



PROTECTION OF HUMAN RIGHTS PROCEDURE

Approved by: Academic Coordinating Committee

Authorizer: Executive Director, Human Resources

Reference Code: HR8 V2

Effective Date: 1/1/2005

PROCEDURE STATEMENT:

Conestoga is committed to providing a working and learning environment that is free of discrimination and harassment and supportive of academic achievement and the dignity, self-esteem and fair treatment of everyone taking part in its activities. Conestoga seeks to create a climate of mutual respect that reinforces opportunity and allows for each person to contribute fully to the development and well-being of the community.

Conestoga recognizes the right of every person in its community to be protected from unlawful discrimination and harassment in accordance with the Ontario Human Rights Code and from personal or psychological harassment in accordance with the Occupational Health & Safety Act.

This procedure outlines:

- what constitutes and what does not constitute discrimination and harassment
- the responsibility of all employees, managers, and students to uphold the principles of a working and learning environment that is free of discrimination and harassment
- process to address complaints of discrimination or harassment
- determination of redress and sanctions.

SCOPE:

This policy applies to all employees and students, Board of Governors members, members of committees, societies or associations established or recognized by Conestoga, employees' family members or spouses/domestic partners, residence staff, contractors, providers of service or research, visitors or guests and applicants for admission or employment.

DEFINITIONS:

Prohibited Grounds (Ontario Human Rights Code)

Every person has a right to freedom from discrimination in the areas of:

- services, goods and facilities

- the occupancy of accommodation contracts
- employment
- membership in vocational associations and trade unions

On the grounds of:

- race
- colour
- creed (religion)
- handicap (disability)
- ancestry
- ethnic origin
- sexual orientation
- place of origin
- citizenship
- sex
- gender identity
- gender expression
- age (18 or more in employment)
- marital status (includes cohabitation, widowhood, separation)
- family status (parent – child relationship)
- same sex partnership
- the receipt of public assistance (in accommodation only)
- record of offences (provincial offences, pardoned federal offences – in employment only)

Discrimination

Action(s) or behaviour(s) that results in the unfavourable or adverse treatment or preferential treatment related to the prohibited grounds. Discrimination can be direct (by a person acting on his or her own behalf), indirect (carried out through another person), constructive (systemic discrimination) or by association.

Harassment

A course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. For the purpose of this policy, harassment may include comment or conduct linked to the prohibited grounds initiated by one person towards another, which cause humiliation, offence or embarrassment. Single acts of sufficient severity may constitute harassment.

Understanding Harassment

- Harassment is a form of discrimination. It is prohibited by the Ontario Human Rights Code. It is against the law.
- Harassment is concerned with the impact of behaviour, not the intent.
- Harassment is offensive, degrading and threatening. In its most extreme forms (sexual touching, for example), harassment can be an offence under Canada's Criminal Code.
- There are times when a person causing the harassment is unaware of the impact of his

or her behaviour. If you are able to make that person aware of your discomfort, he or she should cease acting in that manner.

Harassment includes, but is not limited to:

- (i) inappropriate or insulting remarks, gestures, jokes, innuendoes or taunting about a person's racial or ethnic background, colour, place of birth, citizenship, ancestry, creed, or disability
- (ii) unwanted questions or comments about an employee's or a student's private life
- (iii) posting or display of materials, including by electronic means, articles, or graffiti, etc. which may cause humiliation, offence or embarrassment on Code prohibited grounds.

Sexual Harassment

- One or a series of comments or conduct of a gender-related or sexual nature that is known or ought reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile, or inappropriate.
- Examples include gestures, remarks, jokes, slurs, taunting, innuendo, threats, unwanted physical or sexual contact, invitations, leering, the display of sexually offensive material, solicitation, demands, penalties related to sexual orientation, marital or family status, unwanted attention, implied or expressed promise of reward or benefit in return for sexual favours, implied or expressed threat or act of reprisal if sexual favours are not given.

