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| Policy Title: | Workplace Violence and Harassment | | |
| Category: | <input type="checkbox"/> Institutional - Board | <input type="checkbox"/> Academic - Administrative | |
| | <input checked="" type="checkbox"/> Institutional - Administrative | <input type="checkbox"/> Employment - Administrative | |
| Approved by: | <input type="checkbox"/> Board | <input checked="" type="checkbox"/> President | |
| Date approved: | November 8, 2018 | Effective date: | November 8, 2018 |
| Policy Sponsor: | Vice President Administration & Finance | Date last reviewed: | August 2019 |
| Date of Mandatory Review (expiry date) | August 2020 | Date of last revision of Procedures | August 2019 |

1 POLICY

1. CMCC does not tolerate any act of workplace violence or harassment or any conditions that support workplace violence or harassment.
2. An employee or student who subjects an individual to workplace violence or harassment will be subject to disciplinary action. Others who subject an employee or student to workplace violence or harassment will be subject to consequences that are appropriate in view of their relationship to CMCC.
3. Management is to take every precaution reasonable for worker protection if they become aware, or ought reasonably to be aware, that a worker is likely to be exposed to workplace violence or harassment or that domestic violence would likely expose an employee or student to physical injury in the workplace
4. Members of the CMCC community are to report all workplace violence or harassment including any allegations, actions or complaints they learn about.
5. Deliberate false accusations may result in disciplinary action.
6. Retaliation against anyone who has made a good faith complaint, or provided information regarding a complaint of workplace violence or harassment is prohibited. Anyone who engages in reprisals or threats of retaliation may be disciplined.
7. CMCC will investigate and deal with all complaints or incidents of workplace harassment in a fair and timely manner. Information about a complaint or incident will not be disclosed except to the extent necessary to: protect workers and students, investigate the complaint or incident, take corrective action or as otherwise required by law.
8. Complainants have the right to determine what and how much information they choose to disclose, and the extent to which they wish to participate in any formal investigation.
9. CMCC will provide support to employees and students who are complainants of workplace violence or harassment.
10. Employees and students will receive annual training on the policy and its associated procedures, and the policy will be posted at a conspicuous place in the workplace.
11. The policy and procedures are subject to annual review as required under Bill 168.

2 PURPOSE

To ensure that individuals are aware of and understand that CMCC does not tolerate acts of violence or harassment.

3 SCOPE

All members of the CMCC community not only during business hours, but also during activities on or off CMCC premises that could reasonably be associated with CMCC (e.g. social events).

4 INFORMATION AND COMPLIANCE PLANS (not a comprehensive list)

CMCC is committed to providing a safe working and learning environment in which everyone is free from workplace violence and harassment. This commitment includes allotting the time, attention, and authority necessary to ensure a safe and healthy working environment for all members of the CMCC community.

- *Criminal Code of Canada* (150.1(1));
- *Occupational Health and Safety Act* (Schedule 4)(OHSA)
- *Occupational Health and Safety Amendment Act* (Violence and Harassment in the Workplace) (2009) Bill 168 (Part III.0.1)
- *Ontario Human Rights Code* ("Policy on preventing sexual and gender-based harassment"; Human Rights Code. s. 7; s. 8; s.9)
- *Sexual Violence and Harassment Action Plan Act* (Supporting Survivors and Challenging Sexual Violence and Harassment), 2016, Bill 132

5 RELATED POLICIES (not a comprehensive list)

- CMCC Code of Conduct
- Collective Agreement between CMCC and CUPE Local 4773
- Discipline (Employees)
- Health and Safety
- Occupational Health and Safety Statement
- Performance Appraisal
- Personal Information Protection
- Sexual Violence, Assault and Harassment
- Workplace Harassment and Sexual Violence Commitment Statement

6 DEFINITIONS

CMCC community includes employees (including temporary workers, contractors, consultants, unpaid work experience students and volunteers), students, and Board Members.

Complainant is an individual who has made a complaint about another individual whom they believe committed an act of violence or harassment against them.

