

Human Rights Policy

Purpose/Rationale:

The Humber College Institute of Technology & Advanced Learning and the University of Guelph-Humber (hereafter referred to as “Humber” or “the College”) has the right, as well as the legal and moral responsibility, to ensure that all its members are treated fairly, equitably, and respectfully, in order to provide a learning, living and working environment that is free from discrimination and harassment. This policy outlines Humber’s position related to acceptable and unacceptable behavior with respect to human rights and the responsibilities of the College, students and employees.

This document is available in alternate format on request.

Scope:

This Policy applies to all members of the College community. This includes employees and students at Humber College and at the University of Guelph-Humber; members of Humber’s Board of Governors; members of standing and ad hoc committees established by these institutions; members of societies and associations which have a direct relationship to or are under the authority of these institutions; contractors; service providers; researchers; and visitors, including invitees, guests or persons who have no ongoing connection to the institution but who are on campus.

Visitors to any College campus will be subject to complaints if they engage in prohibited conduct. The College will take appropriate actions and apply appropriate remedies (e.g. barring them from campus) if harassment or discrimination is found. Such visitors may also be able to initiate a complaint under this policy.

The Policy includes coverage of incidents that occur both on and off campus, which affect the Humber workplace, living and study environment. This may include College-related social functions, in the course of work or academic placements, off-campus field trips, or work or academic related travel.

Definitions:

See Appendix A

Policy:

1. General

- 1.1 The College’s working, living and learning environments will be maintained free from discrimination and harassment as prohibited by the Ontario Human Rights Code and from personal or psychological harassment as defined in this policy.
- 1.2 Every employee and student has a right to equitable treatment without discrimination with respect to employment, services, goods, facilities, accommodation and membership in vocational associations in accordance with the provisions of the [Ontario Human Rights Code, 1962.](#)

- 1.3 The College will enforce the right of its members to equitable treatment without discrimination or harassment contrary to this policy. The College may sanction any member of the College community whose behaviour violates this policy (See Sanctions and Corrective Actions set out in Human Rights Complaint Resolution Procedure Appendix B).
- 1.4 All College community members have the right to express legitimate concerns about human rights violations that they are experiencing in their work, residence or education at Humber College without fear of reprisal. Anyone who attempts reprisal or threatens reprisal against a person who initiates a complaint or participates in proceedings under this Policy may be subject to disciplinary action.
- 1.5 All College community members have the right to file a Human Rights Complaint with Humber College within six months of the occurrence of the event(s).
- 1.6 The College recognizes that any accusation in a complaint is a serious matter that can cause considerable stress and grief to the person who is the subject of the complaint. Accusations must be founded in serious concerns. Anyone who makes a complaint in bad faith will be subject to disciplinary action under this Policy.
- 1.7 The College President or designate may take action which diverges from procedures associated with this policy when they are of the view that:
 - 1.7.1 the safety of College community members is at risk; or,
 - 1.7.2 a violation is deemed to be so serious that it is imperative that immediate action be taken; or
 - 1.7.3 other action is necessary to ensure that the College meets its legal obligations.
- 1.8 Although the College's Human Rights Complaint Resolution Procedure (CRP) is written in the language of an individual complaint, group complaints may be brought under this Policy.
- 1.9 The Director for the Centre of Human Rights, Equity & Diversity (DHR) is available to provide information, in confidence, to all College community members on the application and scope of the CRP and to clarify all options available for resolving issues.
- 1.10 The complainant may withdraw the complaint at any point along this procedure.
- 1.11 In the event that a complainant decides not to pursue their complaint through the process described in this Policy, the College may determine, nevertheless, that the matter should be pursued and, if necessary, addressed. In this event, the College will determine the process it will use to pursue the matter.
- 1.12 The final decision about whether a violation of human rights has occurred will be based upon a review of the evidence provided by the parties, gathered by the investigator and assessed on the standard of balance of probabilities (see definition in Appendix A).
- 1.13 All contractual relationships entered into by the College are governed by a standard contract compliance clause which states that contractors must comply with this Policy,

including co-operating in investigations. Breach of this clause may result in penalties or cancellation of the contract.

