

Policy Review Template

Policy Title: Council, Committee and Panel Member Harassment and Discrimination Policy

Policy #: EX-21	Location: CouncilNet
Reviewed by: Executive Committee	
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1. Policy Statement

The Ontario College of Teachers is committed to providing an environment free of discrimination and harassment consistent with the *Ontario Human Rights Code* (“the Code”) and the *Occupational Health and Safety Act* (“the OHSA”), and the College affirms the principles underlying them. The College promotes an equitable environment that is characterized by professionalism with an emphasis on respect, dignity and recognition of the worth of all persons.

The College affirms that there will be no tolerance of harassment, sexual harassment or discrimination or violence contrary to the Code or the OHSA by Council, committee and panel members with respect to dealings with each other, with College staff, with members or the public in the exercise of their duties at the College or elsewhere. Attitudes and behaviour that undermine the dignity and self-esteem of individuals are not tolerated. The College encourages prompt reporting of any incidents of harassment or discrimination.

2. Policy Purpose

The purpose of this policy is to:

- confirm the College’s commitment to maintaining an environment that is free from harassment and discrimination, and ensuring that all individuals are treated with respect and dignity;
- provide a clear and unequivocal declaration that harassment and/or discrimination contrary to the Code and/or contrary to the OHSA will not be tolerated by the College;
- set out examples of the types of behaviour that are considered to violate this policy, including acts of discrimination, intimidation, harassment and sexual harassment and the creation of a poisoned work environment;
- establish a mechanism for dealing with complaints by any person regarding harassment and/or discrimination by Council, committee and panel members; and
- make clear that harassment and/or discrimination may result in disciplinary action up to and including disqualification from Council.

This policy is not intended to constrain appropriate social interaction and professional relationships between Council, committee and panel members.

3. Background

The Ontario College of Teachers (the College) has always maintained a strong commitment to an equitable work environment that is free from harassment, sexual harassment and discrimination. This commitment arises from legislative requirements as well as the need to create professional working relationships that enable the College to carry out its regulatory functions. As such, the College has created a staff policy entitled *Harassment and Discrimination Policy and Procedures* in order to provide staff with information about appropriate workplace behaviour, and create remedial procedures to use if they experience harassment and/or discrimination.

Council members are an integral part of the College workplace and reflect the values of the College to the public. Therefore, the College has sought to create a harassment and discrimination policy that is consistent with the staff policy mentioned previously. The resultant *Council, Committee and Panel Member Harassment and Discrimination Policy* offers parameters for the professional interaction of Council, committee and panel members with one another, staff, College members and the public. Ensuring appropriate professional behaviour will allow members to continue their important work on behalf of the teaching profession. Moreover, such a policy will maintain the strong public and member confidence in Council's ability to govern the College.

When creating this policy, several large Ontario regulators were canvassed to determine their approaches to Council member harassment and discrimination. The Law Society of Ontario, the College of Physicians and Surgeons of Ontario, the Royal College of Dental Surgeons of Ontario and the College of Nurses of Ontario all have some form of policy in place to deal with inappropriate workplace behaviour on the part of Council members (or their equivalent). Elements of these policies include: clear directives against inappropriate behaviour towards fellow Council members, staff and the general public; investigatory procedures; due process safeguards; progressive/escalating attempts to reach a resolution; appeal mechanisms and the involvement of the Chair of Council (or the equivalent) and Registrar (or the equivalent) in the process. The policies of these regulators informed the College's own *Council, Committee and Panel Member Harassment and Discrimination Policy*.

4. Definitions (alphabetically) ([Relocated to front end](#))

Discrimination

Discrimination is the denial of equal rights or opportunities on any of the following grounds as defined by the Code: age, ancestry, citizenship, colour or race, creed, disability, ethnic origin, family status, gender identity, gender expression, place of origin, marital status (including single status), receipt of public assistance (in housing only), record of offences (in employment only), religion, sex (including pregnancy and breastfeeding), same-sex partnership status and sexual orientation.

Harassment

Harassment is conduct and behavior manifesting itself by words, acts or gestures of a bothersome, vexatious or belittling nature towards a person or group of people. Harassment under this policy means one or a series of incidents of conduct or behavior that is known or ought reasonably to be known to be unwelcome. Examples include but are not limited to:

- comments which are intended to, or that ought reasonably to be known to, promote stereotypes under any of the human rights grounds mentioned above
- unwelcome jokes or comments that draw attention to a person, derogatory remarks, verbal abuse or threats directed toward a person, and

- bullying behaviour or intimidation of an abusive emotional, psychological or physical nature.

[Harassment does not include reasonable actions taken by the Chair of Council, Registrar or their designate relating to the management and direction of a Council, committee or panel member.](#)

Devaluation

Devaluation is the trivialization of the success, contribution and/or concerns of an individual.

