1. **Purpose**
Mohawk College is committed to ensuring an academic and working environment that recognizes the dignity and worth of all students and employees and in which all individuals are treated with respect.

The College will uphold the rights and responsibilities of the Ontario Human Rights Code (“Code”).

Students are personally responsible for their behaviour and conduct at all times and the College equally expects every student to conduct themselves in the academic environment in a way which supports the College’s commitment.

2. **Application and Scope**
This Policy applies to all students in that it reinforces that all students are entitled to be free from harassment and discrimination by other students, employees, workers, volunteers and community members; and it also prohibits all harassment and discrimination by students towards other students, employees, workers, volunteers and community members.

This Policy also applies to all employees, workers, volunteers and community members in that they are prohibited from harassing and discriminating against students. The College’s Respectful Workplace Policy governs the rights of these individuals to be free from harassment and discrimination.

This Policy applies to all harassment and discrimination occurring on campus; off campus at College-related event; in the course of academic assignments or placements off campus; and, during academic-related travel.

3. **Definitions**

“**Discrimination**” is any form of unequal treatment, whether intentional or not, that is based on the Code’s “Protected Grounds” under Code. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of imposing burdens, obligations, or disadvantages, on certain groups of people, or which withholds or limits access to opportunities, benefits and advantages available to other individuals.
“Harassment” is a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. Harassment can also result from a serious single comment or action and it does not matter whether the harasser was intending to harm or annoy the other person.

If the harassment is related to any of the Code’s “Protected Grounds” then the harassment violates the Code and this Policy.

Examples of this type of harassment include:

- Inappropriate or insulting remarks, gestures, jokes, innuendoes or taunting about a person based on a Protected Ground;

- Unwanted questions or comments about a student’s private life pertaining to a Protected Ground; and/or,

- Posting, displaying materials, or the electronic publication of articles or graffiti etc. that is offensive on the basis of a Protected Ground.

Harassment does not include:

- Reasonable action taken by the College relating to the direction of students or the academic environment even if there are unpleasant consequences for the student.

Examples include:

- Classroom management by an instructor;
- Disciplinary sanction;
- Difference of opinion or minor disagreements between students;
- Consensual banter between students which is mutually acceptable and not offensive to others; and/or,
- Consensual relationship between students (i.e. relationships that are voluntary, mutually acceptable, and where there is no power imbalance between the parties to the relationship).

“Poisoned Environment” is a form of discrimination that can arise from hostile, unwelcoming, insulting or degrading comments or actions being made in the academic environment based on a Protected Ground, regardless of who the comments or actions are being directed towards.

For example: Being subjected to offensive jokes about members of a Protected Group.

“Protected Grounds” means that every person is protected from discrimination and harassment in services, goods, facilities, employment and housing because of:

a. Race
b. Ancestry
c. Place of origin
d. Colour  
e. Ethnic origin  
f. Citizenship,  
g. Creed  
h. Sex (includes pregnancy and breastfeeding)  
i. Sexual orientation  
j. Gender identity  
k. Gender expression  
l. Age (for housing, must be 18 years of age unless no longer under parental control)  
m. Record of offences  
n. Marital status  
o. Family status  
p. Disability  
q. Receipt of public assistance (for housing only).

“Sexual Harassment” is

(a) engaging in a course of vexatious comment or conduct against a student because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the student and the person knows or ought reasonably to know that the solicitation or advance is unwelcome, or

(c) taking or threatening a reprisal against a student who has rejected a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the student.

Examples include:

- unwanted remarks, jokes, innuendoes or taunting about a person’s body, attire, gender, gender identity, gender expression, or sexual orientation;
- unwanted physical contact of a sexual nature such as touching, kissing, patting, hugging, or pinching;
- unwelcome inquiries or comments about a person’s sex life or sexual preference;
- leering, whistling, or other sexually suggestive or insulting sounds;
- posting or displaying (including electronic publication of) offensive materials of a sexual nature;
- unsolicited sexual advances or demands for sexual favours;
- inappropriate jokes of a sexual nature; and/or,
- sexual assault (also an offence under the Criminal Code).

4. Principles

4.1. Harassment and discrimination at the College are not tolerated.
4.2. The College treats all incidents and complaints of harassment or discrimination seriously, whether they are made informally or formally. The College will act on all incidents and complaints in accordance with Appendix A - Harassment and Discrimination Complaints Procedure to ensure that they are resolved quickly and fairly.