2. Freedom of Speech

- 2.1 Humber students, staff, and faculty represent the broad spectrum, diversity, and richness of our society. Students learn best in an environment that encourages critical thinking, inquiry, and dialogue. Faculty and students have the right to discuss and to debate culturally sensitive and controversial ideas and issues relevant to the curriculum, in an open and safe manner. Furthermore, subject to the limits legitimately imposed in a free and democratic society, they are free to present arguments, to express their views, and to dissent from the opinion of the majority without fear of reprisal. In this environment, faculty members are required to exercise sound professional judgment and conduct, and intellectual integrity. Discussions, arguments, and disagreements, when conducted at the College in an open, responsible and respectful manner, do not constitute harassment and discrimination but are part of the search for truth and knowledge, and the development of mutual respect and genuine regard.
- 2.2 The persistent or vexatious use of denigrating, demeaning or abusive comments or actions which have the effect of threatening, intimidating, demeaning or harming an individual or group, or is otherwise in excess of the reasonable limits on freedom of speech in a free and democratic society is unacceptable and cannot be justified by an appeal to “freedom of speech”. In purpose the College has the right, as well as the legal and moral responsibility, to ensure that all its members are treated fairly, equitably, and respectfully, in order to provide learning, living and working environment that is free from discrimination and harassment.

3. Faculty-Student Relationship

- 3.1 The integrity of the faculty-student relationship is a key foundation of Humber College’s educational mission. This relationship confers significant trust in the faculty member, who, in turn, assumes authority and accountability as an educator, evaluator, coach and mentor. The unequal institutional power intrinsic to this relationship increases the vulnerability of the student, i.e. any individual under the academic supervision of faculty, and the potential for coercion. The pedagogical relationship between faculty member and student must be protected from influences or activities that can interfere with learning consistent with the goals and ideals of the College. All such relationship jeopardizes the integrity of the educational process. Whenever a faculty member is responsible for academic supervision of a student, a personal relationship between them of a romantic or sexual nature, even if consensual, is inappropriate.
- 3.2 Any sexual or romantic relations between a teacher and a student during the period of the teacher/student relationship are prohibited. The prohibition extends to sexual relations between a student and all others who have supervisory academic responsibility for that student.
- 3.3 All complaints of sexual harassment will lead to a formal investigation. Faculty members found in violation of this prohibition will be terminated.

4. Employer and Employee Responsibilities

- 4.1 The College will take reasonable steps to ensure that the workplace, living and learning environments it provides are free from harassment and discrimination. These will include informing and educating members of the College community about discrimination and harassment.
- 4.2 Members of the College community have the following responsibilities:
- to foster a climate of understanding and mutual respect for the dignity and rights of each individual;
 - to familiarize themselves with Humber's policies, procedures and practices and exhibit the appropriate behaviour for dealing with human rights;
 - to prevent, report and discourage discrimination and harassment by others;
 - to participate in ongoing professional development education and training that may enhance their ability to act in an anti-discriminatory manner.
- 4.3 College community members are liable for any discriminatory acts that they commit.
- 4.4 Members of the College community are encouraged, when possible, to resolve issues directly with the person who is the subject of their concern. If local resolution is not possible or unsuccessful, the complainant should follow the Human Rights Complaints Resolution Procedure.
- 4.5 Given the sensitive nature of a complaint, all parties concerned will make every attempt throughout the resolution of the complaint to respect the confidential nature of the information received to the fullest extent possible, including its legal obligations under the Ontario Human Rights Code, 1962 and The Freedom of Information and Protection of Privacy Act, 1990.
- Note: Confidentiality does not mean anonymity. A fundamental principle of fairness is that the respondent must be informed of who has made the allegations in both informal and formal stages. In addition, proper investigation of a complaint may require the disclosure of the identity of the complainant to third parties, including witnesses.*
- 4.6 The College is responsible for the costs of administering this Policy and processing complaints. The College is not responsible for any legal costs incurred personally by the complainant or the respondent.

References:

[The Ontario Human Rights Code, 1962](#)

[The Freedom of Information and Protection of Privacy Act, 1990](#)

[The Canadian Charter of Rights and Freedom, 1982](#)

Appendices:

Appendix A – Definitions

Related Procedure:

Humber College Human Rights Complaint Resolution Procedure

Appendix A

Definitions

Accessibility: Is an integral part of usability for people with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises. The purpose of the Accessibility for *Ontarians Disability Act, 2005*, (AODA) is to ensure that people with disabilities can move around from place to place, go shopping, attend school, visit their doctors or get a job without facing barriers that people without disabilities would not face.

