

## 3.12 - Anti-Harassment in the Workplace - Policy

Section: Human Resources  
Subject: Anti-Harassment in the Workplace  
Policy: 3.12  
Approved: June 17, 2003  
Revised: November 1, 2015

### Policy Statement

Students, employees and the Board of Directors have the right to be treated fairly and with respect, and to work and learn in an environment free of all forms of harassment. To this end, Carlton Trail College has worked with its Occupational Health and Safety Committee to create a process and procedures that are consistent across all Saskatchewan Colleges and are contained in full under Procedure 3.12.

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### Commitment

Every employee is entitled to a harassment free workplace. The College is committed to ensuring a harassment free workplace where everyone is treated with dignity and respect. The College and the Union are committed to the joint development of proactive programs to eliminate all forms of harassment.

### Definition of Harassment

In accordance with the *Occupational Health and Safety Act & Regulations*, and the *Human Rights Code*, the College-SGEU Collective Agreement defines harassment as follows:

Harassment means any unwanted or unwelcome action by any person against another whether it be verbal, written or physical and which:

- is perceived on the part of the affected employee to create a negative psychological or emotional state; or directed at an employee;
- prejudices the affected employee's job security or
- undermines an employee's job performance.

Saskatchewan's Occupational Health and Safety Act definition of harassment was amended effective October 1, 2007, as follows:

"Harassment" means any inappropriate conduct, comment, display, action, or gesture by a person:

(1) that either:

(A) is based on race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin; or

(B) subject to subsections (3) and (4), adversely affects the worker's psychological or physical well-being and that the person knows or ought reasonably to know would cause a worker to be humiliated or intimidated; and

(2) that constitutes a threat to the health or safety of the worker;

The Act further articulates that:

(3) To constitute harassment for the purposes of paragraph (1)(l)(i)(B):

(a) repeated conduct, comments, displays, actions or gestures must be established; or

(b) a single, serious occurrence of conduct, or a single, serious comment, display, action or gesture, that has a lasting, harmful effect on the worker must be established.

(4) For the purposes of paragraph (1)(l)(i)(B), harassment does not include any reasonable action that is taken by an employer, or a manager or supervisor employed or engaged by an employer, relating to the management and direction of the employer's workers or the place of employment.

Some examples of harassment include:

- unsolicited physical contact, pushing, grabbing or touching

- comments, looks, suggestions which might reasonably be found by the affected employee to be unwelcome, objectionable, offensive, or to cause discomfort
- persistent sexual or unfriendly propositions
- vandalism of personal property
- gender or ethnic based insults or taunting

This harassment policy does not extend or apply to:

- day to day management or supervisory decisions involving work assignments, job assessment and evaluation, workplace inspections and disciplinary action
- harassment that occurs outside of work. For example, harassment that occurs during a union meeting or while attending a social gathering after work is not covered. However, harassment that occurs while attending a conference or training session at the request of the employer would be covered within this policy
- conduct which all parties agree is inoffensive or welcome
- normal social contact between people based on a position of equality and/or mutual consent does not for these purposes constitute harassment
- occasional conflict or disagreements in the workplace

Harassment can exist even where there is no intention to harass or offend another. Everyone must take responsibility to ensure his or her conduct or display is not offensive to another.

### **Employer's Commitment**

The College, its managers and supervisors will take all complaints of harassment seriously and is committed to implementing this policy and to ensuring it is an effective means to prevent and stop harassment and create a productive and respectful workplace.

This commitment includes:

- Informing all persons of their rights and obligations – a copy of the policy will be provided to all employees, be posted on the bulletin board and be available in visible work locations.
- Training all persons in implementing this policy – information meetings will be held periodically – annually at a minimum – to explain the policy, new employees will receive the policy during their orientation and senior management, VPs and supervisors will be asked to set a good example and foster a respectful workplace.
- Assigning responsibility for implementing this policy as detailed in the procedures included in the policy.
- Protecting employees from reprisal or embarrassment for trying to stop or prevent harassment – all complaints will be held in the strictest confidence

except where disclosure is necessary for investigation or corrective action or as required by law.

