

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”) is committed to fostering a respectful and inclusive culture in which all members of the Humber community study, work and live free from discrimination and harassment. 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, working and living environment free from discrimination and harassment. The prevention of discrimination and harassment must occur on both the individual and systemic levels to enable an inclusive environment. This Policy is guided by the [Ontario Human Rights Code](#) and the [Occupational Health and Safety Act](#), as well as other legislation, policies and collective agreements.

Scope:

This Policy applies to all members of the College community. This includes employees and students at Humber College and 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 may not have an ongoing connection to the institution but 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 of discrimination and harassment that occur both on and off campus, which affect Humber's learning, working and living environments. This may include College-related functions, such as academic placements, off-campus field trips, work or academic related travel as well as virtual environments, such as BlackBoard, Rate My Professor and Facebook.

Definitions:

See [Appendix A](#).

Policy:

1. General

1.1 The College's learning, working, and living environments will be maintained free from discrimination and harassment as prohibited by the Ontario *Human Rights Code* and the *Occupational Health and Safety Act*, in particular workplace harassment (personal/psychological harassment) as defined in this Policy.

1.2 Every member and visitor of the College community has a right to equitable treatment without discrimination and/or harassment with respect to employment, services, goods, facilities, accommodation and membership in vocational associations in accordance with the provisions of the Ontario *Human Rights Code*.

1.3 Humber College forbids any act of discrimination and harassment as identified in the Ontario *Human Rights Code* and workplace harassment (which includes

personal/psychological harassment), as outlined in the *Occupational Health and Safety Act*. The College will enforce the right of its members to equitable treatment without discrimination or harassment and 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 incidents of discrimination and harassment that they are experiencing in their education, work or residence 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 harassment and discrimination complaint with the College. The College encourages individuals to file their complaint within **six (6) months** of the occurrence of the event(s). The College reserves the right to decide not to proceed with addressing an issue that is brought forward after one **(1) calendar year**.

1.6 The College recognizes that any accusation 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 designee may take action which diverges from procedures associated with this Policy when they are of the view that:

- a. the safety of College community members is at risk;

- b. that a potential violation of the Policy is deemed to be so serious that it is imperative that immediate action be taken; or
- c. 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 of the Centre for 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. The DHR does not play an advisory role to either the Complainant or Respondent except to the limited extent of providing information about this process.

1.10 The Complainant may withdraw the complaint at any point. 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.

1.11 In some circumstances a decision may be made not to investigate (e.g. a frivolous, vexatious complaint, or a failure to establish a *prima facie* case). The decision will be communicated in writing, with reasons, to the parties by the appropriate investigator.

1.12 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.

1.13 The final decision about whether a violation of this Policy has occurred will be based upon a review of the evidence provided by the parties, gathered by the investigator and assessed on a standard of balance of probabilities.

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 respectful manner. Furthermore, subject to the limits legitimately imposed in a free and democratic society, they are free to present arguments, express their views, and/or 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, as well as intellectual integrity. Discussions, arguments, and disagreements, when conducted at the College in an open, responsible, and respectful manner, do not constitute discrimination and harassment 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 are otherwise in excess of the reasonable limits on freedom of speech in a free and democratic society, are unacceptable and cannot be justified by an appeal to “freedom of speech.” The College has both the right as well as legal and moral responsibility to ensure that all its members are treated fairly, equitably,

and respectfully, in order to provide learning, working and living environments that are free from discrimination and harassment.

3. Inappropriate and Prohibited Relationships

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 may interfere with learning consistent with the goals and ideals of the College. All such relationships jeopardize 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 faculty member and a student during the period of the teacher/student relationship are prohibited. The prohibition extends to sexual or romantic relations between a student and all others who have supervisory academic responsibility for that student.

3.3. Any sexual or romantic relations between a supervisor and an employee that they supervise must be disclosed to Human Resources. This requirement extends to sexual or romantic relations between an employee and all others who have supervisory responsibility for the employee.

