POLICY NO. 4 CONCERNING PSYCHOLOGICAL HARASSMENT, ABUSE OF POWER AND VIOLENCE

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For information related to sexual violence, please see Policy NO 24. Victims requiring support concerning harassment incidents which are sexual in nature should refer to POLICY NO. 24 CONCERNING THE PREVENTION OF SEXUAL VIOLENCE AND THE PROMOTION OF A CULTURE OF CONSENT AT JOHN ABBOTT COLLEGE

POLICY NO. 4 – CONCERNING PSYCHOLOGICAL HARASSMENT, ABUSE OF POWER AND VIOLENCE

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PREAMBLE

All members of the College community have the right to study, work and learn in an atmosphere which is free of harassment of any kind, abuse of power or violence. To ensure such freedoms, John Abbott College has adopted this Policy which delineates the parameters and procedures for preventing undesirable behaviour and dealing with it if it should occur.

The College considers harassment of any kind, abuse of power and violence to be a serious offence. It infringes on fundamental human rights and undermines personal dignity and integrity. These behaviours interfere with the work, study and academic environment of the College. Members of the College community are encouraged to take appropriate action if they witness harassing behavior of any kind. Prompt reporting to campus security is encouraged in situations where one's safety and security may be compromised, such as in situations where violence is observed.

The College will endeavour, at all times, to provide a working and learning environment that is supportive of scholarship, research and the fair treatment of all its members. The basis for interaction among all members of the College must be mutual respect, trust, cooperation and understanding.

Each member of the College community shall promote and maintain an environment free of harassment of any kind, abuse of power and violence. Persons in positions of academic authority or administrative authority have the responsibility to recognize and prevent these behaviours – this, in accordance with the provisions of the *Charter of Human Rights and Freedoms*, the *Act respecting Labour Standards of Québec* and the *Civil Code of Québec*.

ARTICLE 1 - INTERPRETATION

1.1 This policy is to provide an interpretation consistent with the remedial and preventive nature of its objectives. Hereafter, the use of the word "harassment" shall have a comprehensive meaning and be held to include psychological harassment, abuse of power and violence (including, without limitation, cyberviolence).

1.2 "Working day" shall mean a day where the College is operating normally (typically excludes Saturdays, Sundays and legal holidays where the College is closed).

ARTICLE 2 - SCOPE OF POLICY

2.1 This Policy applies to all those working or studying at the College. It also applies to all persons using the services of or providing services to John Abbott College. The Harassment Awareness Committee encourages the prompt reporting of all incidents of harassment, regardless of who the offender may be. Accordingly, the Policy applies, without limitation, to:

2.1.1 behaviour on campus;

2.1.2 all forms of communication, including, but not limited to, telephone and computer;

2.1.3 behaviour at College sponsored events, whether on or off-campus;

2.1.4 social and athletic functions;

2.1.5 stage, work-study or exchange programs;

2.1.6 field trips, conferences, training sessions and seminars.

ARTICLE 3 - OBJECTIVES

3.1 This Policy is intended to counter any form of harassment, abuse of power and violence in order to protect the physical and psychological integrity of individuals, to protect their dignity and ensure a non-discriminatory, harmonious and safe place of work and study.

3.2 This Policy is also intended to be used for the implementation of educational, preventive and administrative measures to raise awareness in the John Abbott College community and to communicate the College's formal position of zero tolerance against harassment.

3.3 The College will therefore:

3.3.1 foster an awareness of behaviour that can be harassing through educational programs;

3.3.2 act upon complaints of harassment promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned;

3.3.3 ensure that any member of the College community who seeks, in good faith, recourse/redress or is involved in any proceeding under this Policy is able to do so without fear of reprisal; and

3.3.4 ensure that this procedure cannot have the effect of prejudicing the rights of any individual under collective agreements or the law.

ARTICLE 4 - DEFINITIONS

4.1 Harassment encompasses any reprehensible conduct, whether unintentional or intentional, having the effect of ridiculing or humiliating. Harassment is usually systematic and repetitive, and has an undesired effect; harassment violates an individual's right to dignity and to their physical or psychological integrity. It is normally vexatious, malicious or menacing, and it is of such nature that it compromises an individual's legal right or has the effect of creating an unfavourable work or study environment. One isolated act can constitute harassment where it is severe and where it continues to produce undesirable effects in the future.