Ensuring confidentiality is critical to creating an environment and culture where individuals feel safe to disclose, and to seek support and accommodation. CMCC is committed to ensuring such within the scope of this policy, and will do so using every reasonable effort to balance confidentiality with its legal responsibility to provide a work and study environment free from violence and/or harassment. CMCC does so in accordance with associated legislation and the provisions of the applicable employee collective agreement. Personal information will be shared

only on an as needed basis to ensure the integrity of parties involved and to not do further harm or trauma to the complainant.

Decision maker on this policy is the Vice President, Administration and Finance.

Disclosure is when someone chooses to inform a CMCC community member about an incident where they were subjected to workplace violence and/or harassment or when they became aware of such an incident. This disclosure may then lead to preliminary and/or formal reporting and potential subsequent action under the policy, or it may not proceed any further, should the complainant not wish to pursue the matter formally.

Domestic violence is a pattern of behaviour used by one person to gain power and control over another with whom they have had an intimate relationship. This pattern of behaviour may include physical violence, sexual, emotional, and psychological intimidation, verbal abuse, stalking, and even using electronic devices to harass or control. Anyone can be a complainant of domestic/intimate partner violence, regardless of gender, age, race, religion, sexual orientation, economic status or education. The abuser may be a current or former spouse or partner, relative or friend.

Formal report is a report by an individual who knows of an incident of workplace violence, and/or harassment requesting that an investigation be undertaken and that the matter be adjudicated within the scope of CMCC policy, or through authorities under the Criminal Code of Canada.

Management is individuals in positions of supervision: in the case of an employee this could be a Director or Manager: in the case of a student this could be a faculty member.

Policy lead for employees for this policy is the Director, Human Resources & Employee Engagement (alternate: Human Resources, Team Lead).

Policy lead for students for this policy is the Director, Student Affairs (alternate: Registrar).

Preliminary report is the report by an individual who knows of an incident of workplace violence and/or harassment for the purpose of obtaining information relating to supports, procedural options and possible outcomes. The individual receiving the preliminary report will provide detailed information and ensure that the complainant understands complaint resolution options, what to expect for all parties, supports available through CMCC and through external organizations.

Reprisals include any act of retaliation that occurs because an employee or student has complained or provided information about an incident of harassment or violence. Reprisal also includes, but is not limited to intentionally pressuring a person to ignore or not report an incident of harassment or violence; and/or intentionally pressuring a person to lie or provide less than full cooperation with an investigation of a complaint of workplace harassment.

Respondent is the person whom another individual has accused of committing an act of violence or harassment.

Third party is an individual who has become aware of and reported an incident covered by this policy.

Vexatious means annoying, irritating, and distressing behaviour without a legitimate purpose.

Witness is an individual with relevant information to provide about the incident.

Worker, in this policy, is any employee (including temporary workers, contractors, consultants, unpaid work experience students and volunteers), student and/or Board member.

Workplace is any land, premises, location or thing at, upon, in or near which a worker works or a student studies. The workplace does not end when the worker leaves the physical space. The workplace extends to the online world.

Workplace harassment (*OHSA s. 1(1)*) means 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. Harassment is humiliating or demeaning, offensive, insulting, intimidating, hurtful and malicious. It is not the original intent that matters, but the effect. It is behaviour in the form of words, gestures, or actions that have a negative context, deliberately diminish a person's dignity or harm their physical or psychological wellbeing.

Workplace harassment may include inappropriate messages or hurtful comments on social media that are discriminatory, misogynist, or that incite violence.

A reasonable action taken by a manager relating to the management and direction of workers or the workplace is *not* workplace harassment. A reasonable action taken by a faculty member or education manager relating to direction of a student or workplace is *not* workplace harassment.

Workplace harassment may constitute sexual harassment. Please refer to CMCC's policy on Sexual Violence, Assault and Harassment.