Personal/Psychological Harassment

For the purposes of this policy, "harassment" as outlined in the Occupational Health & Safety Act, also includes personal/psychological harassment.

Workplace harassment means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought to be known to be unwelcome.

Personal/psychological harassment is defined as behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's dignity or psychological or physical integrity and that result in a harmful work environment for the employee. Psychological harassment includes and is not limited to behaviours defined as bullying, mobbing, victimization, emotional abuse, psychological violence. A single serious incident of such behaviour that has a lasting harmful effect may constitute psychological harassment. It must be demonstrated that this behaviour affects the person's dignity or physical or psychological integrity and that it results in a harmful work environment for the employee.

Reasonable action by a manager, employees, students, the union is not psychological harassment, e.g. evaluations of employees' work performance, which may include reasonable criticism of performance and/or reasonable changes in a person's assignment; employees'

correction of inappropriate student behaviour and maintaining order, in a reasonable manner, in the work/classroom environment; conduct of union business in a reasonable manner.

Hostile or Poisoned Environment

Any action or behaviour such as insults, jokes or posting/displaying of offensive material, including by electronic means, relating to one of the prohibited grounds, though not necessarily directed at anyone in particular, that has the effect of creating or maintaining an offensive, or intimidating climate to work or study. Examples include posting offensive cartoons or signs or distribution of materials on the internet.

Systemic Harassment/Discrimination

Policies, practices, procedures, actions or inactions, that appear neutral but have an adverse impact associated with one of the prohibited grounds.

RESPONSIBILITIES

Shared Responsibility

All members of the Conestoga community share responsibility for creating and maintaining a working and learning environment free from discrimination and harassment. This means not engaging in, allowing, condoning or ignoring behaviour contrary to this policy. This policy is not meant to interfere with mutually acceptable social interactions that are an important part of a comfortable working and education environment.

Management Responsibility

The Ontario Human Rights Code provides that a person (such as a manager *) who has the authority to prevent or discourage harassment and discrimination may be held responsible for failing to do so. All managers therefore have a particular duty to act to deal with such incidents when they ought reasonably to have known that there is an issue to address. This duty includes the obligation to be familiar with and uphold this policy and its procedures. Please see the specific responsibilities of managers section.

* In academic institutions, faculty and technologists are in a position of authority and are considered to have the same responsibility to prevent or discourage harassment and discrimination.

PROCEDURE ELABORATION:

Properly Discharged Supervision/Evaluation

Supervisory, instructional and evaluation responsibilities which are properly carried out by managers, teachers or technologists do not constitute harassment. Performance appraisals, evaluations, discipline and appropriate enforcement of high standards which are based on objective criteria are not contrary to this policy.

Fairness for All

Conestoga recognizes its obligation to ensure that this policy and the procedures are fair and applied fairly. Conestoga is committed to deal quickly, fairly and effectively with harassment and discrimination. Complainants should feel free to bring their complaints forward and those

against whom allegations are made should have a full and fair opportunity to respond to those allegations.

Policy Application - Who?

The policy applies to all employees and students, Board of Governors members, members of committees, societies or associations established or recognized by Conestoga, employees' family members or spouses/domestic partners, residence staff, contractors, providers of service or research, visitors or guests and applicants for admission or employment.

Contractual Relationships

All contractors providing services on Conestoga facilities on an ongoing basis are required to comply with this policy and the Ontario Human Rights Code, including co-operation in investigations. Breach of this clause may result in penalties, cancellation, or debarment if a contractor is found in violation of this policy or the Ontario Human Rights Code.

Policy Application - Where?

- Conestoga will not tolerate harassment or discrimination in its employment, educational or business dealings, whether these actions take place on its premises or during Conestoga activities off campus.
- For those incidents taking place off Conestoga property, there must be potential for an adverse impact on work or study performance or the creation of a negative environment. For example, such activities as a field trip, a social event or a meeting taking place under the auspices of Conestoga and held off the campus are covered by this policy.