- Promptly taking the action necessary to stop and prevent harassment when it occurs or has occurred – appropriate action will be taken against persons who are or were engaged or participated in harassment. This action should be sufficient to ensure the harassment stops and does not happen again.
- Informing students, clients or other visitors to the workplace that certain conduct will not be tolerated or allowed to continue.

## **Employees' Duty**

All employees and students of the College shall:

- refrain from causing or participating in the harassment of another person, either an employee or a student
- cooperate with any person investigating harassment complaints

## **Complaint Procedure**

Formal or informal harassment complaints can be made to the supervisor, out-of-scope manager, Human Resources, Union Official or President and CEO.

This policy sets out three types of complaint procedures that may be used. They are procedures that apply where:

1. no alleged harasser is named, and an informal resolution is sought
2. an alleged harasser is named, and an informal resolution or mediation is sought
3. an alleged harasser is named, and an investigation is required

## **No alleged harasser named – informal resolution sought**

### **Step 1**

An individual reports an incident or concern to the supervisor or anyone designated to receive harassment complaints.

### **Step 2**

The person receiving the complaint:

- reviews the complaint procedures with the complainant
- informs the out-of-scope manager of the complaint

### **Step 3**

The manager takes action appropriate and necessary to address the complaint. Such action may include:

- having staff meetings to discuss and review the policy
- providing workshops, videos or written information on the prevention of harassment

The manager informs the complainant of the action that will be taken to address the complaint or concern. Note: Following this action, where the complainant indicates that the harassment has not ended, the manager counsels the complainant to pursue an alternate resolution process, including a formal investigation.

### **Confidentiality**

The College, or anyone acting on behalf of the College, should not disclose the complainant's name or other identifying information to any person. In certain circumstances the complainant may agree to release identifying information in order to implement the harassment policy, the resolution process or the final resolution itself.

### **Alleged harasser named – informal resolution or mediation sought**

#### **Step 1**

An individual reports an incident or concern to their supervisor or anyone designated to receive harassment complaints. The complaint should be recorded in writing.

Where an informal resolution is sought, the complainant should indicate the type of resolution and resolution process s/he is seeking.

Examples include: an apology, supervisory counseling, a facilitated meeting with the alleged harasser, workshop or training sessions and mediation.

#### **Step 2**

The person receiving the complaint:

- reviews the complaint procedures with the complainant
- informs the out-of-scope manager of the complaint (where it is alleged that the manager is involved in the harassment, the person receiving the complaint refers the matter to another out-of-scope manager)
- the out-of-scope manager meets privately with the alleged harasser to review the complaint
- determines whether there is agreement on a resolution or a resolution process

### **Step 3**

Where there is agreement on the resolution or resolution process to be used, the out-of-scope manager facilitates the agreed upon resolution or resolution process.

### **Step 4**

The complainant is informed that s/he may move to the formal complaint procedure:

- if the complainant, the alleged harasser or the manager do not agree to a resolution process
- if the resolution process does not resolve the matter to the complainant's satisfaction

### **Step 5**

Where the complainant and alleged harasser agree to a resolution, the out-of-scope manager/VP follows up with the complainant to ensure the agreed resolution was effective in stopping and preventing further harassment.

Where the complainant indicates that the harassment has not ended, the manager counsels the complainant to pursue an alternate resolution process, including a formal investigation.

### **Confidentiality**

The College, or anyone acting on behalf of the College, should not disclose either the complainant's or alleged harasser's name or other identifying information to any person. In certain circumstances the complainant and alleged harasser may agree to release identifying information in order to implement the harassment policy, the resolution process or the final resolution itself.

### **Alleged harasser named – investigation required**

#### **Step 1**

An individual reports an incident or concern to their supervisor or anyone designated to receive harassment complaints. The complaint should be in writing, be dated and contain the following information:

- the name and job title of the complainant and contact information
- the name and job title of the alleged harasser and available contact information
- a description of the conduct, display or events considered objectionable, including dates and location of events; the details of the complaint should describe the behaviour that you are objecting to. What was said or

done? When? How often? Where? Circumstances surrounding the incident(s). Describe what has been done in response to the behaviour.

