

HR 709: WORKPLACE HARASSMENT, DISCRIMINATION & BULLYING

Policy Title:	Workplace Harassment, Discrimination & Bullying
Policy Number:	HR 709
Owner:	Workplace Harassment Officer/Human Resources & Organizational Development
Approved by:	
Effective Date:	
Reference:	
Links to Other Policy:	P45 Workplace Violence

St. Lawrence College is committed to making our resources usable by all people, whatever their abilities or disabilities. This document will be made available in alternative format upon request.

BACKGROUND

Definitions:

Employee or Worker

All current employees of St. Lawrence College. Employee and Worker may be used interchangeably.

Student

All current students enrolled at St. Lawrence College.

Workplace

Workplace is wherever an Employee attends for the purpose of work involving activities sanctioned by the College, including a virtual or cyberspace environment. Also included are parking lots, fields, satellite buildings, or anywhere activities related to work takes place.

Discrimination based on prohibited grounds

Discrimination is defined as verbal or non-verbal acts that are harassing in nature based on an individual's race, colour, ancestry, place of origin, citizenship, ethnic origin, disability, creed, sexual orientation, gender identity, gender expression, family status, marital status, age, and record of offences.

Workplace sexual harassment

For the purpose of this Policy, sexual harassment is defined as engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment 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.

Sexual harassment may involve actions of a physical, verbal or nonverbal nature, or may be in pictorial or written form. Sexual harassment may involve a single incident or a series of incidents.

Sexual harassment is not a relationship of mutual consent. This Policy does not intend to inhibit normal, social relationships consistent with generally-accepted professional ethics and conflict of interest guidelines, particularly those relating to reporting relationships.

Bullying /workplace harassment

Bullying or workplace harassment is defined as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. Workplace Harassment includes Workplace Sexual Harassment. Sometimes, bullying can involve negative physical contact as well. Bullying usually involves repeated incidents or a pattern of behavior that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression.

College-sanctioned activities

Any place or event related to employment. Any location where the business of the College is being carried out. Other locations and situations such as work-related or academic-related travel, work-related social gatherings, over the telephone, assignments and/or placements off campus, or other locations where the prohibited behaviour may have a subsequent adverse impact on an Employee's work performance or may create a poisoned work environment.

Workplace Harassment Officer

A Workplace Harassment Officer (the "Officer") is appointed by the College and will be the lead person in any matters relating to workplace harassment, discrimination and bullying that involves or affects any Employee of the College.

Purpose:

St. Lawrence College recognizes the dignity and worth of every member of its community and provides for equal rights and opportunities free of discrimination, harassment and bullying. To this end, the College adopts a Policy which establishes that harassment and bullying are never accepted and must not be tolerated. This Policy is in support of Article 4 of both the Academic and Support Collective Agreements; the Ontario *Human Rights Code* and the *Occupational Health and Safety Act* [Sec.32].

Scope:

- This Policy will apply to all members of the College community. The St. Lawrence College community includes: Employees and students at all College locations; members of College’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 are on campus.
- Only Employees of the College may file a complaint under this Policy. Students and other persons may file complaints through other avenues, such as the Student Code of Conduct, the Complaint Policy or the Sexual Assault and Sexual Violence Policy. For the purposes of this Policy, a student who is also employed by the College may file a complaint where there exists a connection between the student’s employment and the alleged harassment. Students may still be considered respondents or witnesses to a complaint.
- Visitors to the 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 prohibited conduct is found. Such visitors may also be able to initiate a complaint under this Policy.
- All contractual relationships entered into by the College will be 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.
- The Policy includes coverage of incidents that occurs both on and off campus, which affect the St. Lawrence College workplace. This may include College-related social functions, athletic events in the course of work or academic placements, off-campus field trips, or work or academic related travel.

POLICY STATEMENTS

Workplace harassment, discrimination and bullying will not be tolerated from any person in the workplace. Managers, supervisors and employees are expected to uphold this Policy, and will be held accountable by the College.

Workplace harassment is defined as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome and includes workplace sexual harassment.

Workplace bullying is a form of harassment that includes verbal and non-verbal conduct that could ‘mentally’ hurt or isolate a person in the workplace. Sometimes, bullying can involve negative physical contact as well. Bullying usually involves repeated incidents or a pattern of behavior that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression.