Preventing Harassment and Discrimination - Education

- While this policy provides a resolution oriented process for resolving and, where necessary, investigating complaints, its primary purpose is to prevent harassment and discrimination taking place at Conestoga. To this end Conestoga is committed to ensure that each member of the Conestoga community is made aware of the policy through an ongoing program of information dissemination, education and training.

Right to go Elsewhere

This policy provides an opportunity to deal with harassment and discrimination issues in a timely and fair manner. All members of the Conestoga community are required to follow the policy and procedures. Nothing in the policy is intended to prevent a complainant from using an alternate procedure, such as a collective agreement, the Human Rights Code, Criminal Code or legal action.

Sanction/Redress

To the extent possible, where a complaint is substantiated, Conestoga's objective is to restore complainants to the position they would have been in had the discrimination not occurred. A substantiated act of discrimination or harassment shall be cause for action by Conestoga up to

and including the possibility of discipline and/or discharge in the case of an employee or expulsion in the case of a student or contractual person.

Trivial, Frivolous, Vexatious Complaints or Complaints Made In Bad Faith

Complaints which are found to be trivial, frivolous, vexatious or made in bad faith may result in action by Conestoga against the complainant. The severity of the action will be determined based on the seriousness and impact of the complaint.

Protection from Reprisal

In order to protect individuals who make use of this policy or participate in proceedings as part of the complaint procedure, Conestoga prohibits reprisal or threat of reprisal against these individuals. Any person who is found to have acted in, or threatened reprisal shall be subject to Conestoga action.

Special Initiatives

Conestoga may, from time to time, implement a special initiative designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity. The protections from discrimination and harassment defined in this policy are not infringed if such an initiative is implemented.

PROCEDURAL GUIDELINES

Compliance

All members of the Conestoga community are required to comply with this policy.

At the same time, Conestoga recognizes its responsibility to receive and act upon allegations of infringements. The objective of any action taken is to arrive at an early and just settlement of a complaint in a manner which restores the complainant to a working or learning environment free from harassment or discrimination and advances future compliance with the Code and the policy. To this end Conestoga provides the procedures described below for receiving and hearing complaints.

Initiation of Complaints

Complaints under this policy may be initiated by any member of the Conestoga community as identified above.

Alternate Procedure

If a complainant using this policy chooses to use an alternate procedure, such as the Ontario Human Rights Code or criminal complaint, Conestoga may decide to either terminate or suspend this procedure.

Right to Withdraw

A complainant has the right to withdraw a complaint at any stage in this process. Conestoga may continue to act on the issue identified in the complaint in order to comply with its legal obligations.

Personal Advocates or Advisors

Any person involved in the complaint process at any stage, may seek assistance, be represented and be accompanied by another person of his/her choice during all proceedings. When a personal advisor attends or represents a party to a complaint, the party must advise a policy official in advance of the advisor taking that role. Employees are often assisted by a union representative, while students often ask a student leader or a peer advocate to assist them.

Confidentiality

Confidentiality is required in all procedures under this policy. Maintaining confidentiality benefits everyone involved in the complaint process.

Conestoga understands that it is difficult to come forward with a complaint of harassment or discrimination. Conestoga recognizes both the complainant's and respondent's interest in keeping the matter confidential.

To protect the interests of all parties involved, Conestoga and its officials involved in the complaint process will maintain confidentiality throughout the complaint process to the extent possible under the circumstances (such as an investigation) and except as required by law.

Confidentiality does not mean anonymity. In the instance of a formal complaint, a fundamental principle is that the respondent must be informed of who has made the allegations at the earliest possible point in the process.

Formal Mediation

At any point in the complaint process, either party may request that formal mediation be instituted to assist the resolution of the complaint. If the other party is agreeable, and if mediation is assessed by the Human Rights Policy Coordinator as a viable step to help resolve the conflict, Conestoga will arrange for an independent mediator to conduct the mediation.

Personal Safety

When Conestoga determines that the safety of an individual or the community is at risk, it will act to the best of its ability to address this situation. This may mean, for the purposes of safety, the procedures outlined in this policy, including confidentiality, may be set aside.