4.3. Students who are found to have harassed or discriminated against another individual, or who have created a poisoned environment may be subject to disciplinary action up to and including expulsion. This includes any student who:

- interferes with the resolution of a harassment or discrimination complaint;
- retaliates against an individual for making a harassment or discrimination complaint or participating in the complaint resolution process;
- breaches the confidentiality of a harassment or discrimination inquiry or investigation; or,
- makes an unfounded harassment or discrimination complaint in bad faith.

4.4. Employees and/or workers who are found to have harassed or discriminated against a student, or who have created a poisoned environment for a student are subject to disciplinary action up to and including termination pursuant to section 4.3 of the Respectful Workplace Policy.

4.5. Volunteers or community member engaging with students in the academic environment who are found to have harassed or discriminated against a student will have reasonable available action taken against them by the College.

4.6. Any student is free to pursue harassment or discrimination complaints at the Ontario Human Rights Tribunal at any time.

4.7. In order to protect the integrity of the process for resolving complaints and to ensure fairness for all participants, all parties to a harassment or discrimination complaint are expected to respect the privacy and confidentiality of all other parties involved and to limit the discussion of a harassment or discrimination complaint to those that need to know.

4.8. The College will strive to maintain confidentiality in its handling of any incident or complaint of harassment or discrimination. Information obtained about an incident or complaint of harassment or discrimination, including identifying information about any individuals involved will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

5. Roles and Responsibilities

6. The College and its employees are responsible for:

- Ensuring that no students are subjected to harassment or discrimination in the academic environment;
• Fostering a harassment and discrimination-free academic environment and setting an example about appropriate academic environment behaviour;

• Dealing with harassment and discrimination situations immediately upon becoming aware of them, whether or not a harassment or discrimination complaint has been made;

• Ensuring harassment or discrimination situations are dealt with in a sensitive and confidential manner in accordance with this Policy and Appendix A – Harassment and Discrimination Complaint Procedures.

6.1 All Students are responsible for:

• Treating others with respect in the academic environment and interacting in a professional and respectful manner;

• Reporting harassment and discrimination to the Manager Student Rights and Responsibilities (or the Dean of Students if the report is about the Manager Student Rights and Responsibilities) in accordance with Appendix A- Harassment and Discrimination Complaint Procedures;

• Cooperating and participating with a harassment or discrimination inquiry or investigation in good faith and respecting the privacy of others involved and the confidentiality related to the inquiry or investigation process.

6.2 All Students can expect:

• A harassment and discrimination free academic environment;

• That reported harassment and discrimination will be dealt with in a timely, confidential and effective manner;

• To be treated fairly under this Policy and Appendix A- Harassment and Discrimination Complaint Procedures;

• To be protected from retaliation for reporting harassment and discrimination or for participating in an inquiry or investigation.

6.3 External Responsibility
In the event that a student brings a harassment or discrimination complaint arising out of a co-op, clinical practicum or student placement setting, that complaint shall proceed using the applicable policy of the external organization. In the event that the external organization does not have a harassment or discrimination policy and procedure, or it does not apply to the alleged respondent, the student should pursue the complaint under the Code via the Ontario Human Rights Tribunal. The College shall provide support to the student in either case.

7. Accountability and Compliance
7.1. Accountability Framework
This policy has been approved by the Senior Leadership Team.

7.2. Compliance
The Dean of Students is responsible for monitoring the effectiveness of this Policy and Appendix A – Harassment and Discrimination Complaints Procedures.

8. Policy Revision

8.1. Revision Date
February 2020

8.2. Responsibility
The Dean of Students will review this Policy and Appendix A – Harassment and Discrimination Complaints Procedures every year or earlier if necessary.

9. Attachments
Appendix A – Harassment & Discrimination Complaints Procedure

10. Specific Links
SS-3201-2013 Academic Accommodation for Students with Disabilities Policy
GC-4300-2013 Accessibility (AODA) Policy
GC-4302-2015 Sexual Assault and Sexual Violence Policy
CS-1317-2012 Respectful Workplace (Harassment & Discrimination) Policy
CS-1401-1979 Health and Safety Policy
CS-1402-2012 Violence Prevention and Protection Policy
ERP810 Reporting and Responding to Violence
Appendix A
Harassment & Discrimination Complaints Procedure

1. Overview
The following Procedures support both the College’s Human Rights for Students Policy and the Respectful Workplace Policy for Employees and set out the options available and the processes to be followed in the event that an incident or complaint of harassment or discrimination comes to, or is brought to, the attention of the College.

