

## COLLEGE POLICY

<b>Harassment and Discrimination Prevention</b>	
<b>Policy ID:</b>	#3-311
<b>Manual Classification:</b>	Section 3 – Human Resources
<b>Approved by Board of Governors:</b>	<i>Original:</i> June 26, 2013
<b>Revision Date(s):</b>	June 24, 2015; December 14, 2016
<b>Effective Date:</b>	Replaces June 2015
<b>Next Review Date:</b>	June 2017
<b>Administrative Contact for Policy Interpretation:</b>	Vice-President Human Resources and Student Services
<b>Linked to Operating Procedure:</b>	#3-311OP <i>Harassment and Discrimination Prevention</i>

**Policy Statement**

Fleming College is committed to fostering a working and learning environment that is free from harassment and discrimination and one where all individuals are treated with respect and dignity.

The College acknowledges that groups/individuals covered under this policy have a right to full participation in employment and the receipt of education and related services and confirms that it is committed to the goal of eliminating discriminatory barriers where and if they exist.

**Purpose**

This policy will confirm Fleming College's commitment to fostering a diverse and inclusive working and learning environment that is free from all forms of harassment, discrimination and bullying as enshrined in the Ontario Human Rights Code (OHRC), the Accessibility for Ontarians with Disabilities Act 2005 (AODA) and its related Standards/Regulations, the Pay Equity Act, the Employment Standards Act, 2000 (ESA), the Occupational Health & Safety Act (OHSA), and the Charter of Rights and Freedoms.

Reporting mechanisms for incidents of workplace harassment are contained in Appendix C of Administrative Operating Procedure #3-311 OP, *Harassment and Discrimination Prevention*.

**Scope**

It is the responsibility of all members of the College community to uphold the principles of this policy. Detailed responsibilities for members of the College community are described in Appendix B of the Administrative Operating Procedure #3-311 OP, *Harassment and Discrimination Prevention*.

This policy and complaint procedures will apply in cases concerning students, staff, faculty, contractors and third party service providers as well as governors, volunteers or visitors of Fleming College:

1. occurring within or affecting people or property within the physical boundaries of the College;
2. occurring on or affecting College owned or controlled property, including student residences;
3. occurring with the use of computer and telephone systems, and College and private vehicles being used for college business or for travelling between work and study locations;
4. at a College-sponsored event;
5. occurring off-campus which are likely to have an impact on the working and/or learning environment at the College

Incidents occurring off campus which have no or little likelihood of any impact on the working/learning environment at the College would be pursued by individuals through the regular external processes.

Complaints by students regarding harassment or discrimination on the basis of any prohibited ground under the Ontario Human Rights Code may be addressed within this policy. Students who wish to make complaints regarding bullying against other students that is not on the basis of any prohibited ground are referred to College Policy #5-506, *Student Rights and Responsibilities* for investigation and resolution.

Allegations related to sexual assault and/or sexual violence will be addressed in accordance with College Policy #3-343, *Sexual Violence Prevention*. Sexual assault and sexual violence are violations of both College Policy #3-311, *Harassment and Discrimination Prevention* and College Policy #4-420, *Violence Prevention*.

Issues related to other violent or threatening behaviour are addressed through College Policy #4-420, *Violence Prevention*.

## Definitions

**Workplace Harassment:** Under the Ontario Occupational Health & Safety Act, Workplace Harassment means

- a) 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, or
- b) Workplace Sexual Harassment.

Within this policy, this definition will include any form of harassment, bullying, or psychological harassment including harassment on any protected ground in human rights legislation.

**Workplace Sexual Harassment:** Under the Ontario Occupational Health & Safety Act, Workplace Harassment means

- a) 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
- b) 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;

Subsection 1 (4): A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.

**Prohibited Grounds of Discrimination:** The Ontario Human Rights Code prohibits discrimination or harassment in employment based upon citizenship, race, place of origin, ethnic origin, colour, ancestry, disability, age, creed (religion), sex (including pregnancy), sexual orientation, marital status, family status, record of offenses, gender identity and gender expression.