Non-exhaustive examples of workplace harassment include:

- offensive or intimidating comments or jokes
- ongoing attempts at intimidation like bullying or aggressive behaviour, as well as less direct behaviour, like sending inappropriate emails
- displaying or circulating offensive pictures or materials
- inappropriate staring
- isolating, making fun, unwelcome/derogatory remarks, innuendos of an employee based on any prohibited grounds under the Ontario Human Rights Code

Workplace violence (*OHSA s. 1 (1)*) means:

- a) the exercise of physical force by a person against a worker in a workplace, that causes or could cause physical injury to the worker
- b) an attempt to exercise physical force against a worker in a workplace, that could cause physical injury to the worker
- c) a statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker

Workplace violence may constitute sexual violence. Please refer to CMCC's policy on Sexual Violence, Assault and Harassment.

Non-exhaustive examples of workplace violence include:

- hitting or pushing a worker
- verbally threatening to physically injure a worker
- written threats, notes or emails
- shaking a fist at a worker
- wielding a weapon
- Attempting to run down an employee using a vehicle or machinery

New Policy Approved (date):

Respect in the Workplace – October 1999

Policy Revision History (dates):

Non-Discrimination and Harassment – May 29, 2008

Workplace Violence and Harassment – June 10, 2010

Workplace Harassment and Sexual Violence – December 8, 2016

Workplace Violence and Harassment – November 8, 2018

August 29, 2019

-----**END OF POLICY**-----

7 PROCEDURES

A. Violence Risk Assessment:

CMCC will conduct a risk assessment of the workplace environment to identify any issues related to potential violence that may affect its operation, and will institute measures to control any identified risks to employee or student safety. This information will be provided to the joint health and safety committee.

The risk assessment may include a review of records and reports: e.g., security reports, employee/student incident reports, employee/student surveys, health and safety inspection reports, first aid records, or other related records. Specific areas that may contribute to risk of violence may include, but are not limited to:

- contact with the public
- exchange of money
- shipping and receiving doors, and
- working alone or at night

Research may also include a review of similar workplaces with respect to their history of violence.

CMCC will communicate information relating to a person with a history of violence where:

- Employees or students may reasonably be expected to come into contact with the person in the performance of their job duties or studies; and
- There is a potential risk of workplace violence as a result of interactions with the person with a history of violence.

CMCC will only disclose personal information that is deemed reasonably necessary to protect the employee or student from physical harm.

B. Reporting:

1. Preliminary Report

It is imperative for the safety of all members of CMCC that all incidents of workplace violence and/or harassment (whether directly or indirectly affected) be reported immediately by employees and students to their designated policy lead.

- a. Employees and members of the Board of Governors who wish to make a report of workplace violence, and/or harassment may do so to the Director, Human Resources and Employee Engagement.

- i. In cases where the complainant is not comfortable making the complaint to the Director, Human Resources and Employee Engagement, they may do so to the Human Resources, Team Lead.
 - ii. If the employee making the preliminary report is a member of a bargaining unit with which CMCC has a collective bargaining agreement, the employee is entitled to be accompanied by a bargaining unit representative of their choosing.
 - iii. In the event that the incident or complaint involves a member of the Executive Leadership Team, an external person qualified to conduct a workplace harassment investigation who has knowledge of the relevant workplace harassment laws, will be retained to conduct the investigation.
- b. Students who wish to make a report of workplace violence, and/or harassment may do so to the Director, Student Affairs.
 - i. In cases where the complainant is not comfortable making the complaint to the Director, Student Affairs, they may do so to the Registrar.
- c. The individual taking the preliminary report will provide detailed information and ensure that the complainant understands complaint resolution options, what to expect for all parties, and supports available.
- d. CMCC will provide support to employees and students who are complainants of workplace violence or harassment:
 - i. support for employees will be provided through the Employee Assistance Program (EAP)
 - ii. support for students will be provided through Student Services

Complainants may also seek support through community agencies or other services.
- e. The individual taking the preliminary report may continue to be a CMCC-designated support contact should the complainant wish to pursue their complaint further within the scope of this policy or through other complaint resolution avenues.
- f. CMCC employees or students who receive disclosures of workplace violence, and/or harassment from another CMCC employee or student may make a third party disclosure and consult with Human Resources or Student Services staff respectively on how to provide support and advice to the complainant. The third party discloser will be provided information on supports, services, accommodations, interim measures, and the procedures under this policy