2. What do I do if I am being harassed or discriminated against or if I witness or reasonably suspect harassment or discrimination of a student or employee?
If you believe you are being subjected to harassment or discrimination, you have witnessed discrimination or harassment, or you reasonably suspect that a student or employee is being harassed or discriminated against, you are encouraged to do the following:

a. Speak to the Offender
This is a voluntary step. If you feel able to do so, it is your right to inform the offender that the behaviour is unwelcome by verbal or in written communication to stop the behaviour. In many cases, when the offender is aware his or her conduct is unwelcome and will not be tolerated, he or she stops and the conflict is resolved. Harassment and discrimination negatively affects everyone. Bystanders are also encouraged to speak up and ask an offender to stop.

Some of the things you can say that might stop the behaviour include:

- I don’t want you to do/say that
- Please stop doing or saying that
- It makes me uncomfortable when you do/say that
- I don’t find it funny when you do/say that

b. Document the Conduct
Take notes of the offensive conduct by writing down what happened, the time and date(s) when it happened and the names of those who were present. Write down what was said and done by both you and the person whose conduct was offensive.

3. Who is Expected to Report an Incident or Make a Complaint?
Any College employee, student, worker or volunteer who:

- Feels that his or her rights under the Policy have been violated;
- Witnesses harassment or discrimination of an employee or student; or,
- Reasonably suspects that an employee or student is being or has been harassed or discriminated against contrary to this Policy,

Is expected to report the incident or make a complaint under the Policy, in accordance with this Procedure if the individual was unable to speak to the offender, or speaking to the
offender was unsuccessful.

4. Where do I report an incident or make a complaint of harassment or discrimination?
If you are a student making a report or complaint contact the Manager, Student Rights & Responsibilities who will also contact the Human Resources Consultant if the report/complaint is against an employee.

If you are an employee, worker, intern or volunteer making a report or complaint contact your manager and/or Human Resources Consultant who will also contact the Manager, Student Rights & Responsibilities if the report/complaint is against a student.

If you are a contractor or volunteer making a report or complaint contact Human Resources Consultant who will also contact the Manager, Student Rights & Responsibilities if the report/complaint is against a student.

If the person that you are directed to contact above is the offender, instead contact that individual’s manager.

*In accordance with privacy/confidentiality obligations and to ensure a fair process, do not make your report/complaint to individuals other than those noted above. This obligation does not, however, preclude you from contacting your union, the Ontario Human Rights Tribunal, or law enforcement.

5. What will Happen When I Report an Incident or Make a Complaint of Harassment or Discrimination?
The College, through either the Student Rights & Responsibilities Office or the Human Resources Department will conduct an investigation that is appropriate in the circumstances into reported incidents and complaints of harassment or discrimination.

5.1 Preliminary Investigation
In each case a Preliminary Investigation will be undertaken to:

- Provide the person with a copy of the Policy and Procedures and respond to inquiries;
- Obtain the summary account of the person who brought the matter to the attention of the Human Resources Department and/or the Student Rights & Responsibilities Office including any attempts to resolve the matter;
- Ascertain whether the concern raised falls within the jurisdiction of the Policy and, if it does not, advise the person of other available avenues of redress, if any;
- Obtain the account of the individual alleged to have been harassed or discriminated against if this is someone other than the individual who reported the incident or made a complaint;
- Inform the alleged offender of the allegations, provide him or her with a copy of the Policy and Procedures, respond to inquiries about the process, and summarily obtain his or her account;
- Investigate the viability of an informal process by discussing the Informal Resolution opportunities with the parties, explaining and offering these options and seeking their voluntary participation in an informal process. Unless the particular facts of the matter
dictate otherwise, the College encourages Informal Resolution processes, recognizing that more formal processes are adversarial and can compromise working and learning relationships in ways that may not serve the individual who is alleged to have been harassed or discriminated against.

- Assess whether a Formal Investigation is appropriate.

