint Form. If the Respondent is a student, the supervisor or Human Resources should also contact the Dean of Student Development.

Note: All employees have a responsibility to report harassment if they or someone else is being harassed.

INVESTIGATING FORMAL COMPLAINTS

1. Human Resources will appoint an internal or external person to investigate all reported incidents of harassment.
2. The Complainant and the Respondent will be advised of the investigation.
3. The investigation will be conducted in a fair, efficient and prompt manner. The exact conduct of the investigation will depend on the nature and seriousness of the allegations. Management has the discretion to determine the appropriate investigation procedures. Generally, the investigation will consist of the following:
 - a. Interviews will be conducted with the Complainant, the Respondent, and any witnesses.
 - b. The investigation will involve:
 - obtaining all pertinent information from the Complainant
 - informing the Respondent of the details of the complaint, and getting her or his response
 - interviewing any witnesses
 - deciding whether, on a balance of probabilities, harassment did take place
 - recommending appropriate remedies, penalties, or other action.
4. Human Resources may separate the Complainant and the Respondent during an investigation, if necessary and if reasonably possible.
5. All documents related to a complaint or incident of workplace harassment, including the written complaint, witness statements, investigation notes and reports, and documents related to the Complainant, will be maintained by the investigator, and the College, separate from personnel files.
6. The investigator shall determine whether there is:
 - a. Sufficient evidence to substantiate that workplace harassment has occurred and/or that this Harassment Policy was contravened; or
 - b. Insufficient evidence to substantiate that the workplace harassment has occurred and/or that this Harassment Policy was contravened.
7. The investigator will complete a summary report for inclusion in the investigation file.

CORRECTIVE ACTION AND DISCIPLINE

Corrective Action where the Respondent is a Employee

If management decides there has been a violation of this Harassment Policy and Program by a employee, the following conditions should be considered when determining corrective action:

- the impact of the incident on the Complainant
- the nature of the incident
- the period of time and frequency of the incidents

- the vulnerability of the Complainant.

The following corrective actions may be considered depending on the particular incident and the factors set out above:

- apology
- training
- referral to an assistance program
- reassignment or relocation
- report to a professional body
- suspension (with or without pay)
- termination of employment or contractual relationship
- legal action.

Corrective action where Respondent is a student

Where the Respondent is a student, all reasonable measures will be taken to ensure a positive work environment for employees, including:

- Temporary suspension
- Verbal warning
- Temporary dismissal
- Loss of privileges
- Written warning
- Behaviour contract
- Formal written warning
- Probation
- Restitution
- Suspension
- College Expulsion

Corrective Action where the Respondent is neither a Employee nor a student

If the Respondent is not a employee or a student, the College will take whatever measures are reasonably available to ensure the safety of its employees.

Personnel Files (where Respondent is a Employee)

No record of the complaint, investigation or decision will go in the Complainant's personnel file if the complaint was made in good faith.

If the investigation does not find evidence to support the complaint, there will be no documentation concerning the complaint placed in the Respondent's file. When the investigation reveals harassment has occurred, the incident and the discipline that is imposed on the Respondent will be recorded in the Respondent's personnel file.

Complaints made in Bad Faith

This Harassment Policy must never be used to bring fraudulent or malicious complaints against employees or other parties.

In the rare event that the complaint was made in bad faith – in other words, the person making it had absolutely no basis and deliberately and maliciously filed the complaint – that person will be subject to the same remedies as set out above, and a record of the incident will be put in her or his personnel file.

Confidentiality

Strict confidentiality is required to properly investigate an incident and to offer appropriate support to all parties involved. Any individual who becomes aware of an incident of harassment should not disclose the details of the incident to any third party without prior consultation with the College. Gossiping about an incident seriously undermines the privacy of all parties involved and will not be tolerated.

The College will strive to maintain confidentiality in its handling of any complaint in an attempt to protect the privacy of all individuals. Management will not disclose the name of a Complainant or the circumstances of the complaint to anyone except where disclosure is:

- necessary to investigate the complaint
- required to take corrective action
- required by law.

Assurance against Retaliation

This Harassment Policy encourages employees to freely express any concerns about harassment in the workplace. Complainants must not be penalized nor subjected to any prejudicial treatment as a result of making a complaint in good faith. Witnesses must not be subject to any negative repercussions as a result of participating in an investigation.

Any retaliation by the Respondent or anyone acting on behalf of the Respondent against the Complainant or any witnesses is strictly prohibited and will result in appropriate disciplinary action.

Target's Legal Rights

Nothing in this Harassment Policy prevents a employee who has been a target of harassment from pursuing legal action, include a claim under the Human Rights Code.

Record Keeping

The documents corresponding to the investigation will be kept on file by the College in a secured location, for a period of seven years from the date of the incident.

Monitoring

The Vice President, Corporate Services is responsible for reviewing this policy on an annual basis or more frequently as necessary.

Policy Revision Date

Attachments

Specific Links