Harassment may also be related to a form of discrimination as set out in the Ontario *Human Rights Code*, but is not limited to those prohibited grounds.

The prohibited grounds with respect to employment are defined in the Ontario *Human Rights Code* as race, colour, ancestry, place of origin, citizenship, ethnic origin, disability, creed, sexual orientation, gender identity, gender expression, family status, marital status, age, and record of offences.

Harassment and bullying could include behaviours and characteristics broader than what is defined in the *Code*.

Legitimate performance management is not harassment, discrimination or bullying. This includes demotion, operational directives, job assignments, inadvertent management errors, or a single incident unless grave or harmful.

This Policy does not preclude the right of every person to seek assistance via other avenues such as the Ontario Human Rights Tribunal and Collective Agreements.

Employees are very strongly encouraged to report any and all incidents of workplace harassment, discrimination or bullying to their direct supervisor, security staff or the Workplace Harassment Officer and any complaints made in good faith and will not result in negative consequences.

If reasonable to do so, employees are encouraged to try to resolve the situation with the person who is alleged to have engaged in the harassment or bullying. Where the situation cannot be resolved or the situation continues, employees shall report the conduct to their supervisor, security staff or the Workplace Harassment Officer. The supervisor or the Workplace Harassment Officer will investigate the complaint. All reports of incidents are taken seriously and dealt with appropriately and, to the extent possible, confidentially.

It is the responsibility of each and every employee and other individual affiliated with this organization to comply with this Policy and ensure that the workplace remains free from harassment, discrimination and bullying. An employee, student or other person that subjects an employee to workplace harassment, discrimination or bullying shall be subject to the complaint procedures and investigation and may be subject to remedies, sanctions and disciplinary action up to and including termination.

This Policy shall be reviewed at least annually.

Management pledges that all incidents and complaints of workplace harassment, discrimination and bullying will be investigated and dealt with in a fair and timely manner, respecting the privacy of all concerned as much as possible.

ROLES AND RESPONSIBILITIES

It shall be the responsibility of all individuals within the College community to be aware of and conduct themselves in accordance with this Policy. While it is expected that all Employees will actively support this Policy, the College has a responsibility to receive and investigate all bona fide allegations of infringement. With everyone's help, workplace harassment, discrimination and bullying will be prevented and complaints of this nature will be resolved successfully within the College.

College Responsibilities

For the purposes of the Policy, the College is responsible for:

- Reviewing the Policy and procedures on an annual basis to ensure that they are relevant and compliant with the needs of the College;
- Providing information to the employees of St. Lawrence College. The College commits to ensuring that all information necessary to protect each and every employee and student is provided while respecting privacy whenever possible.
- Appointing a Workplace Harassment Officer (the "Officer") that will oversee investigations and manage information with regards to this Policy.

Manager/Supervisor Responsibilities

For the purposes of the Policy, the managers/supervisors are responsible for:

- Respecting the rights and acting respectfully towards all Employees, contractors, students, visitors and vendors while at work and participating in any work-related activity;
- Developing workplace arrangements in conjunction with the Officer and Human Resources & Organizational Development to minimize any incidents of harassment, bullying or discrimination;
- Communicating this Policy to all persons affected;
- Understanding and complying with this Policy and ensuring that all persons affected for whom they are responsible understand and comply with this Policy;
- Identifying training needs;
- Ensuring that persons who are affected understand who to contact regarding concerns about the Policy or when reporting an incident;
- Taking action to prevent harassment, discrimination or bullying from occurring, including but not limited to intervening promptly when they become aware of improper or offensive conduct and to involve the parties in resolving the problem;
- Addressing any alleged harassment, discrimination or bullying of which they are aware, whether or not a complaint has been made. This applies to situations that involve employees and students as well as other persons working at the College.
- Handling all harassment situations confidentially to the extent possible and ensuring all individuals involved in a harassment issue understand that they are expected to maintain confidentiality.

- Immediately reporting any violation of this Policy or complaint of harassment, discrimination or bullying to the Human Resources & Organizational Development Department;
- Ensuring that no retaliation takes place against individuals who initiate a complaint in good faith or participate in investigations in accordance with this procedure.

