

HOLLAND COLLEGE

ADMINISTRATIVE REGULATION

Category: HEALTH, SAFETY & SECURITY
Topic: HARASSMENT & DISCRIMINATION
Code: 30-01-1
Effective Date: January 14, 2021 **Revision:** THREE
Approved by: Sandy MacDonald, President of Holland College

1. PURPOSE:

1.1 To provide a process for dealing with complaints of harassment and discrimination within Holland College.

2. SCOPE:

2.1 All complaints of harassment and discrimination as defined in the “Definitions” section of this process, that occurs on Holland College premises or during any College-related activities.

2.2 This regulation applies to all members of the College community including: all employees, governors, students, contractors, suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors.

3. RELATED POLICIES, FORMS & DOCUMENTS

3.1 Board Policy [30-01](#) – Respectful Learning and Work Environment

3.2 Board Policy [30-02](#) – Sexual Violence Policy

3.3 Board Policy [20-12](#) – Confidentiality and Reporting of Confidential Information

3.4 Board Regulation [30-02-1](#) – Sexual Violence Protocol

3.5 Administrative Regulation [30-04-3](#) – Crisis Management

3.6 Quality Form [004.pdf](#) ([004.docx](#)) - Harassment/Discrimination Complaint Form

3.7 Quality Form [016.pdf](#) ([016.docx](#)) – Sexual Incident Report Form

3.8 [P.E.I. Human Rights Act \(PEI Human Rights Commission\)](#)

3.9 [Occupational Health and Safety Act Workplace Harassment Regulations](#)

3.10 [Post-secondary Institutions Sexual Violence Policies Act](#)

3.11 [Holland College Counselling Services](#)

3.12 Holland College Employee Assistance Program ([EAP brochure](#) – requires login to SAM or [ADP](#))

3.13 Promoting a Respectful Learning & Working Environment ([pdf presentation](#))

3.14 Promoting a Respectful Learning & Working Environment ([Brochure](#))

3.15 [Sexual Violence Sexual Harassment FAQ](#)

4. DEFINITIONS:

4.1 College-Related Activity:

The College defines College-Related Activity as any activity that occurs as a part of:

- a)** a College program/course;
- b)** other College training events;
- c)** any recreational or social activity sanctioned by the College; or
- d)** any other business function of the College.

The above apply whether such activities occur on College premises or elsewhere.

4.2 Complainant:

A member of the Holland College community who, in accordance with this regulation and associated policy, has made a complaint of harassment and/or discrimination.

4.3 Discrimination:

The College defines discrimination to include any action to limit an individual's or group's access to employment, education, training, goods, services, facilities, activities, contracts, accommodation or membership in a voluntary or trade association based on any of the protected grounds set out in College Policy [30-01](#) and the Prince Edward Island Human Rights Act. Discriminatory action often takes the form of unfavourable differential treatment of one individual by another or the exclusion or restriction of individuals or groups, or harassment of an individual or group.

4.4 Harassment:

Holland College expressly adopts the definition of harassment articulated by the PEI Occupational Health and Safety Act Workplace Harassment Regulations, i.e. any inappropriate conduct, comment, display, action or gesture or any bullying that the person responsible for the conduct, comment, display, action or gesture or the bullying knows, or ought reasonably to know, could have a harmful effect on a worker's psychological or physical health or

safety, and includes conduct that is based on any personal characteristics such as, but not limited to, race, creed, religion, colour, sex, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin, gender identity or pregnancy.

Sexual Harassment: (sexual harassment is a form of sexual violence and is covered under BR-[30-02-1](#) – Sexual Violence Protocol)

4.5 Respondent:

The person who the complainant is alleging committed an act of harassment and/or discrimination.

5. RESPONSIBILITIES:

5.1 President: for overall operation of this regulation and in the event that any College employee who has been assigned a responsibility or role under this regulation cannot act, for whatever reason, the President shall appoint another College employee to assume their responsibility or role for such period or with respect to such complaints as the President deems advisable.

5.2 Vice President Corporate Services, Strategic Development and Stakeholder Relations (VP-CSSDSR):

- a)** for arranging the investigation of complaints and imposing sanctions as required; and
- b)** for ensuring that the complainant or the respondent, when they are an employee, are advised of the availability of College Employee Assistance Program (EAP) or other external assistance programs.

5.3 The Assigned Member of College Management: (referred to in this process as **AMCM**) for receiving and reviewing procedural appeals.