4.2 **Harassment** is **discriminatory** where it is based on one of the criteria enumerated under section 10 of the *Charter of Human Rights and Freedoms*, namely race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except in the manner permitted by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap. Victims requiring support concerning harassment incidents which are sexual in nature should refer to policy NO. 24 CONCERNING THE PREVENTION OF SEXUAL VIOLENCE AND THE PROMOTION OF A CULTURE OF CONSENT AT JOHN ABBOTT COLLEGE.

4.3 **Psychological harassment** means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects an individual's or student's dignity or psychological or physical integrity and that result in a harmful work or study environment for the individual or student. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.

4.4 **Psychological harassment** can be illustrated by the following kinds of conduct, such as:

4.4.1 disrespect, contempt, condescending attitudes, and the refusal to share information;

4.4.2 verbal or gestural insults, yelling, lashing out at, blackmailing, pressure tactics;

4.4.3 razzing, humiliation, whether in private or in public;

4.4.4 degrading propositions.

4.5 **Psychological harassment** can also manifest itself in gestures, acts, or words which are repeatedly inflicted on an individual by other individuals (mobbing).

4.6 **Abuse of power or abuse of authority** consists of using power or authority conferred by position, in an inappropriate and illegitimate manner, which compromises the employment or the learning of an individual, and which harms or prevents their work or study.

Abuse of power or authority can take the form of acts, threats, or insinuations by a person in a position of power or authority, which negatively affects the work or study conditions of an employee or a student.

Bullying constitutes an abuse of power, as does the attempt to inflict stress upon a person by placing them in a situation with the objective of displaying their weaknesses.

The threat of dismissal, layoff, refusal to renew the employment contract, demotion, transfer, the loss of work-related privileges or important modifications thereto without a just reason, all constitute an abuse of power.

The threat of manipulating student grades constitutes an abuse of power.

4.7 **Violence** encompasses acts or threats done or uttered by an individual or a group of individuals which violate, in an intentional or unintentional manner, the integrity or the physical or psychological security of an individual or group of individuals. Violence can take any form, such as physical or verbal aggression, harassment, or abuse of power or authority.

4.8 **Cyberviolence** is an online behavior that constitutes or leads to harm against the psychological and/or emotional, financial, physical state of an individual or group. Types of cyberviolence can include the following:

4.8.1 *harassment* - repeatedly sending offensive, rude, and insulting messages;

4.8.2 *denigration* - distributing information about someone else that is derogatory and untrue by posting it on a webpage, sending it through email or instant messaging, or posting or sending digitally altered photos of someone;

4.8.3 *flaming* - online fighting using electronic messages with angry, vulgar language;

4.8.4 *impersonation* - breaking into an email or social networking account and using that person's online identity to send or post vicious or embarrassing material to/about others;

4.8.5 *outing and trickery* - sharing someone's secrets or embarrassing information, or tricking someone into revealing secrets or embarrassing information and forwarding it to others;

4.8.6 *cyber stalking* - repeatedly sending messages that include threats of harm or are highly intimidating, or engaging in other online activities that make a person afraid for their safety (depending on the content of the message, it may be illegal).

ARTICLE 5 - RETALIATION

5.1 Any act of retaliation against a person who uses this Policy to report a complaint of harassment is strictly prohibited and is an offence subject to disciplinary measures, in accordance with the applicable collective agreement or with College policy.

ARTICLE 6 - RESOURCE PERSONS

6.1 The Director of Student Services names two Resource Persons, with appropriate professional qualifications, from the Counseling Department (preferably of different gender). Their function is to support and assist those lodging a complaint. Their term is one year and renewable. A Resource Person's responsibilities are:

6.1.1 to provide the complainant with a copy of this policy, to inform the complainant of their rights and the possible avenues of recourse, including talking with the respondent, suggesting mediation or filing a complaint under this policy;

6.1.2 to assist, at the complainant's request, in the preparation of a formal written complaint and to forward the complaint to the Director of Human Resources Services or in the case of a student-to-student complaint, to the Director of Student Services;

6.1.3 to undertake immediate intervention where the severity of the circumstances warrant, including by ensuring the complainant is provided with psychological support;

6.1.4 to submit an annual report, while maintaining confidentiality, to the Harassment Awareness Committee and to the Director of Human Resources Services. This report should include the types of complaints, the nature of relationships (for example, teacher/student) and the outcome of each reported case.

6.2 In cases of physical violence, the Resource Person must ensure that the complainant has received the appropriate medical treatment and that they have a medical report. In such a case, the Resource Person must immediately contact campus security and the police for investigation. They must also refer the complainant to the Coordinator of Human Resources Services for employees and to the Director of Student Services for students.

