# 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*

## TABLE OF CONTENTS


**ARTICLE 1 - INTERPRETATION ..... 3**

**ARTICLE 2 - SCOPE OF POLICY ..... 4**

**ARTICLE 3 - OBJECTIVES ..... 4**

**ARTICLE 4 - DEFINITIONS ..... 5**

**ARTICLE 5 - RETALIATION ..... 8**

**ARTICLE 6 - RESOURCE PERSONS ..... 8**

**ARTICLE 7 - HARASSMENT AWARENESS COMMITTEE ..... 8**

**ARTICLE 8 - PRELIMINARY PROCESS ..... 10**

**ARTICLE 9 - FORMAL COMPLAINT ..... 12**

**ARTICLE 10 - MEDIATION ..... 14**

**ARTICLE 11 - INVESTIGATION OF FORMAL COMPLAINT ..... 15**

**ARTICLE 12 - APPEAL PROCESS ..... 16**

**ARTICLE 13 - ADMINISTRATIVE AND/OR DISCIPLINARY MEASURES ..... 17**

**ARTICLE 14 - CONFIDENTIALITY ..... 17**

**ARTICLE 15 - PERIODIC POLICY RENEWAL ..... 18**

**ARTICLE 16 - RESPONSIBILITY FOR APPLYING THIS POLICY ..... 18**

**ARTICLE 17 - EFFECTIVE DATE ..... 18**

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

## PREAMBLE

All members of the College community have the right to study, work and learn in an atmosphere which is free of all forms of harassment, abuse of power or violence. To ensure such freedoms, John Abbott College has adopted this Policy which delineates the parameters and procedures for preventing harmful behaviour and addressing serious offences.

The College considers harassment of any kind, abuse of power and violence to be serious offences. 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. All community members are encouraged to take appropriate action if they experience or witness harassing behavior of any kind. Prompt reporting to campus security is encouraged in situations where a person's safety and security may be compromised, particularly in situations where violence is observed.

The College endeavors, at all times, to provide a working and learning environment that is supportive of scholarship, teaching and the fair treatment of all its members. The basis for interaction among all members of the College must be civility, mutual respect, trust, cooperation and understanding insofar as the latter strives to promote and encourage a culture of safety, health and well-being for all community members.

Each member of the College community shall promote and maintain an environment free of harassment, 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* and the *Act respecting Occupational Health and Safety*, CQLR c S-2.1.

## 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 individuals working or studying at the College (whether on campus or off campus, and to activities carried out at the College or under its authority). It also applies to all people 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 calls, electronic messaging platforms, and all types of digital media; all forms of communication, including but not limited to, telephone and computer;

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

2.1.4 social and athletic functions;

(i) In this regard, the College expects all its staff and students to behave in a civil and decent manner, as defined in section 4.10.

(ii) The College also expects staff members and students who participate in any social or special event involving alcohol consumption, whether for work or study, to do so in a moderate and responsible manner that does not harm the organization's reputation.

2.1.5 internships, stage, work-study or exchange programs;

2.1.6 field trips, conferences, training sessions and seminars;

2.1.7 remote work or online College activities, including virtual meetings, online classes, or any other work or study conducted from a distance.

## ARTICLE 3 - OBJECTIVES

3.1 This Policy is intended to counter any form of harassment, abuse of power and violence in order to protect each individual's dignity, their physical and psychological integrity, as well as to 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 that the College prohibits all forms of harassment.

3.3 The College will therefore:

3.3.1 foster an awareness of what constitutes harassment and harmful behaviour, through educational programs;

3.3.2 act upon complaints of harassment promptly, fairly, judiciously through a clear reporting mechanism to ensure that any individual who experiences or witnesses harassment can come forward safely and confidentially;

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;

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

3.3.5 implement preventive measures to reduce the risk of harassment, abuse of power, and violence;

3.3.6 hold accountable any individual who engages in harassment, abuse of power, or violence through appropriate disciplinary measures in accordance with the applicable collective agreement, with College policies including “Policy No.13 Policy on Student Conduct and Discipline Procedures”.