Time Limits

All complaints must be initiated within six months of the incident occurring. In extenuating circumstances a complaint filed beyond the six month limitation may be considered at the sole discretion of Conestoga.

Extending Time Frames

Any of the time frames for the steps outlined below may be extended upon mutual agreement of the parties and upon application to the Coordinator. The Coordinator may also extend a time frame. In the case of an active criminal investigation, or if Conestoga is using the services

of an external investigator, Conestoga may defer its process pending the outcome of that external investigation process. In all cases the Coordinator will advise the parties of the reason for and period of the extension.

Confirmation of Resolution

The resolution of all complaints will be noted by Conestoga through written correspondence to the parties. A copy of this correspondence will be retained in confidence by the Coordinator except in the case of a disciplinary decision by Conestoga. In that instance, a copy of the correspondence relating to the decision shall be placed in the respondent's personnel file. In the case of disciplinary action against a student, the decision shall be placed in the student's file.

Resolved Complaints (No Decision)

When either a formal or informal complaint is resolved between the parties rather than a final decision being made, Conestoga considers that the matter has neither been withdrawn by the complainant nor has there been a finding against the respondent. This allows the complaint process to be reinstated if there is a reoccurrence of the behaviour as well as prevents the settlement being interpreted as meaning that the respondent has harassed or discriminated.

RESPONSIBILITIES FOR THE POLICY PROCESS

Human Rights Policy Coordinator (Coordinator)

The President of Conestoga shall appoint a Coordinator. The Coordinator will have an understanding and appreciation of human rights issues, experience coordinating policies or programs and excellent communications skills. This person will have overall responsibility for the administration of this policy. In addition, the Coordinator is responsible for:

- making efforts to discourage and prevent harassment and discrimination within Conestoga;
- where appropriate, appointing mediators or investigators to assist in the resolution of conflicts
- regularly reviewing the terms of this policy to ensure that they adequately meet the organization's legal obligations and public policy objectives;
- administering all aspects of the formal complaint process as outlined below;
- receiving formal complaints;
- reviewing formal complaints to ensure that they fall under the jurisdiction of this policy;
- dismissing complaints that do not fall within this policy's jurisdiction;
- reviewing mediation and investigation reports to ensure that they meet the quality standards required by this policy;
- maintaining the time frames for the policy process, including disclosures to the parties;
- keeping the parties to a formal complaint informed of the progress of the complaint;
- facilitating and monitoring the implementation of sanctions and remedies when a complaint has been substantiated.

In the event that the Coordinator has a direct involvement (complainant, respondent, witness or associate) with a complaint which is made under this policy, the President of Conestoga shall

appoint a suitable alternate for the purposes of dealing with the complaint.

Management Staff

Managers are responsible for providing advice and assistance to individuals involved in this policy process at the informal stages. The responsibilities of managers* include, but are not restricted to:

- providing information on the policy and procedures to members of their staff
- providing information to potential complainants about the policy and procedures and receiving information from potential complainants
- providing or accessing advice regarding problem solving and dispute resolution techniques and jurisdiction to complainants and respondents
- assisting in the resolution of the matters in conflict at stages 1 and 2 of the process, short of formal mediation
- if requested by either party, short of formal mediation, to assist in the resolution of the matters in conflict
- keeping the parties to an informal complaint informed of the progress of the complaint
- if agreed to by the parties and assessed to be a viable option, to request the Coordinator appoint a mediator to conduct formal mediation
- providing the information needed for a complainant to prepare and submit a formal complaint
- informing respondents about the policy and procedures
- working with the Coordinator as required
- reporting to the Coordinator all activities and involvements related to a complaint

***Faculty and technologists**

In their role as managers of the classroom or laboratory, faculty and technologists are responsible for providing advice and assistance to their students at the informal stages of the policy process. This responsibility includes, but is not restricted to:

- providing information on the policy and procedures
- receiving information about possible incidents
- providing advice to students
- when appropriate, assisting in the informal resolution of conflicts
- informing and consulting with the chair or dean of the department regarding any involvement as an advisor under this policy

Investigator

The investigator will be appointed by the Coordinator. The investigator must be knowledgeable about harassment and discrimination issues, preferably relating to internal policies and must have experience conducting investigations of this type. Any objections to the appointed investigator may be made by the parties within 5 business days of notification of appointment. Only objections based on substantive issues such as conflict of interest or bias against a party will be considered. The investigator may not be involved with any other part of the complaint process outside of providing information on the investigation results at the Vice President's information meeting.

The investigator will advise whether, on a balance of probabilities, there is enough evidence to conclude that harassment occurred.

STAGES OF THE COMPLAINT RESOLUTION PROCESS

The focus of these procedures is to assist people involved in a situation of harassment or discrimination to find a resolution to the conflict.

We believe that having this policy will help empower a person who feels that he or she is being harassed to tell the harasser that the behaviour is unwelcome and must stop. Where the direct approach does not work or where someone is unsure about how to proceed, managers and the Human Rights Policy Coordinator can assist in the resolution process. In those few situations where the situation is not resolved, Conestoga will undertake a formal complaint process leading to an investigation and the possibility of sanctions being imposed. It is important to recognize that a resolution agreed to by the parties is the preferable solution.

The following four stages suggest an orderly way to approach the resolution of harassment or discrimination problems. While it is strongly recommended that the stages outlined below be followed in sequence, depending upon your situation, you may decide that it is not possible to utilize the informal (Stages One and Two) part of this procedure. At that point you may decide to proceed directly to Stage Three, formal complaint.

Stage One - Individual Action

Recognizing that it is in the best interests of all parties to resolve harassment and discrimination conflicts, if you believe that you are being harassed you should, when possible, as the initial step towards its resolution, discuss the complaint with the person whose action gave rise to the complaint.

Without being confrontational, clearly and directly describe the behaviour that is bothering you, its impact on you and ask the other person to stop. If you are concerned about talking to the other person, consider writing him or her a letter about what is bothering you. A copy of the correspondence should be retained. Remember, there are times when the person causing the problem is not fully aware of the impact of their actions.

Stage Two - Informal Complaint & Attempt to Resolve

If you require assistance in approaching the person causing the problem, if you are unsure of what to say or do, or if after talking to this person, the offensive behaviour continues, you should discuss the situation, in confidence, with your immediate supervisor, another manager, union steward, Human Rights Policy Coordinator, Director, Security or Conestoga counsellor. Talking to someone often helps you find a way to resolve the problem.

The person you have gone to will either give you advice and/or assistance. You will be given information regarding the policy and procedure including:

- the emphasis of the policy on working with the individuals in conflict to resolve these issues informally
- your right to file a formal written complaint
- the availability of counselling
- the importance of contacting campus security and the police if you believe that your safety is at risk or threatened by the respondent,
- that security may need to be contacted if it is felt that there is a safety problem
- your right to have a personal adviser or representative
- your right to withdraw from any further action
- the availability of other avenues of recourse (such as the Human Rights Commission)
- the time limits which apply to this process
- the options available to address a complaint, including alternative dispute resolution
- the penalties and redress that are available under this policy, including the possibility of penalties against a complainant if the complaint is found to be trivial, without merit, frivolous, vexatious or made in bad faith
- the confidentiality of the process
- in some cases there will be an exception to the confidentiality of the process, that is, if there is a risk to yourself or others

If you require further information or action to resolve the matter, you should seek assistance from your manager. This individual will ask you to provide and will document the following information related to your complaint:

- the name and location of the respondent
- the nature of the complaint
- the time and date of the complaint
- the solution needed to resolve the complaint

The manager, in consultation with the Coordinator and/or Manager, Security, will provide advice to you regarding whether it seems, on the face of the information provided, that the complaint falls within the jurisdiction of the policy. The manager, Coordinator or Manager, Security will intervene in order to assist you in resolving the matter. This may include assisting you in a meeting with the alleged harasser or having someone else talk to the alleged harasser. This intervention will occur within 30 days of your meeting with the manager. The individual providing assistance will document the results of the intervention.