6.3 The complainant, Resource Person, and respondent may at any time meet informally to discuss the situation, make recommendations and hopefully resolve the issue. If the meeting is successful, the situation is considered to be remedied and the dossier is closed.

ARTICLE 7 - HARASSMENT AWARENESS COMMITTEE

7.1 The Harassment Awareness Committee will be composed of the Coordinator of Human Resources Services, who will chair the committee, and of two representatives from each of the following segments of the College population: students, faculty, professionals, administrative support personnel and administrators. The representatives from each segment should be of different genders when this is possible. If it is not possible, each segment can nominate two members of the same gender. They will be appointed by their respective associations and/or unions for a renewable term of one year. This appointment will be made no later than the first of September each year. The Resource Persons are ex-officio members on the Committee.

7.2 The Committee's mandate will be:

7.2.1 to coordinate preventative and educational awareness projects;

7.2.2 to make recommendations to the Director of Human Resources Services about mechanisms for preventing the occurrence of harassment and on changes to this policy as required;

7.2.3 to compile, in consultation with the Director of Human Resources Services, prior to the start of each academic year, a list of persons who may act as mediators;

7.2.4 to report on its activities to the Director of Human Resources Services, and its respective associations and/or unions, annually; such report is to include the information received from the Resource Persons.

ARTICLE 8 - PRELIMINARY PROCESS

8.1 An individual who believes that they are a victim of harassment is strongly encouraged to address the issue by following the suggested steps below:

8.1.1 **In the case of an employee:**

a) indicate to the alleged respondent that their behavior or action is offensive and ask that the said behavior/action cease; when possible, attempt to resolve the issue at an informal level by speaking with the respondent directly;

b) if the attempt is unsuccessful or if the complainant is not able to make such an attempt, the individual can meet with their manager or program dean to discuss the issue and possible solutions;

c) if the issue remains unresolved, the individual can meet with their director or academic dean to discuss the issue and alternative solutions;

d) if the issue still remains unresolved, the individual can contact Human Resources Services to consider the option of third party mediation;

e) if third party mediation is not a viable option or, if it has failed, the individual may initiate, through this policy, a formal complaint with Human Resources Services.

Note: In all cases, at any stage in the process, the individual may speak confidentially to a Harassment Resource Person at: harassment.resource@johnabbott.qc.ca or MIO Harassment or, by calling the Harassment Support Line at (514) 457-6610 ext. 5577.

8.1.2 **In the case of a student:**

a) indicate to the alleged respondent that their behavior or action is offensive and ask that the said behavior/action cease; when possible, attempt to resolve the issue at an informal level by speaking with the respondent directly;

b) if the attempt is unsuccessful or if the individual is not able to make such an attempt, the individual can meet with:

(if the situation involves a College employee)	*(if the situation involves another student)*
• the program dean, if the situation involves a college employee, to discuss the issue and possible solutions; • the option of third party mediation can be considered; • if the issue still remains unresolved, the individual may initiate, through this policy, a formal complaint with Human Resources Services.	• the Director of Student Services, if the situation involves another student, to discuss the issue and possible solutions in accordance with Policy 13 – Policy on Student Conduct and Discipline Procedures; • the option of third party mediation can be considered; • if the issue still remains unresolved, the individual may initiate, through this policy, a formal complaint with Student Services.

Note: In all cases, at any stage in the process, the individual may speak confidentially to a Harassment Resource Person at: harassment.resource@johnabbott.qc.ca or MIO Harassment or, by calling the Harassment Support Line at (514) 457-6610 ext. 5577.

ARTICLE 9 - FORMAL COMPLAINT

9.1 Subject to section 12.4 hereof, a complaint of harassment must be made in writing to the Director of Human Resources Services or in the case of a student-to-student complaint, to the Director of Student Services, within ninety (90) days after the last incidence of the alleged acts of psychological harassment. The complainant is strongly encouraged to consult a Resource Person before filing a formal complaint. The Director of Human Resources or the Director of Student Services, as applicable, shall provide the complainant with a copy of this policy.

9.2 The complaint must contain the complainant's full name, phone number and address and be signed by the complainant. The complaint must clearly identify the respondent by name or sufficiently describe the respondent to facilitate the identification of the person. The complaint must further describe the relationship between the complainant and the respondent and contain a sufficiently detailed description of the situation including the context, the location, the circumstances, as well as the date(s) and the time(s) on or around when the event(s) occurred. Only information pertaining to the situation or events leading to the written complaint should be included in the complaint.