3.4. Non-consensual sexual or romantic relationships are prohibited. All complaints of such relationships, or any non-consensual sexual conduct, will result in an investigation pursuant to Humber's [Sexual Assault and Sexual Violence Policy](#). Employees, including supervisors and faculty, found to have engaged in such relationships or conduct will be disciplined up to and including termination.

4. Employer and Employee Responsibilities

It is the responsibility of every person who works in a supervisory capacity and those considered to be part of the "directing mind" (see Appendix A) of the College to respond to all complaints and incidents of discrimination and harassment. It is the responsibility of the Centre for Human Rights, Equity & Diversity to provide ongoing education and training to prevent discrimination and harassment throughout the College.

4.1. 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/anti-harassment manner.

4.2. College community members are liable for any discriminatory acts that they commit.

4.3. 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*, *Occupational Health and Safety Act* and *The Freedom of Information and Protection of Privacy Act*.

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References:

[The Ontario Human Rights Code](#)

[The Ontario Human Rights Commission](#)

[Occupational Health and Safety Act](#)

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

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

Related Policies and Procedures:

[Human Rights Complaint Resolution Procedures](#)

[Gender Diversity Policy](#)

[Accessibility Policy](#)

[Accessible Customer Service Policy](#)

[Accommodation for Employee's with Disabilities Policy](#)

[Academic Employees Collective Agreement](#)

[Support Staff Collective Agreement](#)



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APPENDIX A: Definitions

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 more than a 50% chance 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.

Complainant: Person(s) who allege(s) a violation of Humber's Human Rights Policy.

Directing Mind: In general terms, an employee who performs management duties is considered a "directing mind". Employees with only supervisory authority may be viewed as a "directing mind" if they function, or are seen to function, as representatives of the organization. Non-supervisors may be considered part of the "directing mind" if they have assumed supervisory authority or have significant responsibility for guiding employees. For example, a member of the bargaining unit who acts as a lead-hand may be considered a "directing mind."

Disability:

- a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog, wheelchair, or other remedial appliance or device;
- b) a condition of mental impairment or a developmental disability;

- c) a learning disability or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- d) a mental disorder; or
- e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*.

Discrimination: Every member of the College community in receipt of services from the College or in employment has the right to equal treatment without discrimination as set out in the Ontario *Human Rights Code*. 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 hire, teach or work with someone because of membership in a protected group.

Harassment: Harassment in section 10(1) of the Ontario *Human Rights Code* and Workplace Harassment (personal/psychological harassment) in section 1(1)(a) of the *Occupational Health and Safety Act* are defined as engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. The College interprets this to include any behaviour that is known or ought reasonably to be known to be offensive, embarrassing or humiliating to other individuals. Such conduct may or may not be based on any of the prohibited grounds identified in the Ontario *Human Rights Code*, and includes visual representations, electronic messages including

emails and social media posts, written messages, and verbal and/or physical conduct.

Some examples of harassment are:

- unwelcome remarks, jokes, slurs, innuendoes or taunting;
- hazing, stalking or shunning;
- the repeated mistreatment of one employee or student, targeted by one or more employees or students 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.

Note: Harassment or Workplace Harassment (Personal/Psychological 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 Faculty Evaluation Procedure, or its equivalent.

Learning/Working/Living Environment: Wherever a member of the College community attends for the purpose of learning, working and living, involving activities sanctioned by the College, including a virtual or cyberspace environment.

Personal/Psychological Harassment (Workplace Harassment): Behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures, that affects an employee's or student's dignity or psychological or physical integrity, and that

results in a harmful learning, working or living environment for an employee or student. 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/or that it results in a harmful environment for members of the College community.

Prima facie: A prima facie case is one where “the complainant establishes facts which are complete and sufficient to justify a finding of discrimination in the absence of a response or defence from the respondent” (Supreme Court of Canada).

