1. Introduction

1.1. Any form of harassment and discrimination is incompatible with one of Durham College’s core values: respect. Durham College recognizes that the best way to respond to harassment is through a proactive and preventive strategy in which all reasonable steps are taken to ensure that harassment and discrimination do not occur in the first place. If they do occur, appropriate action is taken to minimize the negative effects that such behaviour has on all faculty, staff, students, board members, contractors and visitors. Along with legislation requiring them, this policy and the accompanying procedure ensure that our staff and others have a mechanism to deal with complaints arising from the Ontario Human Rights Code (the “Code”) and the Occupational Health and Safety Act (the “OHSA”).

1.2. This policy will be reviewed and updated annually.

1.3. This policy is to be read in conjunction with ADMIN-202.1 – Harassment, Workplace Sexual Harassment, and Discrimination

1.4. This policy is developed in consultation with the Joint Health and Safety Committee.

2. Purpose

To provide a mechanism to receive and resolve harassment and discrimination complaints within the jurisdiction and control of Durham College.
3. Definitions

3.1. Workplace Harassment

Harassment is engaging in a course of vexatious comment or conduct against an individual or group that is known, or ought reasonably to be known to be unwelcome. Harassment may be based on one or more of the prohibited grounds set out in the Code, or it may be any course of inappropriate conduct or comment which makes a reasonable person feel uncomfortable, embarrassed, offended or intimidated and/or results in a poisoned working or learning environment. While harassment is usually defined as resulting from a pattern or course of behaviour, one act may be so egregious that it constitutes harassment on its own. Reasonable action by a college, a manager and/or a supervisor in the course of managing the workplace is not workplace harassment. Examples of this include but are not limited to the following:

- Transfer, demotion, discipline, counsel or dismissal of an employee in a reasonable manner.
- A decision, based on reasonable grounds and facts, not to promote or grant another benefit in connection with an employee’s employment or performance.
- The right and responsibility of managers to conduct ongoing evaluations of employee performance at work, which may include reasonable criticism of performance and/or may result in reasonable changes to a person’s assignment as a result of an evaluation.

Workplace sexual harassment is also workplace harassment.

The prohibited grounds set out in the Code are:

- Age
- Ancestry, colour, race
- Citizenship
- Ethnic origin
- Place of origin
- Creed
- Disability
- Family status
- Marital status (including single status)
- Gender identity, gender expression
- Receipt of public assistance (in housing only)
- Record of offences (in employment only)
• Sex (including pregnancy and breastfeeding)
• Sexual orientation.

3.2. Workplace sexual harassment

Sexual harassment is one, or a series of, comment(s) or conduct that is gender-related or of a sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. In order to constitute sexual harassment, the conduct complained of must detrimentally affect the complainant’s work/study environment by creating a hostile atmosphere in which the victim is made to feel inferior, inadequate, or offended. Examples include gestures; remarks; jokes; slurs; taunting; innuendo; threats; physical; verbal or sexual assault; unwanted physical contact; invitations; leering; the display of sexually offensive material; solicitation; demands; penalties related to sexual orientation, marital, or family status; unwanted attention; implied or express promise of reward or benefit in return for sexual favours; implied or express threat or act of reprisal if sexual favours are not given; and sexual assault; making a sexual solicitation or advance where the person making the advance is in a position to confer, grant, or deny a benefit or advancement to a worker or student and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

3.3. Discrimination

Discrimination refers to actions or behaviours that result in unfavourable or adverse treatment or preferential treatment based on the prohibited grounds of discrimination set out in the Code. This includes any differential treatment, with common examples including a refusal to provide goods, services or facilities; exclusion from employment or employment benefits; refusal to work with, teach, or study with someone; and failure to provide reasonable physical access and accommodation.

3.4. Indirect discrimination

Indirect discrimination refers to comments and/or behaviours that are not directed to an individual but are audible and/or visible to them and are discriminatory based on the provisions of the Code.

3.5. Systemic harassment/discrimination

Systemic harassment/discrimination refers to policies, practices, procedures, actions or inaction that appear neutral, but have an adverse impact associated with one of the prohibited grounds. An example would be a refusal to address or refer to an individual using their lived or preferred pronoun.
3.6. Poisoned Work Environment

A poisoned work environment is created when an individual engages in conduct or makes comments that create a negative work environment based on the prohibited grounds set out in the Code or contrary to the OHSA. The comment or conduct must be of a significant nature or degree and have the effect of ‘poisoning’ the work/study environment. A complainant does not have to be a direct target to be adversely affected by a negative environment both real and virtual. It includes conduct or a comment that creates and maintains an offensive, hostile or intimidating climate for work/study. Examples include exposure to graffiti, signs, cartoons and remarks, along with exclusion and adverse treatment related to one or more of the prohibited grounds.