## ARTICLE 4 - DEFINITIONS

4.1 **Harassment** refers to any reprehensible conduct, whether intentional or unintentional, that has the effect of ridiculing, humiliating or demeaning a person. Harassment is usually systematic and repetitive and has an undesirable and detrimental effect; it infringes upon the right to dignity and to physical or psychological integrity. It is generally vexatious, hostile or unwanted, and it is of such nature that it compromises an individual’s legal right or has the effect of creating a harmful work or study environment. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.

4.2 **Discrimination,** whether overt or covert, is unacceptable. Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap. Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

4.3 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.

4.4 **Psychological harassment** refers to any vexatious behaviour manifested by repeated, hostile or unwanted acts, comments, gestures or attitudes, which undermine the dignity or psychological or physical integrity of a student or employee and which creates a harmful work or study environment. A single serious incident of this type that has a lasting detrimental effect on a student or employee can also constitute psychological harassment.

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

4.5.1 contemptuous or condescending attitudes, and the repeated refusal to share information;

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

4.5.3 razzing, humiliation, whether in private, public or online;

4.5.4 degrading propositions;

4.5.5 mobbing gestures, acts, or words which are repeatedly inflicted on an individual.

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

4.7 **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, and/or insinuations by a person in a position of power or authority, which negatively affects the study or work conditions of a student or employee.

Bullying by a person in authority 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 and /or work assignments (stages, program job assignments, etc.) constitutes an abuse of power.

4.8 **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.

4.9 **Cyberviolence and cyberbullying** are online or electronic behaviors that constitute or lead to harm against the psychological and/or emotional, financial, physical state of an individual or group. Cyberviolence/bullying may begin offline and have serious offline consequences. Types of cyberviolence can include the following and may also constitute a legal criminal offence:

4.9.1 harassment - repeatedly sending offensive, rude, and insulting messages;

4.9.2 denigration - distributing information about someone else that is derogatory and untrue by posting it on a webpage, sending it electronically, posting or sending digitally altered or inappropriate photos/videos of someone;

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

4.9.4 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;

4.9.5 doxing - outing personal information - sharing someone's secrets, embarrassing information, and/or intimate texts/photos/videos without their consent;

4.9.6 social engineering- tricking someone into revealing secrets or embarrassing information and forwarding it to others;

4.9.7 extortion and/or blackmail – demanding a benefit (not only money) from someone in return for not revealing compromising or damaging information, including audio, photos and/or videos;

4.9.8 cyber-stalking - repeatedly sending messages that include threats of harm or are highly intimidating, or engaging in other online activities that makes a person afraid for their safety;

4.9.9 online expressions of racism, homophobia, transphobia and misogyny or other forms of discriminatory expression.

To simplify the text, the term "harassment" used in this policy refers to harassment in all its forms, including physical and psychological violence.

4.10 **Management rights** represent "the employer's right to direct its employees and to make decisions to ensure the profitability of its business and the smooth running of its operations."[1] This includes, in particular:

4.10.1 supervising productivity, performance, quality of work, and/or problematic behavior;

4.10.2 managing absenteeism and/or attendance;

4.10.3 imposing disciplinary or administrative measures;

[1] CNESST website [https://www.cnesst.gouv.qc.ca/fr/prevention-securite/milieu-travail-sain/droit-gestion]

4.10.4 assigning tasks and distributing workloads;

4.10.5 ensuring compliance with a collective agreement, regulations, or policy;

Management rights do not constitute psychological harassment insofar as they are not exercised in an abusive, arbitrary, or discriminatory manner, as detailed in sections 4.6 and 4.7.