5.4 Manager of Student Services & Athletics/Professional Counselors: for ensuring that the complainant or respondent, when they are a student, are advised of the availability of College counseling services or external assistance programs.

5.5 Investigator: for conducting the investigation into the complaint and making the report.

5.6 Holland College Employees: for reporting any incidents of harassment or discrimination.

6. PROCESS:



This symbol identifies an Inherent Quality Concern (IQCrn). An IQCrn is a point in a process where a failure to complete a step creates the opportunity for a problem to occur. Outside of correctly completing the process step, no other action is required. The act of completing that step and sometimes subsequent steps is essentially managing a potential risk. See [Risk Management of the Complaint](#).

GENERAL

6.1 This process covers the receiving and investigating of incidents involving discrimination and/or harassment (excluding sexual harassment, which is covered in [BR-30-02-1](#)).

Please note: The College reserves the right to determine the classification of a particular incident and how it will be investigated. Use of a form to report an incident does not pre-determine the College's response.

6.2 Incidents which occur on College premises or as part of a College-Related Activity, that are considered to be criminal in nature should be reported to the appropriate police agency and must be reported to the Vice President Corporate Services, Strategic Development and Stakeholder Relations (VP-CSSDSR).

6.3 With the exception of sexual violence, all other violent incidents relating to the College must be reported by completing a QF184. The completed form is forwarded to the Director of Facilities. If the survivor or others are unwilling to complete the form, the Director of Facilities will complete a QF184 (Holland College Violent Incident Report). Any investigation of such incidents will proceed in cooperation with the investigating police agency.

6.4 This process does not affect an individual's right to file a complaint with the PEI Human Rights Commission, or to use the grievance process of any relevant collective agreement, or to proceed in any other manner determined to be appropriate by the complainant.

6.5 The Holland College complaint process must begin no later than twelve (12) months from the date of the most recent alleged incident, and not later than twelve (12) months after a student completes or leaves a program or an employee ceases employment with the College.

6.6 Any employee, student or other person associated with College operations may register a formal complaint when an actual or perceived condition of harassment or discrimination is experienced.

7. CONFIDENTIALITY:

- 7.1** Maximum confidentiality is required so that those who have experienced harassment and/or discrimination may feel free to come forward and their individual integrity may be protected throughout the process.
- 7.2** To protect the interests of the complainant, respondent and any others who may report incidents of harassment or discrimination, the name of the complainant, the name of respondent, the name of the person who reports such an incident, and the circumstances related to the complaint or report will be kept confidential except where disclosure is required by law, or is necessary for the purposes of investigating the complaint or report, taking disciplinary measures in relation thereto, or reporting the incident to the appropriate authorities.
- 7.3** All records of complaints, including contents of meetings, interviews, results of investigations and other relevant material will be kept confidential by Holland College except where disclosure is required by law, or is necessary for the purposes of investigating the complaint or reporting the incident to the appropriate legal authorities.

8. FUNDAMENTAL PRINCIPLES:

- 8.1** In establishing Regulations and Procedures for dealing with allegations of harassment or other discriminatory treatment, the College is guided by the following principles:
 - a)** Every employee, student, and every person engaged in employment, education, or College-related activities, is entitled to be free of all forms of harassment and discrimination.
 - b)** The College will make every reasonable effort to ensure that no employee, no student, and no person engaged in College-related activities is subject to any form of harassment or discrimination.
 - c)** The College will take such disciplinary or other measures as it considers appropriate against any employee, student, or other person engaged in College-related activities who subjects any employee or student of the College, or any person engaged in College-related activities to any form of harassment or discrimination, or who threatens or carries out any reprisal against any person who may or has made a complaint under this regulation, or who has or may participate in any aspect of the complaint process.


- d) Any employee, student, or other person engaged in College-related activities has recourse to the alleviating provisions of these regulations, the P.E.I. Human Rights Act, or any other form of legal redress that may be available to them, without reprisal or fear of reprisal in any form for doing so.
- e) The prevention of harassment and other discriminatory treatment at the College and in the broader community through a process of providing education and information is a necessary and important part of College policy.
- f) It is the College's belief that attempts should be made to resolve alleged cases of harassment and discrimination, where appropriate, before laying a formal complaint and that in resolving such allegations, principles of fairness shall apply.