- the names and available contact information of any possible witnesses
- a description of the basis of the alleged harassment. (e.g., sex, age, ancestry, disability, physical size, marital status, adverse effect on a person's well-being)
- the remedy sought
- other information or material the complainant considers relevant
- the signature of the complainant

## **Step 2**

The person receiving the complaint:

- reviews the complaint procedures with the complainant
- provides a copy of the written complaint to the out-of-scope manager (where it is alleged the manager is directly involved in the harassment, the person receiving the complaint refers the matter to another out-of-scope manager)
- the out-of-scope manager provides a copy of the written complaint to the alleged harasser
- reviews the complaint procedures with the alleged harasser.

## **Step 3**

The person receiving the complaint, the manager and Human Resource manager review the complaint and determine:

- whether the conduct complained about falls within the harassment policy
- whether there are resolution options, other than investigation, that are available and acceptable to the complainant and alleged harasser
- who will conduct the investigation where one is required

## **Step 4**

Where an investigation is required, the College appoints an investigator or team of investigators, in consultation with the Union.

The investigator(s) will:

- be trained in conducting an investigation and in accordance with this policy
- have no apparent bias or interest in the outcome of the investigation.

Where the complainant or the alleged harasser objects to the appointment of an investigator, on the basis of bias or conflict of interest, the College, in consultation with the union, will appoint another investigator.

## **Step 5**

The investigator(s) conducts an investigation in accordance with the following guidelines:

- The investigation commences and concludes as soon as reasonably possible.
- Witnesses are interviewed separately and written witness statements are prepared.
- Witnesses are asked to review and sign their written statements.
- Witnesses are advised to keep the investigation and the identity of the complainant and alleged harasser in confidence, unless they are required to disclose them by law.
- The complainant and alleged harasser are entitled to be accompanied by a union representative during the interview and investigation process.
- During the investigation process, both the complainant and the alleged harasser are entitled:
  - to be informed of all the allegations made against them
  - be allowed the opportunity to make a full answer and defense

This does not mean that either party is entitled to see or receive copies of the complete statements. Both are entitled, however, to see or receive an adequate summary of the evidence to make a full answer and defense.

## **Step 6**

Once the investigation is complete, the investigator(s) will prepare a written report setting out:

- a summary of the evidence
- a description of any conflict in the evidence
- the investigator's conclusions on the facts and reasons for reaching that conclusion
- any recommended corrective action where harassment has been found to have occurred

The investigator's report will be delivered to the out-of-scope manager, the complainant, the alleged harasser and union representative(s). The report is marked as confidential and delivered with the notation that it should be kept in confidence unless disclosure is required by law or is necessary to implement corrective action or other legal remedies.

## **Step 7**

The College:

- takes corrective action that the College considers appropriate and effective



- informs the complainant and harasser of the corrective action. Where the corrective action is different from the action recommended in the investigator's report, the College should provide reasons for not taking the investigator's recommended action
- informs the complainant of his/her right to file a complaint with The Occupational Health and Safety Division and/or The Saskatchewan Human Rights Commission

## **Step 8**

The College, after the corrective action has been taken, follows up with the complainant to ensure that the corrective action was effective in stopping and preventing harassment. If the complainant indicates that harassment has not ended, or that s/he has suffered reprisal as a result of making the complaint, the College should take additional or alternative corrective action to resolve the complaint.

## **Disclosure of Investigation Documents**

All documents and statements obtained during the course of the investigation, including the names and copies of witness statements, should not be disclosed to any person unless required by law.

## **Confidentiality**

The College or anyone acting on behalf of the company should not disclose the name of the complainant or the alleged harasser, as well as any information that may identify the complainant or alleged harasser. The disclosure of such information may be necessary, however, to conduct the investigation, implement corrective action, or pursue other legal remedies.

## **Taking Action to Stop and Prevent Harassment**

In taking action to stop harassment and prevent its reoccurrence, the College will be guided by the following considerations and options.

## **Individual Awareness and Counseling**

Individuals may not be aware of the effects of their behavior. In many cases, speaking to the person in private about the inappropriate behavior will be enough to resolve a situation.