5.2 Informal Resolution
Informal Resolution processes are used to resolve concerns and complaints in order to move working and academic relationships forward constructively. They are not engaged in for the purpose of assessing blame or seeking punitive actions against an alleged offender. In some cases the College may determine that the matter is too serious to be dealt with informally and may require a Formal Investigation. Available Informal Resolution processes include:

- **Management Intervention** – where a Manager, Human Resources Consultant or Manager, Student Rights & Responsibilities speaks on your behalf to the person you believe is harassing or discriminating against you [or another employee or a student] with the goal of resolving the issue;

- **Mediation** – a neutral person meets with you and the person you believe is harassing or discriminating against you and assists in arriving at a solution to the conflict;

- **Training** – in some circumstances training (such as sensitivity awareness training, leadership development or group harassment/discrimination awareness training) can be provided to individuals or the relevant work or academic unit including the person who initiated the complaint and the alleged offender.

The Human Resources Department and Student Rights & Responsibilities Office are committed to explaining these options in more detail so that you can request the option which will provide the quickest and most effective resolution of your complaint. The College nevertheless maintains the right to determine the appropriate process to resolve the complaint.

Any informal resolution must be completed within three months of its initiation.

The results of the Informal Resolution process will be provided to the parties in writing in accordance with the College’s legal obligations.

5.3 Formal Investigation
A Formal Investigation will be undertaken if the Informal Resolution process is unsuccessful or the Chief Human Resources Officer and/or Dean of Students determines that a Formal Investigation is appropriate.

6. What is a Formal Complaint and how do I make one?
A Formal Complaint signifies that the person is requesting a formal investigation into his or her complaint. The College will nevertheless discuss Informal Resolutions options with the person making the request. A “Formal Complaint Form” must be completed in writing and submitted to the Human Resources Consultant or the Manager, Student Rights &
Responsibilities. It must include:

- The name and department and/or program of the complainant (the person making the complaint);
- The name and department and/or program of the respondent (the alleged offender);
- The time and date of all events being complained about;
- A description of the nature of the complaint, detailing the circumstances surrounding the incident;
- The names of any witnesses to the events;
- Attach copies of relevant documents;
- The specific section of the Policy the complaint falls under;
- Avenues of resolution exhausted;
- Desired solutions.

6. What Is a Formal Investigation and how will it be conducted?
A Formal Investigation involves a neutral individual investigating your Formal Complaint for the purpose of determining whether harassment or discrimination has occurred.

A Formal Investigation will be undertaken generally as follows:

A. A Human Resources staff member or the Dean of Students’ Office will conduct the investigation or appoint an investigator, which may be an investigator external to the College.

B. The investigation will include separate interviews with the complainant, the respondent. The investigator will also interview such witnesses as the investigator deems appropriate.

C. The investigation will be undertaken and completed in a neutral, thorough, fair and timely manner.

D. The investigator will make findings of fact by determining what was more likely than not to have taken place and; and will further assess whether or not these constituted harassment or discrimination.

E. The investigator will prepare a written report of his or her findings of fact, assessments and conclusions, and forward the report to the Chief Human Resources Officer and/or the Dean of Students’ Office.

F. The Chief Human Resources Officer will decide the appropriate action in respect of employees and the Dean of Students will determine the appropriate action in respect of students. The complainant and the respondent will be advised of the outcome in person and in writing in accordance with the College’s legal obligations.

G. Where a complaint is substantiated, a written record of the outcome of the investigation, including corrective action, will be retained on file in the Human
Resources Department and/or the Student Rights & Responsibilities Office as per College record retention policies.

H. Where a complaint is not proven, no record of the complaint will be retained in the respondent’s personnel file or student file, but the investigation file will be retained separately in the Human Resources Department and/or Student’s Rights and Responsibilities Office as per College record retention policies.

I. During the course of a formal investigation the College will take reasonable interim measures to ensure the safety and wellbeing of the employees and students involved and the integrity of the investigation process.

7. What if someone accuses me or makes a complaint against me?
If an employee, student, worker or volunteer approaches you directly and asks you that you stop engaging in conduct that he or she finds harassing or discriminatory, or tells you that they feel harassed by you, listen carefully, reflect and think before you respond. If you wish, you may tell the person that you would like some time to reflect on their statement and will respond later within a reasonable time frame. You can respond directly to the member or seek out a member of management, Student Services or the union for assistance.