4. Policy Statements

4.1. Any individual to whom this policy applies is strictly prohibited from engaging in discrimination, harassment, workplace sexual harassment, systemic or indirect discrimination, or engaging in any conduct that creates a poisoned work environment. All individuals to whom this policy applies are expected to report any violations of the policy to the appropriate persons. No employee reporting a violation of this policy in good faith will be penalized. Violations of the policy will be investigated pursuant to “ADMIN-202.1 – Harassment, Workplace Sexual Harassment and Discrimination”.

4.2. Durham College recognizes the dignity and worth of every member of its community and provides for equal rights and opportunities, free of discrimination, harassment, and workplace sexual harassment. To this end, the college adopts the policy of zero tolerance, a policy that establishes that harassment and discrimination are never acceptable and must not be tolerated.

4.3. Each member of the Durham College community is aware of, and shares, the responsibility for creating and maintaining a working/learning environment free from discrimination based on a prohibited ground under the Code and free from harassment and workplace sexual harassment. Durham College values practices that foster equitable treatment among all members of the college community. Members are responsible for their actions at all college-related activities, both on and off campus. As such, the college has procedures in place to address inequities and to protect the rights of all parties. This policy does not preclude the right of every person to seek assistance from the Human Rights Tribunal of Ontario or the Ministry of Labour.

4.4. This policy applies to:

- Students;
- Employees;
- Members of the Board of Governors;
- Members of standing and ad hoc committees established by the college;
• Members of societies, associations, or business partners that have a direct relationship or are under the authority of the college;
• Contractors such as those undertaking constructions, provision of service or research; and
• Visitors and guests who have no ongoing connection to the institution, but are on campus.

5. Accessibility for Ontarians with Disabilities Act (AODA) considerations

This policy adheres to the principles outlined in the AODA standards and the college’s commitment to accessibility, as demonstrated by the Accessibility Policy (ADMIN-203).

6. Roles and responsibilities

6.1. The chief administrative officer, or their designate, is the designated human rights advisor. The manager, Diversity, Inclusion, and Transition is the designated human rights advisor for all complaints made by students. Where the complaint made by a student(s) involves an employee, the manager Diversity, Inclusion, and Transition will advise and consult with the associate vice-president, Human Resources.

6.2. The advisor is responsible for ensuring the college is abiding by all applicable legislation and directives as they relate to harassment and discrimination, and that the college properly investigates any harassment or discrimination situation:

a) On campus;
b) Off campus (at college-specific functions);
c) At work/academic assignments/placements;
d) During work/study-related travel; and
e) Involving telephone, written or electronic communication.

7. Non-compliance implications

Failure to properly report or act on a harassment or discrimination complaint could result in damages to an external or internal member of the campus community and to the college through financial or reputational loss.

Failure to comply with this policy and procedure could have legal implications for the organization; could result in the Ministry of Labour appointing a third party investigator, could result in a human rights complaint, and could result in charges under the OHSA.
8. Communications plan

The chief administrative officer will send an all-staff email message annually to advise of the three policy renewals (Health and Safety EMPL-301, Harassment, Workplace Sexual Harassment and Discrimination ADMIN-202, and Workplace Violence Prevention EMPL-313) required annually under the Occupational Health and Safety Act.

9. Related policies, procedures and directives

- Durham College Common Records Schedule
- Durham College Employee Code of Conduct Policy EMPL-317
- Durham College Harassment, Workplace Sexual Harassment and Discrimination Procedure ADMIN-202.1
- Durham College Health & Safety Policy EMPL-301 and Procedure EMPL-301.1
- Durham College Sexual Assault and Sexual Violence Policy ADMIN-244 and Procedure ADMIN-244.1
- Durham College Student Conduct Policy ACAD-115 and Procedure ACAD-115.1
- Durham College Workplace Violence Prevention Policy EMPL-313 and Procedure 313.1
- Ontario Human Rights Code (the “Code”).
- Ontario Occupational Health and Safety Act (the “OHSA”).