Exclusion

Exclusion is the banishing, ostracizing or denying access of an individual from typical Council or Council-related activities.

Poisoned Work Environment

A poisoned work environment is a psychological atmosphere where people feel intimidated and/or are treated with disrespect. Conditions that create a poisoned work environment include but are not limited to harassment, discrimination, exclusion, stereotyping, devaluation and retaliation.

Retaliation

Retaliation is unwelcome behaviour towards an individual to seek revenge or get even for a previous complaint.

Sexual Harassment

Sexual harassment is defined as:

- a) Engaging in a course of vexatious comment or conduct 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 and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment occurs when:

- such conduct might reasonably be expected to cause insecurity, discomfort, offence or humiliation to another person or group
- submission to such conduct is made either implicitly or explicitly a condition of Council or committee participation
- submission to or rejection of such conduct is used as a basis for any Council-related decision, including committee membership or performance assessment, or
- such conduct has the purpose or the effect of interfering with a person's work performance on Council, committees or panels, or creating an intimidating, hostile or offensive work environment.

Specific examples of sexual harassment include, but are not limited to, behaviours such as:

- demands for sexual favours
- unwelcome sexual flirtations, advances or propositions
- unwelcome physical contact
- sexist or sexual jokes, remarks or innuendoes causing embarrassment or offence, told or carried out after the speaker knows, or ought to have known, that the comments are embarrassing or offensive
- leering or inappropriate staring
- the display of or the distribution by mail, fax or other electronic means of sexually explicit or offensive material
- sexually charged words to describe a person
- derogatory or degrading remarks directed toward members of one sex or one sexual orientation or one gender identity
- sexually suggestive or obscene comments or gestures
- unwelcome touching
- unwelcome inquiries or comments about a person's sex life, sexual prowess or deficiencies
- persistent unwanted contact or attention after the end of a consensual relationship
- insistent requests for dates, or
- sexual assault.

Stereotyping

Stereotyping is the assignment of a particular limiting role to an individual.

Violence

Violence is the unjust or unwarranted exercise of force.

5. Application

This policy applies to elected and appointed College Council members, committee members and roster panelists. It applies to allegations of harassment or discrimination made by third parties, that is, members of the public and the profession, College employees, contractors and external service or delivery people and any other individual who interacts with Council, committee or panel members in the course of their work. The policy applies to behaviour:

- while on Council or committee/panel duty;
- face-to-face, telephone and electronic communications that are related to Council, committee or panel work;
- while on College premises and outside the premises at Council/committee-related events such as conferences, training sessions and travel;
- at Council/~~committee~~-related social functions;
- at Council or committee assignments outside the office; and
- that would otherwise adversely impact the Council and committees' workplace or the ability of an individual to perform their duties and responsibilities.

This policy includes and covers conduct and behavior that arises online or through

telephone or electronic communications, whether using College or personal technology platforms, resources, systems or devices, including but not limited to email, messaging tools and social media.

6. Complaint Procedures

The procedures to be used when there is a complaint of harassment, sexual harassment or discrimination are set out in the “13. Complaint Procedures” section of this policy. The steps involved in an Informal Stage and/or a Formal Stage are described in more detail below. Appendix A provides a visual description of the stages.

7. Record Keeping

Where appropriate or required by law, any documentation generated from a harassment, sexual harassment and/or discrimination complaint, including documentation created during informal discussions, shall be retained by the Director of Corporate and Council Services in a secure and confidential manner in accordance with the College’s record keeping practices and obligations.

8. Protection from Retaliation

There will be no retaliation against a person who, in good faith, makes a report of harassment, sexual harassment and/or discrimination or who has participated in any investigation under this policy or who has been associated with a person who has invoked this policy or participated in the complaint or investigative processes. Retaliation violates this policy as well as the *Ontario Human Rights Code* and the *Occupational Health and Safety Act* and should be reported immediately as it may result in disciplinary action up to and including disqualification from Council.

9. Confidentiality

Confidentiality will be maintained regarding the complaint, and any potential informal discussion, investigation, resolution and disciplinary outcomes to the extent possible. Some disclosure may be necessary to allow the proper investigation or appropriate resolution of the complaint or as otherwise required by law. Some cases may require the collection of evidence from independent third party witnesses.

It is important that all persons, including the Complainant, the Respondent and anyone involved during the investigative process, maintain confidentiality. Breaches of confidentiality constitute a violation of this policy and may result in disciplinary action up to and including disqualification from Council.