2. Formal Report and Investigation

- a. Individuals who wish to make a formal report/complaint must do so in writing. The individual may do so to the policy lead via e-mail, letter or form, or may request an in-person meeting to make the report.
 - i. Employees and members of the Board of Governors who wish to make a formal report/complaint may do so to the Director, Human Resources & Employee Engagement (or to the alternate: Human Resources, Team Lead).
 - ii. Students who wish to make a formal report/complaint may do so to the Director, Student Affairs (or to the alternate: Registrar).
 - iii. Where there is a conflict of interest, lack of availability, or other reason for which the Policy Lead as designated in Section 2.a.i. or 2.a.ii above is not appropriate, the other individual identified in those sections shall serve as an alternate.

- b. Written reports are customarily provided by the complainant but may be provided by a third party. It is only in exceptional circumstances where the individual receiving the formal complaint would transcribe the written report for the complainant.
- c. Written reports should include:
 - i. name of the complainant or the third party
 - ii. name of the respondent
 - iii. a description of the particulars including but not limited to date(s), time(s) and location(s) where the incident(s) occurred.
 - iv. names of potential witnesses
 - v. copies of supporting documents when available (e.g., emails, social media postings).
- d. The complainant is entitled and encouraged to bring a support person to any meetings during which the formal report is taken. This support person may be the individual who received the preliminary report, or another person of the individual's choosing.
 - i. The support person may not speak on behalf of, or provide information specific to the report.
 - ii. If the employee making the preliminary report is a member of a bargaining unit with which CMCC has a collective agreement, the employee is entitled to be accompanied by a bargaining unit representative of their choosing.
- e. The policy lead will not advocate for any individual or group, and cannot take sides on a complaint. Their role is to listen, clarify details, provide information regarding process, and assess appropriate next steps, in all stages of the process.
- f. Once a formal report is received by the policy lead, the policy lead will undertake an assessment of the appropriate next steps in responding to the complaint, including:
 - i. determining whether a report/complaint has been made through any other internal or external process as well as through this policy
 - ii. a determination of the jurisdiction of CMCC in proceeding with the report/complaint
 - iii. a determination of whether the incident reported is appropriately addressed under this policy, and/or should be referred for review under a different CMCC policy
 - iv. a determination of whether the complainant is interested in alternate resolution, as opposed to the completion of an investigation and decision making process
 - v. a consultation with the appropriate offices in the assessment of the need for interim measures while the complaint is being investigated and decided upon
 - vi. an assessment of the estimated time required to conduct the investigation and provide a report to the decision maker
 - vii. an assessment of any limitations associated with investigator conflict of interest, and/or institutional capacity to conduct a fair and confidential investigation, and whether an external investigator will need to be retained
 - viii. a determination of whether additional fact-finding is required, and an approach to conduct such prior to finalizing a decision on proceeding with an investigation.
- g. Once the complaint has been assessed, the policy lead will consult with the decision maker and the President and apprise them of the general nature of the complaint and, if required, appoint an Investigator.

The policy lead will then confirm in writing to the complainant, if applicable, whether an investigation will be undertaken and if so a notice of investigation will be provided to the parties involved. Customarily, no more than 10 business days should lapse before a

decision to proceed with an investigation is reached and a notice of investigation is generated.