4.11 **Civility** is defined as a set of rules of conduct aimed at maintaining a healthy, harmonious, and safe work environment for everyone. It is based in particular on respect, courtesy, collaboration, politeness, and communication. The obligation of civility is a cornerstone of interpersonal relationships in the workplace, and failure to respect it can be a risk factor contributing to the emergence of situations of psychological harassment. As such, the College expects every employee to respect their obligation of civility, which stems from the duty of care and diligence of employees, as set out in particular in article 2088 of the Civil Code of Québec[2].

Please refer to Annexes 1 and 2 attached hereto (and forming an integral part of this policy) for additional information and illustrations of what may constitute psychological harassment, incivility and management rights.

## 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. For purposes of clarity, an act of retaliation may include taking an act of reprisal against a person who has made a complaint, cooperated in an investigation, or exercised a right hereunder; a threat of taking an act of reprisal against such a person so that they abstain from making a complaint, cooperating in an investigation or exercising a right hereunder is also considered an act of retaliation.

## ARTICLE 6 - RESOURCE PERSONS

6.1 The Director of Student Services names two Harassment Resource Persons (HRP), with appropriate professional qualifications, from the Counseling Department. Their function is to provide confidential support, information regarding their options and various recourses available to them. They may also provide assistance in lodging a complaint as needed. Their term is one year and renewable. The HRP'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

[2] Hélène OUIMET, *Travail plus : le travail et vos droits*, Montréal, Wilson & Lafleur, 10e éd., 2019, p. 79.

respondent (the person who is the object of the complaint), 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 referrals to psychological support services if appropriate. Students may be referred to campus services, and staff to the Employee Assistance Program (EAP);

6.1.4 to submit an annual report related to use of HRP services, 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 whether the reported case resulted into a complaint under this policy.

6.2 In cases of physical violence, the College will facilitate access to the appropriate medical treatment. In such a case, the HRP must immediately contact campus security and the police for investigation. They must also refer the complainant to the Director of Human Resources Services for employees and to the Director of Student Services for students.

6.3 For guidance in matters of harassment, students should consult the HRP. Staff is strongly encouraged to coordinate with the HRP, notwithstanding other avenues that may initially be used. The HRP does not take part in any decisions about recourse related to a formal complaint. They are available to guide and support complainants through the process. The HRP will help give the parties guidance and/or information on how to reach a resolution.

6.4 The complainant, HRP, 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 is composed of the Coordinator of Human Resources Services, who chairs 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 committee encourages representation and participation of members from diverse perspectives, cultural backgrounds and lived experiences. They are 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 is:

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, 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;

7.2.5 to formulate recommendations for policy revisions and to carry out the required periodic reviews of this Policy and "Policy 24: Concerning the Prevention of Sexual Violence and the Promotion of a Culture of Consent at John Abbott College".

## ARTICLE 8 - PRELIMINARY PROCESS

**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 An individual who feels 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.

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 or manager, if the situation involves a college employee, to discuss the issue and possible solutions;<br>• the option of third party mediation can be considered;<br>• 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;<br>• the option of third party mediation can be considered;<br>• if the issue still remains unresolved, the individual may initiate, through this policy, a formal complaint with Student Services. |

8.2 **Witnesses and Active Bystanders**

If a student or employee of the College witnesses any form of harassment, they are encouraged to initiate bystander intervention and then report the incident to Security if there is physical danger involved. It is strongly suggested that the incident be reported to the Harassment Resource Person (HRP). Witnesses and active bystanders can receive support from Counselling Services (students) or EAP (staff) if requested.

Bystander Intervention is when someone witnesses a situation and chooses to speak out about a person's behaviour and/or language that is inappropriate, abusive and/or creates a danger. Active bystanders must always act with their own safety in mind, as well as the safety of the targeted person or persons. It is important to check in with the targeted person to see if they are comfortable with the intervention, and that the intervention will not put the targeted person in more danger. If there is a significant threat to safety to the targeted person or witnesses, there is a communal responsibility to alert Campus Security.

See Counselling for more information and strategies for active bystanders to use.