Employee Responsibilities

For the purposes of this Policy, every employee is responsible for:

- Complying with this Policy and respecting the rights of all employees, contractors, students, visitors and vendors;
- Acting respectfully towards other individuals while at work and while participating in any College-sanctioned activities;
- Immediately communicating any violations of this Policy to the offending party, if appropriate, or to a supervisor/manager or to the Human Resources Department;
- Getting help or guidance from the supervisor, a staff advisor, or from Human Resources;
- Cooperating with any efforts to investigate and resolve matters arising under this Policy;
- Participating in a problem resolution process before proceeding with the complaint process, if appropriate;
- Treating as confidential all information regarding incidents of harassment, mediation, or investigation of complaints.

Student Responsibilities

All students of the College are responsible for adhering to the Student Code of Conduct.

Confidentiality

- Confidentiality with respect to complaints will be maintained to the greatest extent possible, having regard to the circumstances giving rise to the complaint and subject to the College's obligation to conduct a thorough investigation.
- An individual making a complaint cannot be guaranteed complete confidentiality or anonymity.
- Parties and witnesses are expected to keep information discussed confidential. Unwarranted breaches of confidentiality will result in disciplinary action or sanctions.
- Confidentiality with respect to the findings of an investigation will be maintained, except to the extent necessary to implement and/or defend the corrective and/or disciplinary action taken, or as required by law.
- Where corrective or disciplinary action is taken, information will be provided of any corrective action that has been taken or that will be taken as a result of the investigation.
- Documentation regarding corrective or disciplinary action taken will be maintained by the College.

Subject to the provisions of the *Freedom of Information and Protection of Privacy Act*, documentation and records pertaining to a complaint will be held in strict confidence in files maintained by Human Resources.

Assistance for the Parties

- Individuals involved in the complaint process at any stage, while not required, may seek assistance/support from, and/or be accompanied by, another person of his/her choice (for example a trusted friend, a union representative, a manager or other)
- When a support person will be attending any step of the process with a party to a complaint, that party must advise the Officer, in writing, at least 3 days in advance of any meeting, of the identity of the support person. The role of the support person is to act as a resource and provide support/advice to the party. The support person will not be permitted to speak or advocate on behalf of the party unless requested to do so by the Officer. In the event that a party chooses to retain legal counsel, or another paid advisor, as his/her support person, the party shall be solely responsible for the cost incurred.
- Where appropriate, the Officer will provide complainants, respondents and others affected by the investigation with information regarding counseling services available through the College or through outside agencies.

Interim Measures

In certain situations, such as where the safety of an individual or the community may be at risk, it may be necessary to take immediate measures to address the circumstances. Such interim measures may include involving the College's campus security and/or the police, relocating the respondent or placing him/her on a non-disciplinary suspension with pay pending the outcome of the investigation. The implementation of interim measures may mean that the certain aspects of this procedure, including confidentiality, will be set aside.

PROCEDURE FOR REPORTING AN INCIDENT OF WORKPLACE HARASSMENT, DISCRIMINATION AND/OR BULLYING

The following process will apply to complaints made pursuant to this Policy. Where the complainant so desires, a complaint may be withdrawn at any time during the process described below. Depending on the circumstances the College may continue to act on an issue arising in a complaint even when it has been formally withdrawn.

Complaints of harassment, discrimination and/or bullying should be reported immediately to a supervisor, security staff, or the Officer. Complaints may be made in person, through email or by telephone. If a complaint is made to anyone other than the Officer, it must be communicated to the Officer as soon as possible, unless the Officer is the alleged harasser, in which case the complaint must be communicated to the Vice-President, Student Services and Human Resources. All complaints will be tracked by Human Resources & Organizational Development department.

1. Individual Action – OPTIONAL

As an initial step, in some cases it will be appropriate for the person subjected to workplace harassment, discrimination or bullying to let their objections to the behavior be known to the

alleged offender. Confronting the respondent(s) is not required under the Policy, however, if appropriate in the circumstances, a complainant is encouraged to communicate any concerns regarding improper conduct directly to the proponent of such conduct as soon as it occurs. If the complainant chooses to raise the matter with the respondent(s), she or he should describe the behaviour that is unwelcome clearly and directly as well as its impact, and should ask the respondent(s) to stop. In any event, a detailed record of any discussions with the respondent(s) or copy of any correspondence provided to the individual should be retained by the complainant.