- h. The notice of investigation will include the following information:
 - i. the name and contact information of the investigator(s)
 - ii. the formal report
 - iii. confirmation of the right of the complainant to a support person or representative during the investigation
 - iv. any interim measures that will be in place during the investigation
 - v. a link to the electronic copy of this policy
 - vi. the name and contact information for a CMCC person designated to provide support to each party.
 - vii. the role of the investigator(s)
 - viii. next steps and estimated time frame for the investigation
 - ix. the name and title of the decision maker on the complaint.
- i. Within two business days of the date of the notice of investigation, the complainant and the respondent shall confirm receipt of the notification and state any perceived conflicts of interest or objections.
- j. Should a conflict of interest be declared relating to the decision maker, an alternate shall be appointed in accordance with Procedures Section 3. Such a request will be reviewed by the policy lead and the President.
- k. Prior to the first investigation meeting, the policy lead will provide an opportunity for either party to address any questions they have about the process, to explain their rights in the process, and to determine the outcome that the complainant, if applicable, is seeking.
- l. Within five days of receiving the notice of investigation, the respondent must respond, in writing to the allegations made against them. Such a response will be provided to the complainant, at which point the complainant may decide to continue the proceedings or withdraw the complaint.
- m. The policy lead will then provide copies of all related documentation to the investigator(s) in a timely manner.
- n. The investigator(s) will:
 - i. develop a plan identifying the issues in the case, who will be interviewed, which questions will be posed, and which documents/exhibits will be requested for review.
 - ii. conduct all interviews, including those with the parties and any witnesses.

Interviews may be recorded with the interviewee's written consent for the purpose of facilitating accuracy in the investigator's record. Any such recordings will be retained for the duration of the investigation, and then destroyed before submission of the investigation report. Written confirmation of the destruction of such recordings will be provided to the interviewee.

- o. The investigator will meet with all parties separately, and may need to meet with each party several times over the course of the investigation. The complainant and respondent will have the opportunity to provide the investigator with additional information, documents, exhibits, names of witnesses or other submissions or evidence that they believe are relevant to the complaint.

- p. The investigator will ensure that both the complainant and the respondent have had a full opportunity to review and respond to all material aspects of the allegations, and the evidence upon which the investigator will rely.
- q. At any point during the investigation process, the complainant may request alternative resolution or withdraw their complaint, prior to the provision of the investigation report to the Vice-President, Administration & Finance.
- r. The investigation report will include not only the findings of the investigation, but also copies of all statements, exhibits and associated appendices.
- s. Nothing contained in this policy shall derogate from the authority of CMCC to deal with allegations of workplace violence and/or harassment without the necessity of a complainant.

3. Decision Making

- a. Decisions on complaints of workplace violence and/or harassment within the scope of this policy shall be made by the Vice-President, Administration & Finance.
- b. Should the Vice-President, Administration & Finance be unable to make such a decision, either by conflict of interest, lack of availability, or other reason, the secondary decision maker shall be the Vice-President, Academic.
- c. Should the respondent in the matter be a Vice-President, Dean, Associate Vice President, or other member of the Executive Leadership Team, the decision maker shall be the President. Should the respondent in the matter be the President or a member of the Board of Governors, or other person for whom there is a conflict of interest, the President or Chair of the Board of Governors, as appropriate, will determine the appropriate individual to be the decision maker.
- d. Within 14 days of completing the investigation, the investigator will provide a written investigation report to the decision maker for review and a decision.
- e. A request by either party to receive a copy of the investigation report will be subject to CMCC's Privacy policy and applicable legislation.
- f. The investigator will notify both the complainant and the respondent of the date of submission of the investigation report to the decision maker.
- g. The decision maker will review the final report and may request an opportunity to meet with and ask any questions of the investigator.
- h. The decision maker will ensure that both the complainant and the respondent are afforded an opportunity to make in-person oral submissions prior to rendering a decision. Any such meetings will be transcribed by the policy lead so to document any new evidence presented that does not appear in the investigation report. Should new information be presented by any party during such meetings, the complainant and respondent will be given opportunity to respond to or question new information, in person or in writing, before a decision is rendered. The complainant will not be required to appear before the decision maker in the presence of the respondent.

- i. Within 10 business days of reviewing the investigation report and completing all requested meetings with parties involved and reviewing all additional written submissions or questions, the decision maker will render a written decision and where applicable, assign an appropriate sanction or remedy, and therein identify the timeline for such and the associated CMCC person responsible for monitoring compliance.
- j. In determining a sanction or remedy, the decision maker may consider the following:
 - i. the sanction or remedy sought by the complainant
 - ii. the principle of progressive discipline and CMCC's role as an educational institution
 - iii. the regulated professional context of CMCC's academic programs
 - iv. the nature and the severity of the incident
 - v. any other relevant factors.
- k. The written decision to the respondent will provide a summary of the investigation results, the decision and the reasons for the decision, and details of any applicable sanctions.
- l. The complainant will be informed in writing of the results of the investigation, and of any corrective action that has been taken, or that will be taken as a result of the investigation.