8.3 **Proactive Intervention in Cases of Recurring Disclosures**

If a member of the College community receives several disclosures which may indicate a predatory pattern of harassment on or off campus, in the interest of safeguarding members of our College community, some information may need to be shared with the proper authorities (e.g., Security, Director of Student Services, Director General, HR, police, etc.) and a preliminary investigation may be initiated. In such a case, only the information necessary will be shared. Anonymity of survivors/victims or witnesses who have come forward will be protected within the limits of the law.

## ARTICLE 9 - FORMAL COMPLAINT

*Complaint*

9.1 Subject to section 12.4 hereof, a complaint of harassment student-employee must be made in writing to the Director of Human Resources Services or in the case of a student-to-student to the Director of Student Services, within maximum ninety (90) days after the last day of enrollment at the College. For employees, the recourse in the case of harassment at work must be exercised within a period of two (2) years after the last incidence of harassment. All complainants are strongly encouraged to consult the Harassment Resource Person (HRP) 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. The Director of Human Resources or the Director of Student Services, as applicable, shall provide the respondent (the person who is the object of the complaint) with a copy of this policy if the complaint meets the criteria of being admissible.

9.2 The complaint must contain the complainant's full name, phone number and address and be signed by the complainant. The complainant understands that their complaint and contact information may be given to an external investigator mandated by the College to handle it. 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. When the complaint is insufficiently detailed, the College or its representative may collect the missing information from the complainant, if necessary by conducting an interview.

At the request of the complainant, the Harassment Resource Person (HRP) 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.

*Admissibility*

9.3 Prior to investigating a complaint in accordance with Article 11 hereof, the Director of Human Resources or the Director of Student Services, or respective delegate as applicable, will examine whether the formal complaint reaches the threshold for harassment admissibility, as defined in Annex 1 (Guide for analyzing the admissibility of a psychological harassment complaint). A complaint is admissible "as such" if, on its face, the alleged facts, taken in their temporal and organizational context, and the partial evidence submitted, present a sufficient appearance of psychological harassment to justify the opening of an investigation into psychological harassment. A complaint that does not meet the required definitional elements of harassment in accordance with Annex 1, shall be considered not admissible and therefore cannot be investigated under Article 11 hereof.

9.4 If the complainant disagrees with the admissibility decision, they may request a review within 10 working days of the decision. A second qualified reviewer may then be appointed by the Director General. The reviewer will assess the original complaint and the rationale provided. The second reviewer will issue their own determination regarding admissibility. In case of disagreement between the original decision and the reviewer's decision, the examination of admissibility may be outsourced to an external investigator, who will report their findings to the Director of Human Resources/Student Services, as applicable. If the determination of admissibility is outsourced, section 9.4 does not apply.

9.5 In all cases where a complaint is deemed not to meet the threshold for harassment admissibility, the Director of Human Resources/Student Services or the designated reviewer shall document the rationale for inadmissibility in accordance with Annexes 1 and 2, and submit the recommendations considered appropriate to support resolution of the acts or events that led to the complaint under this policy to all parties that have the functional authority or may be affected. As such, this approach cannot constitute a violation of the College's obligations regarding the confidentiality of the process set out in the provisions of Article 14 herein.

If the complaint is deemed admissible, the decision will be sent to the complainant, and the appropriate process will be initiated as per Articles 10 and 11 herein.

9.6 To preserve the integrity of the process, the reputation of those involved, and the work environment, any approach aimed at obtaining information, advice, or reporting a situation that may constitute psychological harassment is treated confidentially by all those involved, even before a formal complaint is filed. Those involved in these approaches are required to exercise discretion and limit the dissemination of information to only those individuals necessary to address the situation. 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. Therefore, the parties must exercise discretion and confidentiality and refrain from discussing the matter with their colleagues. They must also refrain from discussing the process with witnesses or potential witnesses, particularly to avoid compromising their testimony.

9.7 All parties involved in receiving and processing a complaint are required to act in accordance with College Policy No. 8 (Code of Ethics for College Employees) and to take all appropriate measures to mitigate or eliminate any risk of conflict of interest.