9.3 The complaint must remain confidential between all parties involved as long as the investigation is on-going and the appropriate and formal recommendations have not been implemented. All complaints must be handled with tact and discretion.

9.4 At the request of the complainant, the Resource Person may assist the complainant with the drafting of the complaint; however, the description of the events must remain that of the complainant. The complainant can decide to withdraw their complaint, stop, and/or resume the process within the prescribed period of making a formal complaint hereunder.

ARTICLE 10 - MEDIATION

10.1 Mediation is an informal, confidential process by which an impartial third party assists the parties to voluntarily find acceptable mutual solutions to their problem. However, the mediator does not have the authority to decide for, or impose solutions on, the parties.

10.2 Mediation may be requested by either party, both before or after a formal written complaint has been filed, but must be agreed to by both parties. Refusal of mediation must never be used against a party during the procedure. Recourse to mediation, when unsuccessful, does not prevent the complainant from seeking additional recourse.

10.3 The complainant and the respondent must agree on the choice of the mediator from a list compiled by the Harassment Awareness Committee.

10.4 Within a thirty (30) day period from the date of appointment of the mediator, the mediation process should be concluded. The options for resolution must be of a voluntary nature. If resolution is achieved through mediation, no further action shall be taken and the matter is closed. However, if a resolution is not achieved through mediation, the option of a formal complaint remains.

10.5 Following mediation, each party will receive a written confirmation of the outcome of the mediation. If the mediation is successful, the confirmation will also include the terms of the resolution.

10.6 As per article 606 of the *Code of Civil Procedure (Québec)*, the mediator and mediation participants cannot be compelled, in arbitration, administrative or judicial proceedings, whether related or unrelated to the dispute, to disclose anything they hear or learn in the course of the mediation process. Nor can the mediator and mediation participants be compelled to produce a document prepared or obtained in the course of the mediation process, unless the law requires its disclosure, a person's life, safety or personal integrity is at stake or its disclosure is necessary for the mediator to be able to defend against a claim of professional fault. No information given or statement made in the course of the mediation process may be admitted in evidence in such proceedings.

To claim the privilege of non-compellability, the mediator must be certified by a body recognized by the Minister of Justice. In addition, the mediator must be subject to rules of professional conduct and be required to take out civil liability insurance or provide some other form of security to cover injury to third persons.

10.7 As per article 607 of the *Code of Civil Procedure (Québec)*, and despite section 9 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*, no one has a right of access to a document contained in the mediation record, or the right to object to the use of a document in the course of a mediation process on the grounds that it may contain personal information.

ARTICLE 11 - INVESTIGATION OF FORMAL COMPLAINT

11.1 Once a formal complaint has been filed, the Director of Human Resources Services or the Director of Student Services informs the respondent (the person who is the object of the complaint) by providing them with a summary of the complaint highlighting pertinent facts as outlined in section 9.2 hereof, or with a copy of the written complaint with all personal information removed. Such summary or copy, as applicable, together with a copy of this policy, shall be provided to the respondent within ten (10) working days of receipt of the complaint.

The respondent may submit, or decline to submit, a written response to the allegations within ten (10) working days of receiving the complaint or summary thereof; a copy of the response is provided to the complainant within five (5) working days of receipt by Human Resources Services or Student Services, as applicable.

11.2 The Director of Human Resources Services will contact the Coordinator of Human Resources Services when a complaint is filed against a College employee.

11.3 Unless the complainant and respondent have agreed to mediation or other acceptable settlement process, the Director of Human Resources Services will appoint two other members of Management (where possible, of different gender), who are not in direct working relationship, and who are not in a conflict of interest with the complainant or respondent, whether real, potential or perceived, to an investigative panel and will also chair this investigative panel. In cases of a student-to-student complaint, the Director of Student Services will appoint and chair the investigative panel comprised of two other members of Management (where possible, of different gender), who are not in direct working relationship, and who are not in a conflict of interest with the complainant or respondent, whether real, potential or perceived.

Where this is not possible, outside persons may be appointed to the investigative panel.

In certain situations, where warranted, the Director of Human Resources/Student Services may decide to engage an external investigative panel to conduct the investigation and to report its findings to the Director of Human Resources/Student Services.

The investigative panel will begin to hear the complaint within thirty (30) days of receipt (excluding official vacation periods).

11.4 Unless the complaint appears clearly frivolous or unfounded, the investigative panel will conduct an impartial investigation into the allegations made and the response provided if any; both the complainant and the respondent will be advised of their right to be accompanied by a representative of their choice during any meetings with the investigative panel.