Poisoned Learning, Living and Working Environment: Occurs when conduct that constitutes Discrimination, Harassment and/or Workplace Harassment (Personal/ Psychological Harassment) as defined within this policy unreasonably interferes with an individual's ability to learn, live and/or work by creating an intimidating, hostile, offensive or threatening environment. Depending on the impact of such conduct on the individual, one instance may be sufficient to create a poisoned environment for the individual or group. A poisoned environment can create unequal conditions of living and/or employment for the person or persons affected, interfere with an individual's learning, living 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 such conduct 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, including social media;
- making derogatory remarks about a particular gender or sexual orientation, race or religion in the classroom or the workplace;
- The repeated mistreatment of one employee, targeted by one or more employees with a malicious mix of humiliation, intimidation and sabotage of performance (bullying);
- Insulting gestures or practical jokes that cause embarrassment or awkwardness.

Prohibited Grounds: The prohibited grounds in the Ontario *Human Rights Code* include: ancestry, race, disability, place of origin, age, family status, sex, ethnic origin, citizenship, colour, sexual orientation, gender identity, gender expression, religion/creed, marital status, receipt of public assistance, record of offences (i.e. pardoned federal offences or record of provincial offences). 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/Ethno-cultural/Religious Harassment: Is prohibited by the Ontario *Human Rights 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/ethno-cultural/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 racist, derogatory or offensive pictures or sexually explicit materials, either through printed copy or personal computer;
- denial of normal co-operation with members of the College community because of the 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 learning, working and living environment;
- using pejorative names based on race or ethnic origin.

Record of offences: is a conviction for:

- an offence in respect of which a pardon has been granted under the *Criminal Records Act* (Canada) and has not been revoked; or
- an offence in respect of any provincial enactment.

Reprisal: A reprisal is an action, or threat, that is intended as retaliation for claiming or enforcing a right under the Ontario *Human Rights Code* and *Occupational Health and Safety Act*.

Respondent: An individual, group or organization against whom allegation(s) of a violation of the Human Rights Policy is brought with the expectation that the individual, group or organization will respond to the allegation(s).

Sexual Harassment: Sexual Harassment is a form of sexual violence prohibited by the Ontario *Human Rights Code*. Sexual harassment is defined as a course of vexatious comment or conduct based on an individual's sex and/or gender that is known or ought to be known as unwelcome. Under Ontario's *Occupational Health and Safety Act* (OHSA), workplace harassment has been expanded to include workplace sexual harassment, which may or may not include:

- engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity (including transgender) or gender expression, where the course of comments or conduct is known or ought reasonably to be known to be unwelcome; or
- 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 worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Examples of behaviors of sexual harassment include but are not limited to:

- any deliberate and unsolicited sexual comment, suggestion or physical contact that creates an uncomfortable learning, working and living environment for the recipient and is made by a person who knows or ought reasonably to know that such action 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 in print or electronic form;
- 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: Romantic and sexual relationships between consenting adults that are voluntary and based on mutual attraction do not constitute sexual harassment. If, for example, one of the parties has communicated to the other that they wish for the relationship to end and the other thereafter engages in conduct which is harassing in nature, this would constitute sexual harassment.

NOTE 2: Romantic and sexual relationships between faculty members and students, even if they are between consenting adults, voluntary and based on mutual attraction, are inappropriate because of the power differential that exists within the relationship. This power differential casts doubt on the validity of the consent to such relationships, creates a perception of bias in the eyes of the institution, faculty and other students, and constitutes a breach of trust in one's employment with the College as a faculty member or supervisor. Individually or together, such consequences of the inherent imbalance of power within these relationships create a poisoned learning, working, and living 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 prohibited ground under the Ontario *Human Rights Code*. 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 members of the College community with disabilities;
- an exam schedule that conflicts with an important religious holiday. The exam may have been scheduled without due consideration of the religious holiday. 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 be tendered as evidence in court.