## ARTICLE 10 - MEDIATION

10.1 Mediation is a 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, the College and/or a government body.

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 and deemed admissible in view of the process established in sections 9.2 and following, the respondent is informed by being provided with a summary of the complaint highlighting pertinent facts as outlined in section 9.3 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 (may be subject to different delays when outsourced).

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 of such response.

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 or the Director of Student 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, panel membership diversity is recommended), 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.

In certain situations, where warranted, the Director of Human Resources/Student Services may decide to engage an independent third party with or without the participation of the Director of Human Resources/Student Services and members of management 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 absences and vacation periods).

11.4 The investigative panel (or the outsourced independent third party, as applicable) 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.

The College is committed to providing adequate and continuous training to the pool of possible panelists, including Supervisors/Managers.

11.5 When the Director of Human Resources or the Director of Student Services is personally involved in a situation that is the subject of a complaint (in particular as the respondent, a witness, or because of a relationship of interest or kinship), the handling of the complaint is entrusted to the Director General, in the first case, and to the Director of Human Resources, in the second case, who will chair the commission of inquiry; all other provisions of this policy apply, *mutatis mutandis*.

## ARTICLE 12 - APPEAL PROCESS

12.1 The conclusions of the report contemplated in section 11.4 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 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.

An appeal may be rejected if it does not meet the established criteria. In such cases, a written response will be issued.

## 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 The College undertakes to take all reasonable steps to ensure the confidentiality of information and the identity of the persons involved, unless such information is necessary for the proper conduct of this process or for the follow-up to be made to any complaint, admissible or not, including the imposition of any administrative and/or disciplinary measure. As such, 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 in accordance with the College's retention schedule.

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* (CQLR, c. A-2.1), the whole in accordance with the terms and conditions contained therein.

14.6 This policy shall not restrict or limit any right or recourse provided under the *Act to facilitate the disclosure of wrongdoings relating to public bodies* (CQLR, c. D-11.1) and the *Act respecting protection against reprisals related to the disclosure of wrongdoings* (CQLR, c. P-33.01), 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 comes into effect when enacted.

**ANNEX I**

**Policy No. 4, Art. 9**

# Guide for analyzing the admissibility of a psychological harassment complaint

This tool aims to explain in a transparent manner how the admissibility of a complaint is determined under Policy No. 4, as well as the circumstances for initiating an investigation, as provided for in Articles 9 and 11 thereof.

## 1. What is an admissibility analysis?

The admissibility analysis consists of verifying whether the alleged facts could reasonably represent a situation of psychological harassment if they were demonstrated, in accordance with the terms and conditions set out in section 9.3 of the Policy.

## 2. What is the purpose of an admissibility analysis?

It is used to determine whether the allegations present, on their face, a sufficient appearance of psychological harassment to warrant continuing to deal with the complaint through the investigation mechanism provided for in Policy No. 4.

There will be a sufficient appearance of psychological harassment when, in light of the applicable law, a competent, impartial and objective person would conclude that "if the facts alleged were proven", it would be reasonably possible that it would be harassment. It is not a question of certainty, but of reasonable probability.

## 3. What are the criteria on which an admissibility analysis is based?

The analysis focuses on compliance with the technical conditions set out in Policy No. 4 and the substantive conditions prescribed by it, as well as the applicable legislation and jurisprudence.

A complaint is generally considered admissible when, cumulatively:

- ✓ The behaviour, words, actions or gestures complained of are of a hostile or unwanted nature;
- ✓ There is the occurrence of vexatious conduct either because the behaviour is repeatedly demonstrated or because a single incident is sufficiently serious to cause harm and lead to continuous harmful effect;
- ✓ The behaviour(s) constitute an infringement of the dignity or psychological or physical integrity of the complainant;
- ✓ The alleged facts result in a harmful work or study environment for the complainant;
- ✓ A complaint relating to psychological harassment is filed:
    - Within two (2) years of the last manifestation of the vexatious conduct, for an employee;
    - Within ninety (90) days of the last day of enrollment at the College, for a student



It should be remembered that at this stage, it is not determined whether the facts are proven.