It may be determined, in consultation with the Coordinator that an alternative dispute resolution mechanism is in order. If you and the respondent are agreeable and it is believed to be a feasible option by the Coordinator, such a mechanism will be put in place.

Stage Three - Formal Complaint

Failing resolution of the complaint through informal means, you may submit a formal complaint in writing. The formal complaint must be submitted to the Coordinator on the Policy Complaint Form.

Within five calendar days of receipt of a written complaint, the Coordinator shall acknowledge receipt of the complaint in writing, informing you whether, on a matter of jurisdiction, the complaint will be pursued under this policy, and, if not, the reasons for not pursuing the complaint,

(i) If it has been determined that the complaint will be pursued under this policy then the Coordinator will inform the respondent in writing of the complaint, providing a copy of the complaint, and giving the respondent an opportunity to respond to the allegations on the Respondent's Response Form within ten calendar days. The Coordinator must provide the respondent with a copy of this policy as well as inform the respondent of his/her rights and responsibilities under the policy, including the right to have a representative and the importance of confidentiality.

Or

(ii) In the event that it is determined that the complaint will not be pursued because it does not fall under the jurisdiction of this policy, the Coordinator will inform the respondent in writing that a complaint has been made but will not be pursued further under this policy. The information provided will include a copy of the complaint, the reasons for not pursuing it and a statement that no response to the complaint is required.

If the complaint is not dismissed, upon receipt of the respondent's response to the complaint, the Coordinator shall disclose such information back to you within five calendar days of its receipt.

Within ten days of the complainant receiving the response of the respondent, the Coordinator shall meet separately with you and the respondent to clarify the details of the submissions and to identify the steps that have been taken to attempt to resolve the matter. If appropriate, the Coordinator may ask a suitable person, such as a union steward or association representative, to assist in the resolution of the complaint at this point.

If, after the clarification of the submissions from the parties, the complaint has not been resolved, the Coordinator shall facilitate the appointment of an investigator by Conestoga. In certain circumstances, determined by the Coordinator, an investigation team composed of not more than three individuals may be appointed. The investigation shall commence within ten days of this appointment.

The investigator may:

- interview the complainant and the respondent
- interview witnesses suggested by the parties
- interview other witnesses who may provide useful information for the investigation
- gather evidence
- request written statements
- submit, within 30 calendar days from the beginning of the investigation, a written report of the findings of the investigation to the Coordinator. If required, the investigator may request an extension of this time frame. The parties must be informed if further time to complete the investigation is required.

Stage Four - Investigation Report/Decision Making Meeting

The Coordinator will review the investigation report to ensure that it meets the necessary standards of thoroughness and analysis. If required, the investigator will provide the necessary additions to the report. Within five days of receipt of the final report the Coordinator shall send a summary of it to the parties.

If the investigation report advises that the complaint does not fall within the jurisdiction of this policy, the complaint may then be dismissed by Conestoga. The Coordinator will review the investigator's advice and if he or she concurs, the parties will be informed of the dismissal at this time. If it is felt by the Coordinator that the investigation process should continue, he or she will direct the investigator to continue.

The decision to terminate an investigation because of lack of jurisdiction may be appealed, in writing, within ten calendar days, to the Vice President, Corporate Services and Secretary Treasurer or designate in the case of employees and the Vice President, Student Affairs or designate in the case of students. If an appeal is submitted by the complainant, the respondent will be sent a copy of the submission and be given the opportunity to respond. The Vice President will review the investigation report and any submissions and make a final decision. If a decision is made in favour of upholding the complaint dismissal, this decision is not appealable within these procedures. If the decision is to allow the complaint to proceed further, the process shall then continue.