10. Timeframe for Filing a Complaint

It is expected that incidents of harassment, sexual harassment and/or discrimination will be reported promptly so that a rapid response and appropriate action may be taken. The Chair of Council/Registrar reserves the right not to deal with a complaint which is raised a significant period of time after the last alleged incident. However, depending on all of the circumstances and the reason for the delay, the late reporting of a complaint will not in and of itself preclude the Chair of Council/Registrar from investigating a complaint and taking remedial action, if appropriate.

11. Training

All Council members are expected to familiarize themselves with this policy. Council, committee and panel members will be trained on this policy and its application. Training session topics will include: information on what constitutes harassment, sexual harassment and discrimination; the penalties for contravening this policy; the importance of confidentiality in these matters; and the process of initiating complaints, both informally and formally.

12. Monitoring

Following the resolution of a complaint through the informal stage, the Chair of Council will meet with both the Complainant and the Respondent to ensure that no further harassment or discrimination has occurred. If further harassment or discrimination has occurred, the Chair of Council shall recommend the use of the formal complaint procedures set out in this policy.

13. Complaint Procedures

The procedures for resolving a complaint of harassment, sexual harassment and discrimination outlined in this policy have been divided into Informal and Formal Stages. As the Chair of Council and the Registrar are parties to the process, complainants may consult the Director of Corporate and Council Services at any stage.

A Complainant may begin the process at Step #1 or Step #2 of the Informal Stage or Step #1 of the Formal Stage, if desired.

If the Chair of Council is the Respondent or Complainant (as defined below) to the complaint, the Vice-Chair of Council will step into the role of the Chair in the informal stage and assume all associated duties. If both the Chair of Council and Vice-Chair of Council are named in the complaint, or if there is another reason why the Complainant does not believe either party can be impartial, an alternate Council member may be designated to fill that role in this process with the agreement of all parties.

If the Registrar is the Complainant to the complaint, the Deputy Registrar will step into the role of the Registrar in the informal stage and assume all associated duties. If both the Registrar and Deputy Registrar are named in the complaint, or if there is another reason why the Complainant does not believe either party can be impartial, another individual may be designated to fill that role in this process with the agreement of all parties.

If the Registrar is the Respondent to the complaint, the process ~~shall~~ may follow that which is outlined in the Harassment and Discrimination Policy and Procedures applicable to College staff members.

If an investigation results in a finding that the Complainant accused a Respondent of harassment, sexual harassment and/or discrimination in bad faith, the Complainant may be subject to appropriate disciplinary action.

Informal Stage

The informal stage is designed to offer an individual a mechanism to directly address concerns they may have regarding the behavior of another individual. It is not a required step. Use of this stage may depend on the comfort level of the individual, their relationship to the other person and/or the situation itself. An individual may proceed directly to the formal stage if they so choose.

Step 1 Path 1 - Informal Interaction

If a person (the “Complainant”) feels that they have been subjected to any form of harassment, sexual harassment and/or discrimination prohibited by this policy, the Complainant is encouraged to firmly and promptly tell the responding individual (the “Respondent”) that their behaviour is unwelcome. In many situations, simply informing the person that their behavior is unwelcome will resolve the issue. Telling the individual to stop may be difficult to do, but frequently it is an effective means of eliminating the problem. While this is an optional step, it is encouraged.

Communication with the Respondent may be carried out orally, in writing or at a meeting initiated by the Complainant.

The Complainant is advised to keep a written record of their concerns, including the dates, times and witnesses of incidents related to the matter.

Step 2 Path 2 - Discussion with the Chair of Council

If informal discussion does not resolve the matter to the satisfaction of the Complainant, the Complainant ~~shall~~ may approach the Chair of Council to discuss the matter and seek assistance in resolving the matter. The Complainant may be asked to provide information about the complaint in writing.

If the Respondent admits to the offending behaviour in discussion with the Complainant or Chair of Council, they will be asked by the Chair to discontinue this behaviour. The Chair of Council may also suggest possible resolutions that are appropriate to the situation, including common understanding agreements, professional development agreements or formal apologies.

If the Respondent denies the allegation or the Complainant is unsatisfied with the outcomes in the informal stage, the Complainant may complete a formal stage complaint.

Formal Stage

The formal stage reflects the process outlined in O.Reg. 72/97, General sections 28-32 Complaints Against Members of Council and Committees.

A complaint of harassment, sexual harassment and/or discrimination would be considered as a complaint under this regulation in that a Council member “may have acted in a manner incompatible with his or her position, including in a manner inconsistent with the College’s duty to serve and protect the public interest.”

In the case of any inconsistency between this policy and O.Reg. 72/97, the regulation shall

prevail.

The complainant may also choose to file their complaint through the College's intake process if the Council member is a member of the profession.