## 4. Admissibility analysis grid

| CRITERION | QUESTION TO ASK YOURSELF | EXAMPLE THAT MAY BE ADMISSIBLE | EXAMPLE GENERALLY NOT ADMISSIBLE |
|---|---|---|---|
| **Sufficient description of the facts** | **Does the complaint concern the complainant directly?**<br>**Do the allegation(s) contain verifiable facts, as opposed to perception solely (without intent, inference, or interpretation)?**<br>**Are the alleged facts attributable to a natural person (can be named)?**<br>**Are the alleged facts plausible, probable and able of being verified?** | The dates, places, reported statements and witnesses are mentioned in the complaint. | My manager is "toxic" and I feel like he doesn't like me. |
| | | | A member of staff disrespects me and he behaved this way to my sister who once studied at the College. |
| **Nature of the behaviours** | **Could the behaviours described be hostile or unwanted?** | An employee repeatedly makes degrading remarks towards a colleague. | An employee makes an awkward isolated comment. |
| | | The counsellor told me in front of other students that I was incapable of completing this program. | I don't like the attitude of the advisor, I find him cold. |

| CRITERION | QUESTION TO ASK YOURSELF | EXAMPLE THAT MAY BE ADMISSIBLE | EXAMPLE GENERALLY NOT ADMISSIBLE |
|---|---|---|---|
| **Repetition or severity** | **Are the facts repetitive or serious enough?** | An employee openly expressed humiliating criticism repeated for several months. | A superior has expectations of know-how or interpersonal skills. |
| | | Several times this semester, the teacher made fun of my questions in class. | Once, the teacher answered my question abruptly. |
| **Violation of dignity** | **Does the complaint allege an infringement of dignity or psychological integrity?** | An employee claims he is feeling humiliated and isolated after several incidents. | An employee says that there is a professional disagreement about how to do a job. |
| | | The teacher called me lazy in front of my classmates | When the assignments were handed in, the teacher made a recommendation to the whole group to correct an exercise that I did not pass. |
| **Connection to work or study environment** | **… Does the situation then lead to a harmful work or study environment?** | An employee openly denigrates her colleague during team meetings. | A personal conflict exists between two colleagues outside of work without impact on the work or the work climate. |
| | | In several classes during the session, the teacher denigrated my answer in front of the whole class | I heard that this teacher speaks badly of students. |
| **Prescription** | **Was the complaint filed within the delays prescribed?** | The complaint contains facts dating back more than five years, but the last manifestation of the conduct occurred two months before the complaint was filed | The complaint contains facts dating back ten years, but the most recent manifestation of the alleged conduct dates back three years. |

## 5. Possible Outcome of the Analysis

Admissible complaint ⇨ Initiation of an investigation into admissible allegations or other appropriate process.

Inadmissible complaint ⇨ The Human Resources Department or Student Services determines the appropriate way to handle the information submitted in the complaint.

## 6. Process

It should be noted that the admissibility analysis is only intended to verify whether the alleged facts could constitute psychological harassment if they were demonstrated. As such, Policy No. 4 sets out, in clause 4.4, the definition of psychological harassment similar to that provided for in the Act respecting labour standards[1]:

> "Psychological harassment refers to any vexatious behaviour manifested by repeated, hostile or unwanted acts, comments, gestures or attitudes, which undermine the dignity or psychological or physical integrity of a student or employee and which creates a harmful work or study environment. A single serious incident of this type that has a lasting detrimental effect on a student or employee can also constitute psychological harassment."