4. Appeals

Either the complainant or the responded may appeal the written decision, by making an appeal in writing. During the period under which an appeal is subject to review, the terms and conditions of the decision will remain in force.

- a. A written appeal must be submitted to the relevant policy lead within 10 business days of the date of the original decision. The appeal must include both an explanation for the request and the alternative sought.
- b. When the individual appealing the decision is an employee whose employment is governed under a collective agreement, the right to appeal the decision is through the grievance and arbitration process of the applicable collective agreement.
- c. In reviewing an appeal outside of the collective agreement, appeals will be considered on the following grounds:
 - i. the claim of a substantial procedural error in the application of the policy
 - ii. the presentation of substantive new evidence that could not have reasonably been presented earlier
 - iii. the claim that the decision maker's finding is inconsistent with the evidence
 - iv. the claim that the remedies/sanctions are not reasonable.
- d. Appeals of the decision maker will be reviewed by the President.
- e. If the individual is appealing a decision made by the President, the appeal of the decision is to the Executive Committee of the Board of Governors, with the addition of one voting member who shall be external to the CMCC community and who has the appropriate training to participate in an appeal of this nature.
- f. If an appeal is submitted by one party, other parties to the case will be notified of such and will be invited to make a written submission for consideration when the appeal is under review. In reviewing the appeal, the person making a decision on the appeal may review the investigation file, the original findings and remedies/sanctions as determined by the

decision maker, and any other relevant documents or information. The person making the decision on the appeal may also interview the parties. A decision on the appeal will be provided, in writing, within 15 business days of the date the appeal was received by the policy lead.

5. Confidentiality & Reporting of Statistics

- a. Records relating to complaints and investigations will be held in perpetuity, or as required by law, by the policy lead responsible for the complaint.
- b. In cases where the respondent is found guilty of the allegation(s) against them, a copy of the written decision will be retained in the corporate files, and accordingly:
 - i. If the respondent is an employee, a copy will be retained in the employee's record. If the employee is a member of a bargaining unit with which CMCC has a collective agreement, the retention period may be limited by the collective agreement.
 - ii. If the respondent is a student, a copy will be retained in the student's academic file.
- c. Individuals serving as policy leads and who are in receipt of a preliminary report of workplace violence and/or harassment that has not been brought forward for a formal report will provide the following information to the policy sponsor for the purposes of annual statistical reporting:
 - i. nature of incident (e.g., harassment and/or violence)
 - ii. classification of complainant (e.g., employee, student, member of the Board of Governors, volunteer)
 - iii. classification of responsible party (e.g., employee, student, member of the Board of Governors, volunteer)
 - iv. location of incident (e.g., on campus, off-campus location with formal affiliation with CMCC, off-campus with no CMCC jurisdiction)
- d. Annual statistics will be aggregated by the Vice President, Administration & Finance and reported to the President in an anonymized fashion according to:
 - i. number of preliminary reports received
 - ii. number of formal reports received
 - iii. number of complaints adjudicated by a decision maker
 - iv. number of complaints resolved through alternate dispute resolution
 - v. number of decisions that were subject to appeal

New Procedure Approved (date):

Procedure Revision History (dates):

Non-Discrimination and Harassment – May 29, 2008
Workplace Harassment and Sexual Violence – December 8, 2016
Workplace Violence and Harassment – November 8, 2018
August 29, 2019

8 ATTACHMENTS

Workplace Violence or Harassment Complaint Form

Attachment

Workplace Violence or Harassment Complaint Form

Name and contact information of the complainant/third party:

Name and contact information of the respondent (if available):

Date of the incident: _____ Time of the incident: _____

Details of the complaint:

Relevant documents/evidence:

Witnesses to the event:

Signature: _____ Date: _____