Balance of Probabilities: The standard is met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than 50% chance that the proposition is true. Simply stated as "more probable than not", this is the standard that must be met in order to demonstrate that there has been a contravention of this policy.

Discrimination: Every employee, student or person in receipt of services from the College has the right to equal treatment, without discrimination on the basis of any ground set out in the *Ontario Human Rights Code, 1962*. Direct discrimination occurs when an individual is subjected to differential treatment as a result of their identification by a prohibited ground of discrimination or their association with a group who are identified by a prohibited ground of discrimination. Some examples of direct discrimination are:

- refusal to provide goods, services or facilities to persons because of membership in a protected group;
- refusal to work with or teach someone because of membership in a protected group.

Harassment: Harassment is defined by the *Ontario Human Rights Code, 1962*, as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome (Section 10 (1) (f)). The College interprets this to include any behaviour that is known or ought reasonably to be known to the perpetrator to be offensive, embarrassing or humiliating to other individuals. Such conduct may include visual representations, electronic messages, written messages, verbal and/or physical conduct, and may relate to any of the grounds of discrimination prohibited by the *Ontario Human Rights Code, 1962*, or other malicious grounds. Some examples of harassment are:

- unwelcome remarks, jokes, slurs innuendoes or taunting;
- hazing, stalking or shunning;
- the repeated mistreatment of one employee, targeted by one or more employees with a malicious mix of humiliation, intimidation and sabotage of performance (bullying);
- displaying derogatory or offensive pictures, graffiti or materials either through printed copy or personal computer;
- verbal abuse;
- insulting gestures or practical jokes which cause embarrassment or awkwardness;
- unauthorized and/or unnecessary physical contact;
- an impassioned, collective campaign by co-workers to exclude, punish and humiliate a targeted worker.

For the purposes of this policy, "harassment" also includes personal/psychological harassment.

Note: Harassment does not occur where a supervisor gives legitimate directions or instructions to an employee in the course of employment or conducts performance reviews in accordance with the college's normal procedures.

Personal/Psychological Harassment: 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. It includes and is not limited to behaviours defined as bullying, mobbing, victimization, emotional abuse, psychological abuse, and 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.

Poisoned Learning, Living and Working Environment: Occurs when conduct and/or comments related to one or more prohibited grounds of discrimination under the Code unreasonably interferes with an individual's ability to work and/or learn by creating an intimidating, hostile, offensive or threatening environment. Depending on the impact of the comments or conduct on the individual, one instance may be sufficient to create a poisoned environment for an individual or a group. A poisoned environment can create unequal conditions of employment for the person or persons affected by it. It can interfere with an individual's learning and/or work performance and cause emotional or psychological stress not experienced by other individuals.

An individual does not have to be the person targeted by the comments to experience a poisoned environment. A person who is subjected to overhearing racial slurs or sexually or racially offensive jokes, or viewing racially offensive cartoons or sexually explicit, suggestive or demeaning pictures may view the behaviour as poisoning the environment.

Some examples of poisoning the environment are:

- displaying graffiti, signs, pictures or cartoons which would qualify as prohibited harassment, either through print or computers;
- making derogatory remarks about a particular gender or sexual orientation, race or religion in the classroom or the workplace.

Prohibited Grounds: The protected grounds include:

- in employment: race, disability, place of origin, age, family status, gender, ethnic origin, citizenship, colour, sexual orientation, religion/creed, marital status, receipt of public assistance, gender identity, gender expression, record of offences (i.e. pardoned federal offences or record of provincial offences) as these terms are interpreted in the *Ontario Human Rights Code, 1962*.
- in the provision of services: race, ancestry, place of origin, colour, ethnic origin, citizenship, religious creed, sex, age, marital status, family status, disability, sexual orientation, gender identity, gender expression, same sex partnership status, as these terms are interpreted under the *Ontario Human Rights Code, 1962*.

The extent of the protection from discrimination on the grounds of receipt of public assistance or pardoned federal offences or record of offences shall be that as provided by the Code.