In some instances, it may be most effective and less disruptive to working relationships if the complainant informs the offending individual that s/he finds certain conduct offensive. In other instances, it may be more effective for a supervisor to speak with the offending person. At other times, a meeting between the complainant and alleged harasser facilitated by the supervisor may be appropriate.

Complainants should not be encouraged to confront the alleged harasser if:

- they are reluctant to do so
- the alleged harassment is of a very serious nature
- the alleged harasser denies engaging in the conduct complained of

### **Facilitated Problem Solving**

If a complainant feels harassed and is unable to approach the other person or speaking to the person does not improve the situation, an employee may discuss the problem with the supervisor, manager, steward, Occupational Health Committee member or Human Resources. These individuals can help assess options, develop an action plan for resolution and implement the plan. They can help identify and access a facilitator who may assist the complainant and the respondent to work out an acceptable resolution and they can also be responsible for following up to ensure that the problem has been resolved.

### **Staff Awareness and Counseling**

Standards of behavior change over the years. Some individuals or groups may not be aware that behavior, which was acceptable to their co-workers in the past, is not acceptable anymore. A staff awareness session may be helpful to correct problems based on lack of awareness. Relevant videos, lectures and facilitated group discussions may increase awareness of behaviors that are unacceptable and the reasons for the changes.

### **Interim Action**

A manager may have grounds to believe that a complainant will be exposed to continued harassment or reprisal while waiting for the investigation or resolution process to occur. If so, the manager should take action to protect the employee from continued harassment or reprisal. Any interim action should respect the alleged harasser's rights based on the Collective Agreement. Considering these rights, the action may include:

- cautioning the alleged harasser about the types of behavior or reprisals that will not be tolerated
- removing the alleged harasser to another work unit
- at the complainant's request, removing the complainant to another work unit
- suspending the alleged harasser with pay while waiting for a final determination
- suspending the alleged harasser without pay while waiting for a final determination

### **Mediation**

Mediation offers both parties the opportunity to develop an understanding of the problem and resolve the complaint before or during the formal investigation process.

The mediator facilitates separate discussions or joint meetings between the complainant and the respondent, for the purpose of resolving the complaint.

Mediation may take place at any point in the resolution process as long as both parties agree to participate in mediation. Where the complainant and alleged harasser agree to participate in mediation, the College shall arrange for a person, who is trained and independent, to act as mediator.

### **Corrective Action**

If it is determined that harassment has occurred the College shall determine what appropriate restorative action is to be taken. The offending party may be subject to disciplinary action as part of the restorative process that is applied.

The College will communicate to the complainant(s) and respondent(s) the details of the restorative action plan and its implementation. Where disciplinary action is applied as part of the restorative plan, the College will, on a confidential basis, inform the complainant(s) of the discipline imposed on the respondent(s), the rationale for imposing discipline and the relevant considerations taken into account. If it is determined that disciplinary action will not be imposed as part of the restorative plan, that decision will also be communicated and explained to the complainant(s).

On a case-by-case basis, the College may determine that for a restorative action plan to be successful, it may need to include communicating information about the disciplinary action to other employees.

### **Third Party Harassers**

Students, clients, contractors or other people invited to the workplace might engage or participate in the harassment of a College employee. The College may have limited ability to investigate or control their conduct. However, the College shall take reasonably practicable action to stop or reduce the risk to its employees of being harassed by third parties. This action may include:

- posting the harassment policy statement in locations visible to third parties, and/or
- requiring students and contractors and their employees to accept and meet the terms of the harassment policy. This could include removing workers, who participated in harassment, from the workplace.

Where a student or client has been asked to stop abusing or harassing an employee and does not, employees are authorized to:

- end telephone conversations
- politely decline service
- ask the student or client to leave the vicinity

Any such action should be immediately reported to the out-of-scope manager.

### **Bad Faith Complaints**

Complaints should be undertaken with great care because they may result in pain and damage to the respondent's reputation and disruptions in the workplace. Complaints made in bad faith and without factual basis may constitute defamation and may be actionable by the respondent. Such complaints may result in disciplinary action.