2. Informal Resolution

If the complainant does not wish to approach the respondent(s), or if after speaking with the respondent(s), the offensive behaviour continues, the complainant should contact the Officer, or the complainant's immediate supervisor, another manager, union steward, faculty member, staff member, or College counsellor who will direct the complaint to the Officer. Once contact is made, the complainant will be provided with a copy of this Policy and Procedure and will provide the Officer with the following information:

- The name of the respondent(s)
- The nature of the complaint (including the prohibited ground if applicable)
- The time and date of the incident(s) giving rise to complaint;
- The names of any witnesses to the incident (s) given rise to the complaint; and
- The resolution the complainant is seeking

The Officer will advise the complainant whether, based on the information provided, the complaint falls within the jurisdiction of the Policy.

Where, based on the information provided, an informal resolution is appropriate, Officer, may recommend an appropriate informal resolution mechanism which, if successful, will effectively resolve the complaint in a timely and fair manner. This resolution mechanism may take the form of the Officer meeting with the parties to act as an informal mediator, arranging for another individual to assist in the resolution of the complaint or suggesting other such actions as may be appropriate in the circumstances. If the complainant and respondent are agreeable, such a mechanism will be pursued.

3. Formal Written Complaint/Investigation

Failing informal resolution of the complaint, the complainant may submit a written and signed formal complaint to the Officer.

On receipt of a written complaint, the Officer shall:

1. Within five (5) College business days of receipt of the complaint, meet with the complainant to clarify the details of her/his complaint, if necessary.
2. Within five (5) College business days of that meeting, the Officer shall advise the complainant if the complaint will be pursued under this Policy and if not, the reasons for not pursuing the complaint or suggesting a more appropriate forum.

3. Within five (5) College business days of the Officer advising the complainant that the complaint will be pursued under this Policy, the Officer shall inform the respondent in writing of the complaint, provide a copy of the complaint and this Policy and procedure and advise the respondent to provide a written response to the allegations within ten (10) College business days.
4. Within five (5) College business days of the Officer receiving the respondent's response, the Officer shall meet with the respondent to clarify the details of her/his response, if necessary.
5. Within five (5) College business days of the Officer having received all submissions and clarifications, the Officer will identify the steps to be taken to resolve the matter.

If the harassment is severe, it may be necessary to make immediate arrangements to alter work assignments until an investigation is complete and a resolution of the issue is achieved.

The time limits set out above may be extended at the discretion of the College where circumstances warrant. All efforts will be made to complete the process in a timely manner but fairness to the parties and ensuring accuracy of information may dictate that a longer timeframe is required. Where circumstances warrant, the Officer may skip the above five (5) steps and move directly to an Investigation of the complaint.

Mediation

If the Officer deems formal mediation appropriate, it will be offered to the complainant and the respondent. If the complainant and respondent both consent, the College will arrange for a mediator.

If a mediated settlement is reached, the terms of the settlement shall be reduced to writing and be signed by the complainant and the respondent.

If the settlement requires any action on the part of the College, the settlement will require the agreement of the President or designate. Discussions between the parties at mediation will be treated as discussions carried out with a view to affecting a settlement and will be treated as privileged to the full extent permitted by law.

Investigation

If mediation is not pursued or is unsuccessful, and the Officer deems it necessary to do so, the Officer shall appoint an investigator and shall notify the parties of the identity of the investigator. At the discretion of the College, the College may appoint a third party to investigate the complaint.

The investigator shall commence the investigation within ten (10) College business days of the date of the appointment.

The Investigator will:

1. Interview the complainant and the respondent and obtain signed statements if appropriate;
2. Interview witnesses who may be suggested by the parties or who may be thought to provide relevant information and obtain signed statements, if appropriate;
3. Gather written, electronic or other evidence;
4. Submit, within twenty-five (25) College business days from his/her appointment, a written investigation report containing a concise summary of the findings of the investigation to the Officer.

If required, the investigator may request an extension of this time frame. The Officer will advise the parties if additional time to complete the investigation and the report has been granted.