For any other findings of the investigative report, the parties will be requested to submit comments regarding that report. These submissions must be received by the Coordinator within ten calendar days. All submissions received will then be disclosed to the parties to the complaint.

At the same time the Vice President will be informed that a mutually acceptable solution to the complaint has not been found by any of the other processes outlined in this policy.

Information Meeting

Within 10 calendar days of receiving the submissions from the parties, the Vice President may initiate an information meeting. This meeting shall take place within 21 calendar days of the notice of the meeting. The purpose of the meeting will be to assist the Vice President to seek clarification of the contents of the investigative report and/or submissions in order to make a final decision on the complaint. The meeting will be presided over by the Vice President. The Vice President may include anyone who he/she believes will add value to the process at the meeting. The notification of the meeting to the parties will include a list of persons and an agenda.

At the information meeting the Vice President or designate may ask for clarification from anyone she/he feels may provide helpful information at that time. Cross-examination is not permitted at the meeting.

Written Decision

Within 10 calendar days after receipt of the investigative report and submissions or after the completion of the information meeting, if such a meeting occurs, the Vice President will provide to the parties a written decision with reasons. This decision is not appealable through this policy process.

Due to the confidential nature of these matters and to ensure protection of the individual's privacy, the Vice President will not disclose the findings of the investigation, or the final report to any other party except to the complainant and the respondent and, where necessary, to those officials required to complete the policy process or as required by law. It shall be up to the individuals involved to inform their representative or personal advisor of the outcome of the investigation. This will help ensure the preserving of the complainant's and respondent's dignity, privacy and self-respect.

Determining Redress and Sanctions

It is most important to recognize that human rights are restorative rather than punitive in nature. The initial emphasis of this stage of the process will be directed at restoring the complaint to a situation similar to the one prior to the harassment occurring. When determining appropriate disciplinary action and corrective measures, the Vice President shall consult, where appropriate, with supervisory staff and shall consider factors such as:

- nature of the harassment;
- whether the harassment involved any physical contact;
- whether the harassment was an isolated incident or part of an ongoing pattern;
- the nature of the relationship between complainant and harasser;
- whether the harasser had been involved in previous harassment incidents;
- whether the harasser admitted responsibility and expressed a willingness to change;
- whether the harasser retaliated against the complainant
- the impact of the harassment on the complainant
- the type of sanction requested by the complainant.

Collective Agreement Steps

If progressive disciplinary and/or discharge is recommended the appropriate steps of the collective agreement shall come into effect.

Disciplinary Record

Documentation regarding substantiated acts of harassment will be maintained in an employee's or student's file.

PROCEDURE ADMINISTRATION

Costs

Conestoga shall be responsible for the costs of the administration of this policy including the costs of any mediation services. All parties retaining legal or any other assistance shall be solely responsible for the cost involved.

Records

All documentation related to complaints made under this policy shall be filed with the Coordinator in one centralized location, separate from any personnel files, to ensure confidentiality.

Policy Review

This policy will be reviewed at least every three years, thus ensuring that it addresses the concerns of the Conestoga community, is updated, and adheres to any legislative changes. In the case of a significant revision of the Ontario Human Rights Code, or as a result of finding that a procedure contained in the policy is either contrary to legal practices or inoperable, the policy may be reviewed and revised when appropriate.

Accommodation

Conestoga is committed to providing special needs services throughout the complaint process as circumstances require.

REFERENCES:

Academic Collective Agreement
Support Staff Collective Agreement
Ontario Human Rights Code
Occupational Health & Safety Act
Student Procedures Guide
Human Rights Harassment/Discrimination Complaint Form
Human Rights Harassment/Discrimination Respondent's Response Form

REVISION LOG:

June 2008 – moved to new template, revised some staff titles as appropriate
November 2010 – added personal/psychological harassment in accordance with the Occupational Health and Safety Act
December 2012 – changed to AODA acceptable format
April 2013 – policy review
June 5 2013 – Policy and Procedure Committee – revisions approved
June 19 2013 – Academic Coordinating Committee - approved