If a student, employee, worker or volunteer brings a formal or informal complaint against you, you can be assured of the following:

- You will be advised of the allegations
- You will be treated fairly and the allegations considered objectively
- You will have a full opportunity to present your side of the story
- You will be expected to co-operate fully and in good faith in the investigation process
- Upon completion of the investigation, you will be advised of the outcome in person and also in writing
- You will be offered support services as appropriate.

8. Do I have to participate in an investigation or other processes under this policy?
You are required to participate in an investigation under this Policy. The College expects that every employee and student will cooperate and participate fully in good faith in any investigation under this policy that he or she is requested to participate in. Participation in mediation is voluntary.

9. Am I able to have someone attend an investigation with me?
Yes. Complainants, respondents and witnesses who are unionized may attend an investigation interview with a union representative as a support person. The union representative is expected to maintain confidentiality in respect of the complaint and the investigation.

Complainants, respondents and witnesses who are students or who are non-unionized may attend an investigation interview with an individual as a support person with the agreement of the investigator who will have the right to assess the appropriateness of the chosen support person in order to protect the integrity of the investigation.
If the investigator determines that it would be a conflict of interest or otherwise negatively impact the integrity of the investigation for the chosen support person to participate, the investigator retains the right to require the individual to select a different support person.

External legal counsel are not permitted to participate in an investigation or informal resolution process.

10. Do I have to continue to deal with the offender during resolution or an investigation?
Interim measures may be taken depending on the complaint and, if safety and wellbeing is a concern, individuals may be separated and otherwise protected from retaliation for participating in the investigation process.

11. Do I have the right to withdraw my report or complaint?
Yes – a person who has reported an incident or made a complaint of harassment or discrimination may withdraw the complaint at any stage in the process. The College, however, may be required to continue to act on the issue identified in the report or complaint in order to comply with its legal obligations.

12. Will the complaint, response, content of the investigation and report remain confidential and private?
All parties to a harassment or discrimination report or complaint are expected to respect the privacy and confidentiality of all other parties involved and to limit discussion to those that need to know in order to protect the integrity of the process and for fairness reasons.

The College will strive to maintain confidentiality in its handling of any incident or complaint of harassment or discrimination however, confidentiality cannot be guaranteed. Information obtained about an incident or complaint of harassment or discrimination, including identifying information about any individuals involved will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law.

Confidentiality does not mean anonymity. The alleged harasser will be informed of the identity of the individual who made the allegations in both the informal and formal stages of resolution. In addition, it is often necessary for the identity of the complainant to be identified to third parties for the successful completion of an investigation.

If the College determines that the safety of an individual or the community is at risk, the procedures outlined in this policy, including confidentiality, may be set aside.

13. What if the complaint is determined to be unfounded?
If the complaint is not proven this will be communicated clearly to the complainant and respondent. There will be no negative consequences against any party to the complaint and no record of the complaint will appear in any of the employee’s personnel file or student’s records. If, however, the complaint is found to be frivolous or vexatious appropriate disciplinary action may be taken.

14. What if I’m not satisfied by the outcome of my complaint or the way it is being handled?
Any person who feels that his or her human rights have been violated in the workplace, or any complainant who is not satisfied with the outcome of his or her complaint and/or the investigation, may at any time file a complaint directly with the Ontario Human Rights Tribunal. Unionized employees also have the right to file a grievance.

15. What is the timeframe for making a complaint?
It is important that reports and complaints are made as soon as possible so that the problem does not escalate or happen again. The longer the period of time between an incident and reporting of the incident the greater the chance that witnesses may be unavailable or will not recall the events and/or the respondent will be able to assert that the delay has compromised his or her ability to properly respond to the complaint.

In any event, a complaint must be filed within one year of the incident being complained of. This time limit may be extended at the College’s discretion in the event of extenuating circumstances.

16. Administration

16.1 Costs
The College shall be responsible for the costs of the administration of this Policy and Procedures including the costs of any mediation or investigation services.

16.2 Document Retention
Subject to the provisions of the Freedom of Information and Protection of Privacy Act, records pertaining to an Informal Resolution or Formal Complaint will be held in strict confidence in files separate from any academic or personnel information. Only records of reprimand or discipline will be placed in an individual’s student or personnel file. In the event of multiple or subsequent allegations, reference may be made to previous complaint files and informal resolutions.