9. THE COMPLAINT PROCESS:

- 9.1** The complainant may approach any member of the College staff with whom they feel comfortable to discuss the complaint.
- 9.2** Every possible effort should be made to resolve an issue at the most effective level and as directly as possible. However, a complainant may choose to register a formal complaint without resorting to any informal attempts at resolution.
- 9.3** The VP-CSSDSR will provide information regarding informal resolutions. Participation in the informal resolution process is completely voluntary and either party may withdraw at any time. If either party chooses to withdraw from the informal resolution process, the complainant may choose to pursue a formal complaint resolution.
- 9.4** The Quality Coordinator and/or the Human Resources Department may be consulted to provide guidance in the implementation of this process.
- 9.5** The staff member may refer the complainant to the appropriate external counseling resource for emotional support. More information regarding available resources and supports is available [here](#).
- 9.6** At any stage of the complaint process the complainant or respondent may have a support person present. The support person cannot have had any direct involvement in, or have been a witness to, the incident.
- 9.7** If efforts to resolve the situation to the satisfaction of the complainant fail or are inappropriate for the given situation, the complainant has the option of initiating a formal complaint by

completing and submitting a [QF004](#) (see a Formal Complaint Initiated, below).

9.8 Initiating a harassment or discrimination complaint does not affect an individual's right to file a complaint with the PEI Human Rights Commission, or to use the grievance procedure of any relevant collective agreement, or to proceed in any other manner determined to be appropriate by the complainant.

9.9  A member of the College faculty, management (any individual who is in a staff supervisory role) or administrative staff, who becomes aware of any incidents of harassment or discrimination within the College community, where it is safe to do so, must intervene and attempt to remedy the situation. If unable to remedy, or if consultation is required, report the incident to the VP-CSSDSR.

10. THE COLLEGE AS THE COMPLAINANT:



10.1 In certain cases, the College may decide to proceed with a complaint without the permission of the complainant(s) if:

- a)** repeated complaints about the offending party(ies) have been received;
- b)** an individual is at imminent risk of self-harm;
- c)** an individual is at imminent risk of harming another;
- d)** there are reasonable grounds to believe that others in the College or wider community may be at risk of harm;
- e)** there is a requirement to report under the Occupational Health & Safety Act; and/or
- f)** the College is advised by legal counsel to do so.

10.2 In these cases, the College becomes the complainant in pursuing formal resolution and the VP-CSSDSR will make the complaint on behalf of the College.

11. FORMAL COMPLAINT INITIATED:

11.1 Although the College encourages settlement of complaints at any stage of the process, when the spontaneous or informal response does not result in a satisfactory resolution to the issue, the complaint may be formally addressed by submitting a formal complaint. Any employee, student or other person engaged in College-related activities may register a formal complaint when an actual or perceived condition of harassment or discrimination is experienced.

- 11.2** A formal complaint of harassment or discrimination is initiated by completing Quality Form [004](#) and submitting it to the Office of the President.
- 11.3** Upon being notified of an incident involving harassment or discrimination, the President will take the appropriate action deemed necessary, including providing guidance regarding supports, the extent to which confidentiality may be maintained, and how Holland College will respond to the information received.
- 11.4** If it is determined that the complaint falls within the scope of this process, the complaint will be logged and assigned a serial number. A copy of the complaint will be forwarded to the VP-CSSDSR.
- 11.5** The VP-CSSDSR will strive to balance the complainant's wishes (including the decision to investigate the incident) with the College's need to take appropriate action to promote a safe working and learning environment.
- 11.6** The VP-CSSDSR will:
- a)** designate a College Representative to speak with the alleged offender and provide them with a copy of the complaint form; and
 - b)** in consultation with the President, identify a member of College Management ([AMCM](#)) who would receive and review any procedural appeals that may result from the complaint and notify them that a formal complaint has been received.
- 11.7**  The College Representative who has been asked to speak with the alleged offender will:
- a)** provide them with a copy of the complaint form and any supporting documents, as well as an invitation to provide a written response to the allegations;
 - b)** explain to them that they should refrain from any contact with the complainant;
 - c)** if they are a student or a member of College staff, provide them with information on counseling services or other forms of assistance that may be available to them; and
 - d)** provide them with a copy of this process and explain the process that will be followed.
- 11.8**  The [AMCM](#) for this complaint will not be provided with any information regarding the nature or the circumstances of the

complaint until the matter has reached final resolution to the satisfaction of all parties, or until they receive the request for a procedural review.

12. INVESTIGATION:

12.1 The VP-CSSDSR will ensure all investigations are conducted by legal counsel or other individual(s) who have received training in investigating complaints of this nature.


12.2 The VP-CSSDSR will appoint an investigator and arrange for an investigation.

12.3 When an investigator is assigned, the investigator takes charge of the complaint for the College until they have completed their investigation and submitted their report. The investigator must be given full authority to fully investigate the allegation(s) that have been made.

12.4 At any time during the course of an investigation where police are not actively involved, the investigator may recommend to VP-CSSDSR that the matter be reported to the police.

12.5 The role of the College appointed investigator is to provide a report to the VP-CSSDSR so they can decide on the College's response to the allegations. Where other authorities (ex. police, OH&S) are also conducting an investigation into the same incident, the investigator shall cooperate with those investigations.

12.6 The investigator submits their report to the VP-CSSDSR who will render a decision on behalf of the College. When other external investigations into the incident are still on-going, the VP-CSSDSR will render a decision while reserving the right to revise the decision pending the outcome of the other investigations.

12.7  The VP-CSSDSR will provide a written decision to both the complainant and the respondent.

12.8 If the complainant and/or the respondent believe that due process has not been followed, they may appeal to the [AMCM](#) for a procedural review. The written request must clearly describe the reasons for the review and provide any relevant documentation.

13. PROCEDURAL REVIEW:

13.1 Upon receiving a request for a review, the [AMCM](#) will:

- a)** request the file on the case;
- b)** review the relevant documentation;
- c)** within eight (8) working days of receiving the request decide:

- (i) if the process followed met the requirements of the process, or;
- (ii) there is evidence to suggest the process was not followed and request the VP-CSSDSR to re-open the case; and
- (iii) communicate the decision, in writing, to the relevant parties.


13.2 An extension to the timelines for procedural review may be granted in extenuating circumstances

14. SANCTIONS:

14.1 When a complaint of harassment, or discriminatory treatment is proven, the VP-CSSDSR is responsible for making a decision regarding the appropriate sanction for the offence(s) and for ensuring that any disciplinary action is imposed against the offending party.

14.2 If it is proven that the allegations of harassment or discriminatory treatment are frivolous or vexatious, disciplinary action against the complainant will follow.

14.3 The disciplinary action shall be commensurate with the scope and severity of the occurrences. Potential sanctions may include reprimand, warning, probation, suspension, demotion, expulsion, termination or exclusion from the College's premises.

14.4  Cases which involve an immediate threat to the safety of either students or staff will be dealt with immediately through a formal discipline process.

15. MANAGEMENT RESPONSIBILITIES:

15.1 Management, which includes members of the Management Executive Committee, are responsible to:

- a) communicate to all members of the College community the College's policy documents regarding a respectful learning and work environment;
- b) monitor the implementation and effectiveness of College policy regarding a respectful learning and work environment and make recommendations as necessary;

15.2 The President has delegated responsibility for overseeing the implementation of these Regulations and the related procedure to the VP-CSSDSR.

16. EDUCATION AND TRAINING:

The VP-CSSDSR shall establish educational initiatives within the College in order to educate members of the College community regarding all aspects of harassment, and discrimination, including the significance and consequences, and shall require training sessions for instructional and management personnel where necessary.

17. CONTRACTORS:

All contractual relationships entered into by the College will be governed by a standard contract compliance clause stating that contractors must comply with this Policy and the PEI Human Rights Act, including co-operating in investigations. Breach of the clause may result in penalties, cancellation, or other sanctions.

18. RECORDS:

18.1 Initially and while any investigation or other process is underway, all records will be maintained by the VP-CSSDSR. The Office of the President is notified that a file has been opened so an official case serial number can be assigned.

18.2 When the case is closed the complete confidential file will be delivered to the Office of the President for storage. When the file remains open for longer than two (2) months, monthly status updates will be provided to the Office of the President.

19. RISK MANAGEMENT OF THE COMPLAINT:

19.1 A Quality Concern is a condition, situation, or circumstance that creates the opportunity for a problem to occur. Receiving a complaint raises the question that a "Quality Concern" may exist. Generally, in the case of a complaint something has already happened, however a Quality Concern should still be considered.

19.2 Applying the Risk Management Protocol (RMP) to the complaint provides an opportunity to assess it from a risk perspective, implement corrective action, and identify any opportunity for improvement.

19.3 Risk management of a complaint does not change the process for handling of complaints. The process for handling complaints described in this document is essentially a risk management process. What is new is the focus on handling any concerns and risk that may be associated with the complaint.

19.4 At any time during or after the investigation of a complaint, if a Quality Concern or an opportunity for improvement is identified the RMP is applied. Starting a RMP process does not affect the

complaint handling process. The goal of initiating a RMP at any time is to address the Quality Concern or opportunity that has been identified in an expeditious manner.