Where the College or its management become aware of a possible violation of this policy, the College retains full discretion and authority to commence a management-initiated complaint and investigation consistent with its obligations under the Code and the Act, even without a formal written complaint or without the support or agreement of an involved Council member.

Step 1 - Written Complaint

The Complainant shall complete a formal harassment / discrimination complaint.

The complaint shall be in writing and contain information regarding the basis for the complaint. The complaint shall be submitted to:

- the Vice-Chair of Council and Registrar, if the complaint is against the Chair of Council, or
- the Chair of Council and the Registrar, if the complaint is against any other member.

The Registrar shall provide a copy of the complaint to the member against whom the complaint is made.

Step 2 - Investigation

The Registrar shall investigate every complaint made.

Following the investigation of a complaint, the Registrar shall:

- dismiss the complaint, if the Registrar determines that the complaint is frivolous, vexatious or an abuse of process, or
- refer the matter and any relevant information to Council.

Step 3 – Council

Where the complaint is referred to Council:

- the Registrar shall provide to the member against whom the complaint is made any information that is referred to Council, and
- the member shall be given an opportunity to make representations respecting the complaint to Council in person or in writing.

Upon receiving a referral, Council shall:

- dismiss the complaint, if Council determines that the complaint is frivolous, vexatious or an abuse of process, or
- otherwise, refer the matter to the Executive Committee for a hearing.

Where Council refers the matter to the Executive Committee, Council shall consider whether it is necessary to immediately suspend the member from his or her office as a member of Council to ensure the integrity of the College and its processes.

If Council determines that immediate suspension is necessary, it shall,

- for an elected member of Council, suspend the member from Council until the matter is disposed of by Council or the Executive Committee, or
- for a member who was appointed to Council, issue a report to the Minister, for referral to the Lieutenant Governor in Council, setting out the details of the referral and stating that if the member were an elected member of Council, the Council would suspend the member from Council until the matter is disposed of by Council or the Executive Committee.

The above-described determinations by Council – disposition of the complaint and if referred for a hearing, whether to immediately suspend the member – shall be made at a Council meeting and shall be confirmed by at least two-thirds of the votes cast at the meeting.

A written record shall be made of the determinations and reasons, and the Registrar shall provide a copy of the written record to the member against whom the complaint is made.

Step 4 – Executive Committee

The Executive Committee shall hold a hearing for every complaint referred to it from Council with the following provisions:

- the hearing and any discussions or deliberations related to it shall be closed to the public
- the person who made the complaint may give evidence and make submissions at the hearing but shall not otherwise be present at the hearing or during any discussions or deliberations related to it
- the Registrar shall give evidence and make submissions at the hearing, but shall not otherwise be present at the hearing or during any discussions or deliberations related to it
- the member against whom the complaint is made may give evidence and make submissions at the hearing and may be present throughout the hearing but shall not be present during any discussions or deliberations related to it.

The Executive Committee shall make all reasonable efforts to hold a hearing within 120 days after the day a complaint is referred to it from Council.

After hearing the evidence given and submissions made at the hearing, the Executive Committee shall, by a majority vote, determine whether the member acted in a manner incompatible with his or her position as a member of Council.

If the Executive Committee determines the member acted in a manner incompatible with their position as a Council member, the Executive Committee may:

- request Council reprimand the member in writing
- for an elected member, request Council:
 - suspend the member from Council for a period of at least 30 days but not more than 90 days
 - if the member has already been suspended by Council, continue the suspension for a period of at least 30 days but not more than 90 days, or

- disqualify the member from sitting on Council
- for a member who was appointed to Council, request that Council issue a report to the Minister, for referral to the Lieutenant Governor in Council, setting out the details of the determination and specifying what action Council would take if the member were an elected member of Council

The Registrar shall inform the member of the Executive Committee's determination and any request for action within 10 days of the determination.

Step 5 – Appeal

A member against whom an Executive Committee determination or request is made may, within 10 days after receiving notice of the determination or request, submit a written notice of appeal to Council.

Council shall hold a hearing for every appeal submitted to it within 30 days of receiving the notice.

No member of Council who participated in the decision made by the Executive Committee shall participate in or be present for the hearing of the appeal. The hearing of the appeal shall follow the provisions outlined in Step 4 above.

After considering any evidence given and submissions made at the hearing before the Executive Committee or at the hearing of the appeal, the findings of the Executive Committee and any other information that Council finds relevant, Council shall, by a majority vote, uphold, vary or rescind the Executive Committee determination and/or request for action.

14. Evaluation

This policy will be evaluated every three (3) years or earlier as required by Council.

Harassment and Discrimination Complaint Procedures Steps

The complaint procedures process may begin at Path 1 or Path 2 of the Informal Stage **OR** Step 1 of the Formal Stage.