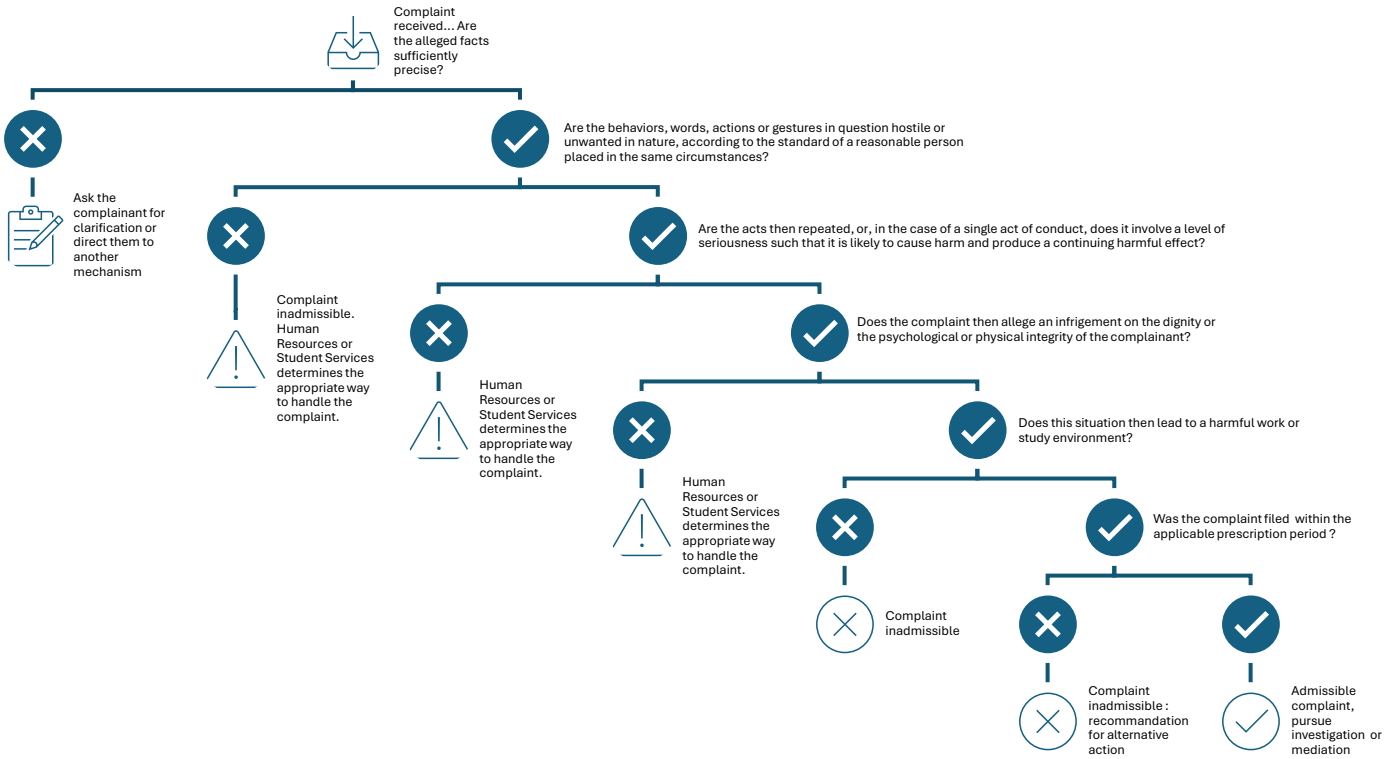
Sections 4.1 and 4.2 of Policy No. 4 also states:

> " Harassment refers to any reprehensible conduct, whether intentional or unintentional, that has the effect of ridiculing, humiliating or demeaning a person. Harassment is usually systematic and repetitive and has an undesirable and detrimental effect; it infringes upon the right to dignity and to physical or psychological integrity. It is generally vexatious, hostile or unwanted, and it is of such nature that it compromises an individual's legal right or has the effect of creating a harmful work or study environment. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment. Discrimination, whether overt or covert, is unacceptable. Every person has a right to full and equal recognition and exercise of his human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or

[1] *Act respecting labour standards*, CQLR c N-1.1, s. 81.18

the use of any means to palliate a handicap. Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right. “

The Policy also specifies that a "complaint is admissible 'as such' if, on its face, the alleged facts, taken in their temporal and organizational context, and the partial evidence submitted, present a sufficient appearance of psychological harassment to justify the opening of an investigation into psychological harassment"




The College encourages open and respectful dialogue and early intervention in all situations, whether they constitute situations of incivility, conflict or harassment. This can be by way of bystander intervention, discussing or seeking support from one’s supervisor, HRP, facilitation.