Within five (5) College business days of receiving the investigator's report, the Officer will forward a copy of the investigation report to the President or designate and the Vice President, Student Services and Human Resources and will arrange a meeting with President or designate, the Vice President, Student Services and Human Resources and anyone else who the Officer determines will add value to the process. The purpose of the meeting will be to determine what action, if any, the College will take to bring closure to the Complaint.

Within five (5) College business days following the meeting, the Officer will provide the complainant and the respondent with a written summary of the investigator's finding. Each party will be advised of any corrective action that has been taken or that will be taken as a result of the investigation, to bring closure to the Complaint.

Time Lines

Time lines under this Policy can be amended by the College at its discretion.

Unsubstantiated Complaints

If an employee, in good faith, files a complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed. As long as the complaint was made in good faith, there will be no penalty to the employee who complained.

Complaints Made in Bad Faith

In the rare event that the complaint was made in bad faith -- in other words, the employee making it had absolutely no basis and deliberately and maliciously filed the complaint -- that employee will be disciplined and a record of the incident will be put in her or his file.

Penalties for someone who complains in bad faith will depend on the seriousness of the situation.

Redress and Sanctions

Where a complaint has been substantiated or where it has been determined that the employee filed a complaint that was made in bad faith, appropriate corrective or disciplinary action will

be taken by the College. Such action may include but is not limited to: counselling, warning, written reprimand, education/training, suspension without pay, leave without pay, demotion, transfer, termination of employment, legal action.

The following conditions will be considered when determining corrective action:

- i. the impact of the incident on the Complainant;
- ii. the nature of the incident;
- iii. the period of time and frequency of the incidents; and,
- iv. the vulnerability of the Complainant.

The disciplinary action taken will depend on the severity of the violation.

Employee Support Services

The College is committed to provide support services to victims of harassment, bullying or discrimination.

Confidential counseling through the Employee Assistance Program (EAP) shall be available to employees who are victims of harassment, discrimination and bullying and to those who are experiencing personal problems in relation to the above mentioned issues.

Retaliation

Retaliation will not be tolerated. Anyone who retaliates in any way against a person who has complained of harassment, discrimination or bullying or given evidence in an investigation, or been found guilty of harassment, discrimination or bullying will themselves be penalized accordingly. Possible penalties include those set out above.

Other Options

A complainant may utilize other avenues of redress. If the complainant or respondent are not satisfied with the decision, they have access to a number of other options.

Union grievance procedure

The union has procedures allowing bargaining unit members to bring a grievance in certain cases of alleged harassment, discrimination and bullying (as per the terms of the collective agreements). Check with your union representative if you want more information about filing a grievance.

Human Rights Tribunal

A complainant may, within one year of the behaviour complained of, file a complaint with the Ontario Human Rights Tribunal if the harassment was because of race, colour, ancestry, place of origin, citizenship, ethnic origin, disability, creed, sexual orientation, gender identity, gender expression, family status, marital status, age, and record of offences.

MONITORING

Workplace Harassment Officer/Human Resources & Organizational Development

POLICY REVISION DATE

Next Update Due: March, 2018 Last Update: June, 2010

SPECIFIC LINKS

APPENDICES AND ATTACHMENTS

Appendix A – Harassment, Discrimination, and/or Bullying Complaint Form

Appendix B – Statistical Report for Harassment, Discrimination and/or Bullying

Appendix A

Harassment, Discrimination, and/or Bullying Complaint Form

CONFIDENTIAL INTERNAL DOCUMENT

1. **Statement of Complaint:** _____

2. **Resolution Requirement:**

Signature of Complainant **Date**

Signature of Advisor **Date**

Complainant Information (Please print legibly):

Name: _____ **Phone:** _____

Address: _____

Position at the College

Appendix B

Statistical Report for Harassment, Discrimination and/or Bullying

Completed By: _____ **Date:** _____

Please check the appropriate boxes:

A. Purpose of Contact:

- general information/support
- inquiry about policy and/or procedures
- request for education
- request to file a complaint
- other (please explain) _____

Nature of Complaints if applicable _____

B. Client Information:

Gender: _____

Other: Aboriginal Visible Minority Person with a Disability

Group: Student Employee Support Staff Management
 Academic Staff

Department: _____

C. Respondent Information (if applicable/available):

Gender: : _____

Group: Student Employee Support Staff Management
 Academic Staff Other (please explain): _____

Department: _____

D. Action Taken:

