

Guidelines on Accessible Education: Creating a Welcoming Environment

Humber College has a strong commitment to maintaining a diverse and inclusive academic community, representing a broad range of talents and experiences. Students with disabilities actively participate throughout Humber, and they are essential members of the Humber community. The source of this resource paper is the Ontario Human Rights Commission: <http://www.ohrc.on.ca/en/resources/Guides/AccessibleEducation?page=fgj-Creating.html#Heading172>. Please join in increasing access at Humber for all students.

Preventing bullying and harassment

Part of an educational institution's duty to maintain a safe learning environment for students includes addressing bullying and harassing behaviour. Students who are being harassed are entitled to the *Code*'s protection where the harassment creates a poisoned educational environment. This protection would apply to sanction: (i) education providers who themselves harass students based on *Code* grounds, and (ii) education providers who know or ought to know that a student is being harassed based on *Code* grounds, and who do not take effective individualized and systemic steps to remedy that harassment.

Responsibilities of education providers

Education providers have a responsibility to take immediate steps to intervene in situations where bullying and harassment may be taking place. The harassment of students because of disability will amount to discrimination where it poisons the educational setting and impairs access to educational services. Every person has the right to be free from humiliating or annoying behaviour that is based on one or more grounds in the *Code*. If left unchecked, harassment can impede a student's ability to access educational services equally and to participate fully in the educational experience.

Example: In a classroom, a student with Tourette's Syndrome is repeatedly subjected to taunting and teasing by a group of other students for no apparent reason. The same group of students excludes him from recess activities stating that he is "different" and "weird." It may be inferred from the particular circumstances that the treatment is due to the student's disability even though none of the other students ever made a direct reference to his disability. The student's ability to access the educational program is, as a result of this harassment, impaired.

The courts have established that schools have a duty to maintain a positive, non-discriminatory learning environment. ^[23] In this regard, education providers should take steps to educate students about human rights and implement strategies to prevent discrimination and harassment. An education provider has a responsibility to take immediate remedial

action once made aware of harassing conduct. If an allegation of harassment has been substantiated, appropriate action must be taken. This may include disciplinary action.

A student who is a target of harassment may be in a vulnerable situation. Therefore, there is no requirement that he or she formally object to the behaviour before a violation of the *Code* can be considered to have taken place, where the conduct is or should have been known to be unwelcome. It may be unrealistic to require a student who is the target of harassment to object as a condition of seeking the right to be free from such treatment.

An education provider who knew of, or should have had knowledge of, the harassment and could have taken steps to prevent or stop it, may be liable in a human rights claim.

Prevention through education

Education providers can help to prevent incidents of bullying and harassment before they occur by:

Exhibiting a clear attitude of non-tolerance towards bullying and harassment.

Communicating clearly to the student body the consequences of bullying and harassment.

Educating students about disability issues and encouraging awareness of differing needs and acceptance of diversity.

Engaging in role-playing and educational exercises to help students develop increased compassion and a greater awareness of the impact that bullying behaviour may be having on others.

Respecting the confidentiality of students who do report bullying. This will encourage other students who are being harassed to report it in its early stages.

Reference

^[23] See *Ross*, *supra*, note 13; *Quebec (Comm. Des droits de la personne) c. Deux-Montagnes, Comm. Scolaire*, (1993), 19 C.H.R.R. D/1 (T.D.P.Q.) (“Kafe “); *Jubran v. North Vancouver School District No. 44*, (2002), 42 C.H.R.R. D/273, 2002 BCHRT 10 (In *Jubran*, the Tribunal held that the School Board (i) had a duty to provide an educational environment that did not expose students to discriminatory harassment, (ii) knew that students were harassing another student and (iii) was liable for failing to take adequate measures to stop that harassment. The B.C. Supreme Court quashed the Tribunal's decision on the ground that the harassment was not linked to a protected ground under the legislation, and stated that it did not have to decide any other issues in disposing of the case. The B.C. Court of Appeal is scheduled to hear a further appeal in October of 2004: see *North Vancouver School District No. 44 v. Jubran*, [2003] B.C.J. No. 10).