**ANNEX II**

**Policy No. 4**

# The components of psychological harassment and its risk factors

The examples below are intended to support the understanding of the distinction between psychological harassment, incivility and certain situations that are more related to normal management or interpersonal conflict.

*Note: The examples are provided for illustrative purposes only and should always be analyzed in context.*

| May constitute psychological harassment (depending on the context) | May constitute incivility* | Generally does not constitute harassment (management** or normal conflict) |
|---|---|---|
| Ridiculing or humiliating a person in front of their co-workers | Interrupt in meetings | Impose deadlines or work objectives** |
| Spreading rumours or systematically denigrating a person | Making a comment about a colleague when not in their presence | A punctual interpersonal conflict |
| Isolating or excluding a person from communications essential to their duties | Failing to greet a person | Adjust tasks or work priorities** |
| Threatening or intimidating someone | Raising the tone in a discussion | Applying a justified disciplinary measure** |
| Constantly criticizing or devaluing a person's skills | Making a negative unconstructive comment | Express performance expectations or correct an employee's work** |
| Making discriminatory, sexist, or racist comments | Use a sarcastic or derogatory tone | Reorganize a service/department or redistribute responsibilities** |
| Insistent sexual advances or unwanted physical contact | Using rude or disrespectful language | A professional disagreement over working methods |

**Important: Isolated behaviour can sometimes constitute harassment if it is severe enough that it is likely to cause harm and have a continuing harmful effect on the complainant. Similarly, objectively unwanted behaviours, although harmless, when repeated, can over time become psychological harassment.**

## *The obligation of civility

In order to meet its duty of prevention under the *Act respecting labour standards*[2], among other things, the College expects each employee to respect their duty of civility, which is based on the duty of care and diligence of employees[3]. This refers to "a set of attitudes that promote communication, productive exchange, dialogue and cooperation between the members of the company".[4] Examples of expected civility behaviours include:

| | | |
|---|---|---|
| **Courtesy** | Greet colleagues and adopt a respectful tone in exchanges. | Listen to others without interrupting them and give them space to express themselves |
| **Politeness** | Use appropriate greetings (Hello, thank you, please). | Take responsibility when a behavior may have disturbed or interrupted someone. |
| **Respect** | Address others with consideration, even when you disagree. | Recognize the contributions and skills of colleagues. |
| **Collaboration** | Share relevant information to facilitate teamwork. | Participate in discussions and projects in a spirit of cooperation. |
| **Openness** | Welcoming different points of view by active listening and showing respect. | Be willing to consider the suggestions and concerns expressed by others. |

The obligation of civility is a foundation of interpersonal relations at work, and its non-compliance can constitute a risk factor favouring the emergence of situations of psychological harassment.

## **The right of management or direction

The exercise of management responsibilities does not constitute psychological harassment where such responsibilities are carried out appropriately and legitimately, and do not compromise or hinder a person's employment or studies, nor cause harm to the ability to work.

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2 LNT, precit. note 1, s. 81.19

3 Hélène OUIMET, *Work Plus: Work and Your Rights*, Montreal, Wilson & Lafleur, 10th ed., 2019, p. 79.

4 Jean-Yves BRIÈRE, Fernand MORIN, Dominic RIOUX and Jean-Pierre VILLAGGI, *Employment law in Quebec*, Montreal, Wilson & Lafleur, 4th ed., 2010, II-104.