Racial/Ethnocultural/Religious Harassment: Is prohibited by the Code and generally involves written, verbal and/or physical actions which express negative attitudes, derogation, and/or hate for a person or group of persons based on their race, ancestry, place of origin, colour, ethnic

origin, citizenship or creed. Racial/ethnocultural/religious harassment may include, but is not limited to, the following behaviours:

- demeaning comments, unwelcome remarks, jokes, innuendoes or taunting about a person's or group of persons' race, ancestry, place of origin, colour, ethnic origin, citizenship, creed;
- displaying of racist, derogatory or offensive pictures or sexually explicit materials, either through printed copy or personal computer;
- denial of normal co-operation with an employee or student because of that individual's racial or ethnic background;
- insulting gestures or practical jokes based on racial or ethnic grounds which cause embarrassment or awkwardness;
- demeaning remarks about a racial/cultural group in the presence of any individual (not necessarily a member of the group mentioned) that creates a poisoned work/learning environment.
- using pejorative names based on race or ethnic origin

Sexual Harassment: Is prohibited by the code and may be based on gender (including transgendered persons) or may involve the use of overt sexual language or sexual innuendo which makes an individual feel uncomfortable. Sexual harassment includes, but is not limited to, the following:

- any deliberate and unsolicited sexual comment, suggestion or physical contact that creates an uncomfortable learning/working environment for the recipient and is made by a person who knows or ought reasonably to know that such action is unwelcome;
- a sexual advance or solicitation made by a person where the person making the advance or solicitation knows or ought reasonably to know that it is unwelcome;
- a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person;
- unwelcome remarks, jokes, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life;
- practical jokes of a sexual nature which cause awkwardness or embarrassment;
- displaying and/or distributing pornographic pictures or other offensive material of a sexual nature, either through printed copy or personal computer;
- leering (suggestive staring) or other gestures;
- unnecessary physical contact such as touching, patting or pinching;
- expressions of gender bias which may include remarks that are discriminatory, degrading or derogatory and create a poisoned work environment;
- requests for sexual favours; and/or
- sexual assault.

NOTE:¹ Relationships between consenting adults which are voluntary and based on mutual attraction do not constitute sexual harassment unless one of the parties has communicated to the other that he/she wishes the relationship to end and the other thereafter engages in conduct which is harassing in nature.

NOTE:² In romantic and sexual relationships between faculty members and students or between supervisors and employees or students, a power differential may exist. Abuse of that power differential creates a negative environment for work and study and casts doubt on the

validity of the consent to such relationships. Such relationships could be construed as a Breach of Trust in one's employment with the College as a faculty member or supervisor, the student-teacher relationship being a professional one, which involves a significant issue of trust in regards to both the institution and students. Sexual intimacy between faculty and student removes all professional boundaries between them and creates a perception of bias in the eyes of the institution, faculty and other students, thus distorting and damaging the learning environment.

Systemic Discrimination (Indirect Discrimination): Describes a type of discrimination that occurs indirectly as a result of the application of a factor, requirement or qualification (which includes any policies, practices, procedures, actions or inactions) that does not directly discriminate, but has the effect of negatively impacting or giving preference to a group identified on a protected ground under the *Ontario Human Rights Code, 1962*. However, the Code also provides that a factor, requirement or qualification that would otherwise be found to be indirect discrimination will be permitted if it is reasonable and bona fide in the circumstances and cannot be accommodated without undue hardship. Some examples of indirect discrimination are:

- imposition of minimum height or weight requirements as a precondition where such requirements are not necessary for the performance of a job;
- failure to provide reasonable access to buildings and premises for employees or students with disabilities;
- an exam schedule that conflicts with an important religious holiday. The exam may have been scheduled without thinking about the religious holiday, without any intent of violating a group's religious rights. In this case, the schedule is discriminatory because of its adverse effect on a particular religious group. Since an alternate day can be scheduled for a student whose religious observance would be interfered with, accommodation without undue hardship is possible.

Without Prejudice (Off the record): The course of mediation and/or conversations will not to be tendered as evidence in court.

Workplace/Learning Environment: Wherever an employee or student attends for the purpose of work or study involving activities sanctioned by the College, including a virtual or cyberspace environment.