Any complaint which appears frivolous or unfounded shall be dealt with in accordance with section 13.2 hereof.

11.5 The investigative panel will:

- collect all the facts relevant to the investigation;
- interview the complainant, the respondent, the witnesses and any other interested parties;
- require that these persons maintain the most strict level of confidentiality and that they sign a confidentiality undertaking or agreement;
- provide a sufficiently detailed account of the exchanges with one party to the other party in order to allow for reply or rebuttal;
- gather all the documents required in support of the facts
- conclude its deliberations and render a detailed confidential report within thirty (30) days of the conclusion of its investigation, as to whether harassment has occurred;
- prepare a written report to be forwarded to the complainant and the respondent;
- issue recommendations to the College with regard to interim measures only, when justified by the circumstances, to prevent the situation from repeating itself while the investigation is ongoing.

ARTICLE 12 - APPEAL PROCESS

12.1 The conclusions of the report are subject to appeal only on the grounds that the conclusions reached were arbitrary or discriminatory, or, if the procedures outlined herein for the handling of the complaint were materially breached.

12.2 Appeals must be submitted to the Director General's office in writing within ten (10) working days of receiving the conclusions of the investigation and must include the specific reasons justifying the appeal. The Director General will address the appeal within ten (10) working days of receiving the request for appeal.

12.3 In the event that the Director General was directly involved in the investigation, the appeal shall be filed with the Director of Human Resources who will name a neutral party from the Board of Governors. The neutral party will address the appeal within fifteen (15) working days of receiving the request for appeal.

12.4 In the event that the Director of Human Resources Services or Director of Student Services were the object of a direct complaint, the complaint shall be filed with the Director General, in the former case, and the Director of Human Resources, in the latter case, who will chair the investigative panel; all other provisions of this policy shall apply, *mutatis mutandis.*

In certain circumstances, at the discretion of the Director of Human Resources, or in the case of a student, the Director of Student Services, it may also be appropriate to appoint an independent external party to oversee the investigation.

12.5 A successful appeal may result in a new investigation into the complaint or a change in the sanctions and/or measures taken. In the case of a new investigation, a neutral investigative panel will be appointed to carry out the new investigation.

ARTICLE 13 - ADMINISTRATIVE AND/OR DISCIPLINARY MEASURES

13.1 In cases where the investigative panel finds that harassment has occurred, the respondent is subject to administrative and/or disciplinary measures.

The Administration will decide on the appropriate measures in accordance with the relevant collective agreement, the Human Resources By-law or the Policy on Student Conduct and Discipline Procedures.

13.2 A complainant determined by the investigative panel to have been dishonest in making a harassment complaint or to have made a malicious complaint is subject to administrative and/or disciplinary measures in accordance with the relevant collective agreements or Policy on Student Conduct and Discipline Procedures.

ARTICLE 14 - CONFIDENTIALITY

14.1 All the persons called upon to intervene or to be interviewed within the context of the above procedures will be held to the strictest confidentiality except where quasi-judicial or judicial proceedings (arbitration hearing or other tribunal) result from or are initiated following the investigation or any administrative or disciplinary measure issued.

14.2 The Director of Human Resources Services and the Director of Student Services are responsible for maintaining the confidentiality of all information they receive in the exercise of their duties under this Policy. The keeping of files, the use of the information contained therein and the destruction of files or parts thereof are subject to the applicable laws governing such matters and the relevant collective agreements.

14.3 The College will keep all files for five (5) years from the time the file is closed and destroy them at the end of this period.

14.4 All reports other than the confidential detailed written report of the investigative panel prepared by any individual and/or committee mentioned in this Policy will identify the parties by number or letter and under no circumstances by name.

14.5 This policy shall not restrict or limit any right or recourse provided under the *Act respecting Access to documents held by public bodies and the Protection of personal information*, the whole in accordance with the terms and conditions contained therein.

ARTICLE 15 - PERIODIC POLICY RENEWAL

15.1 All the practices and procedures set forth in this policy are open to review and re-evaluation. The Director of Human Resources Services will report to the Board of Governors at least every three years on the extent of compliance with the Policy and recommend any necessary changes.

ARTICLE 16 - RESPONSIBILITY FOR APPLYING THIS POLICY

16.1 The Director of Human Resources Services is responsible for the application of this Policy.

ARTICLE 17 - EFFECTIVE DATE

17.1 This policy will come into effect when enacted.