**College-Sponsored Event:** For the purposes of this policy, the words "College-sponsored event" shall be broadly construed and will include events sponsored by the Student Administrative Council (Sutherland), the Student Association (Frost), and other bodies affiliated with the College.

Further definitions and examples are contained in Administrative Operating Procedure #3-311 OP, *Harassment and Discrimination Prevention*.

## General Principles

1. The College recognizes that achieving equity in employment and education requires institutional support, pro-active educational programming, effective complaints procedures, co-operation from every member of the College community, and informed leadership at every level of the institution.

2. Management staff at all levels have a legal obligation to act expeditiously upon information concerning incidents of workplace harassment and discrimination.
3. The College recognizes its obligation to ensure that this policy and the procedures are fair and applied fairly. Both complainants and respondent are to be treated fairly and given equal opportunity to present their version of events, while preserving the dignity, privacy and self-respect of all persons involved.
4. Action(s) or behaviour(s) which are consistent with or permitted by the Ontario Human Rights Code shall not constitute discrimination for the purposes of this policy.
5. A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment.
6. The College has a high regard for and will strive to ensure confidentiality as a top priority throughout complaint processes subject to disclosure obligations required by law.
7. Because the intent of these procedures is educational and preventative rather than punitive, the investigative process may stop at any step.

### **Related Documents**

This Policy may at times contain references to the following policies and legislation:

- The Canadian Charter of Rights and Freedoms
- The Criminal Code of Canada
- Ontario Human Rights Code, R.S.O. 1990
- Ontario Human Rights Commission Policy on Competing Human Rights
- Ontario Human Rights Commission Policy on Preventing Sexual and Gender-Based Harassment
- Ontario Occupational Health and Safety Act, R.S.O. 1990
- Ontario Ministry of Labour Code of Practice to Address Workplace Harassment Under Ontario's Occupational Health and Safety Act
- The Accessibility for Ontarians with Disabilities Act, 2005 and its related Standards and Regulations
- Ontario Employment Standards Act, 2000
- Ontario Pay Equity Act, R.S.O. 1997
- Academic Employees Collective Agreement
- Support Staff Collective Agreement
- College Policy #3-343, *Sexual Violence Prevention*
- Administrative Operating Procedure #3-343 OP, *Sexual Violence Prevention*
- College Policy #4-412, *Safety*
- College Policy #4-420, *Violence Prevention*
- Administrative Operating Procedure #4-420 OP, *Violence Prevention*
- College Policy #5-506, *Student Rights and Responsibilities*
- Administrative Operating Procedure #5-506 OP, *Student Rights and responsibilities*

### **Appendices**

N/A

### History of Amendments/Reviews:

Section(s)	Date	Comments
Full document review	February 1998	<ul style="list-style-type: none"><li>• Board approval of Policy entitled <i>Harassment/Discrimination Prevention</i> (Resolution BoG Feb 4-1998 #1)</li></ul>
Full document review	March 2009	Revised to reflect changes in legislation <ul style="list-style-type: none"><li>• Board approval of policy (Resolution BoG March 25-2009 #3)</li></ul>
Full document review; new title	June 2010	<ul style="list-style-type: none"><li>• Board approval of policy entitled <i>Respectful Working and Learning Environment</i> (Resolution BoG June 23-2010 #2)</li></ul>
Full policy review	June 2013	Revised and renamed <i>Harassment and Discrimination Prevention</i> <ul style="list-style-type: none"><li>• Board approval of policy (Resolution BoG June26-2013 #5)</li></ul>
Full policy review; new format	May 2015	Updates as a result of new policy developed for Sexual Assault/Sexual Violence; reviewed by Executive Leaders Team <ul style="list-style-type: none"><li>• Board approval of policy (Resolution BoG June24-2015 #2)</li></ul>
Regular review process	June 2016	Minor edits for clarity and to reflect legislative requirements <ul style="list-style-type: none"><li>• Board approval of policy (Resolution BoG Dec14-2016 #1)</li></ul>