

PARKLAND COLLEGE	CATEGORY D	PERSONNEL AND EMPLOYEE RELATIONS
ANTI-HARASSMENT	OPR D-20.0	APPROVED: OCTOBER 9, 2012 REVIEWED: OCTOBER 27, 2016

## POLICY STATEMENT

Parkland College is committed to providing a harassment free environment where College employees, students and Board members are treated in a fair, dignified, and respectful manner. Since the College's harassment free environment depends on mutual respect and co-operation among members of its community, harassment involving students, in-scope employees, out-of-scope employees and Board members will not be tolerated.

## GUIDELINES

1. The Anti-Harassment should comply with the requirements of the Saskatchewan Human Rights Code, Occupational Health and Safety Act, and Article 22 of the Collective Bargaining Agreement between Parkland Regional College and Saskatchewan Government and General Employees' Union, which support the right of students, employees and Board members to have a harassment free work environment.
2. The following harassment guidelines adhere to Occupational Health and Safety Regulations and incorporate the Occupational Health and Safety Act definition of Harassment. Harassment is defined as any objectionable conduct, comment, or nonverbal display by a person that:
  - i) is directed at a student, employee or Board member;
  - ii) is made on the basis of age, sex, race, creed, color, religion, disability, nationality, family status, marital status, sexual orientation, physical size or weight, ancestry or place of origin; and
  - iii) constitutes a threat to the physical or emotional wellbeing, health, or safety of the student, employee or Board member."

Together, items i), ii), and iii) constitute harassment. However, as a preventative measure, a complaint involving only items i) and ii) will be treated in the same manner as a harassment complaint.

Lack of intent does not excuse harassment. It is the adverse effect the alleged harassment has on the victim, not the intent of the alleged harasser, which determines a case of harassment. The "Reasonable Person Standard," established by Canadian Case Law, describes harassment, as behaviors that a reasonable person ought to have known would be unwanted and unwelcome.

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Social interaction between people based on a position of equality and/or mutual consent does not constitute harassment.

Harassment can include, but is not limited to the follow examples:

- unwelcome remarks, jokes, innuendos, or taunts causing embarrassment or offence
- displaying objectionable materials, graffiti, or pictures
- insulting gestures, jokes, disparaging written materials
- unwelcome sexual advances, propositions or inquiries and/or comments about a person's sex life
- unwanted contact or attention (may be one time only or persistent)
- inappropriate touching
- shunning and ostracizing
- threats, bullying, coercion, and isolation
- actual or threatened physical assault
- verbal assault
- malicious gestures or actions
- stalking
- leering

Harassment includes objectionable conduct, comment or display made on either a one-time or continual basis that demeans, belittles, disparages or causes humiliation to a person and that is known, or reasonably ought to be known to be unwelcome. It is objectionable conduct or comment, directed towards a specific person or persons, which has no legitimate work purpose. It may have effect of creating an intimidating, hostile or offensive work environment, impacting the individual's ability to work and learn. Harassment may or may not be intentional. The impact on the recipient and the workplace is a measure of whether or not the harassment has occurred.

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**Sexual harassment can consist of:**

- unwanted attention of a sexually-oriented nature;
- an implied or expressed promise of reward for complying with a sexually-oriented request; and/or
- an actual reprisal or implied or expressed threat of reprisal, including the denial of opportunity, for refusal to comply with a sexually-oriented request; and/or
- sexually oriented remarks or behaviour which may reasonably be perceived to create a negative working and/or learning environment.

**Racial/Ethnic harassment can consist of:**

Offensive comments and/or actions and/or exclusion from that to which a person(s) would otherwise have a right or privilege, which demean and belittle an individual(s) and/or cause personal humiliation on the basis of race, creed, religion, colour, place of origin, citizenship and/or ancestry.

**Gender harassment can consist of:**

Offensive comments and/or actions and/or exclusion from that to which a person(s) would otherwise have a right or privilege, which demean and belittle an individual(s) and/or cause personal humiliation on the basis of gender.

**Disability harassment can consist of:**

Offensive comments and/or actions and/or exclusion from that to which a person(s) would otherwise have a right or privilege, which demean and belittle an individual(s) and/or cause personal humiliation on the basis of a disability.

**Sexual Orientation harassment can consist of:**

Offensive comments and/or actions and/or exclusion from that to which a person(s) would otherwise have a right or privilege, which demean and belittle an individual(s) and/or cause personal humiliation on the basis of sexual orientation.

**Personal harassment can consist of:**

Offensive comments and/or actions and/or exclusion from that to which a person(s) would otherwise have a right or privilege, which demean and belittle an individual(s) and/or cause personal humiliation.

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**Retaliation is a form of harassment that can consist of:**

Reprisals or threats made to a person who has confronted and/or reported an alleged harasser or been identified as a victim of harassment.

**ANTI-HARASSMENT COMMITTEE (moved this section her from another page)**

The College’s Anti-Harassment committee consists of student counselors in Yorkton, Fort Qu’Appelle, Kamsack and Melville. These Anti-Harassment Counsellors along with the Human Resources, will serve as the College’s Anti-Harassment Committee and ensure staff, students and Board members are familiar with our policies and procedures.

**POLICY**

1. All employees, students and Board members at Parkland College are entitled to work and learn in an environment free of harassment. To this end, the College is committed to making every reasonably practicable effort to ensure no employee, student or Board member is subjected to harassment.
2. This policy applies to the entire College community, including students, employees, and Board members, while participating in College related activities in any location.
3. Parkland College is committed to taking corrective action with any employee, student, Board member or person under the College’s direction who subjects a College employee, student or Board member to harassment. Corrective measures may include verbal or written reprimands, suspension or dismissal.
4. Both the complainant and alleged harasser have the right to the following:
  - A fair, thorough and confidential review;
  - Current updates throughout the process.
  - Equal opportunity to respond to the same information and to participate in a discussion of appropriate options to deal with the issue(s) or complaint.
5. A harassment complaint will be dealt with expeditiously.
6. This policy does not restrict a supervisor's responsibility in the performance of his/her supervisory duties (e.g. counselling, performance appraisals, discipline). Nor does this policy restrict the College's responsibility for student related interactions (e.g. counselling, student appraisals, student discipline).
7. False allegations of harassment that are vexatious or malicious in nature will result in immediate disciplinary action as per the College’s Discipline policy (Article 18 of the

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Collective Agreement) that may include verbal or written reprimands, suspension or dismissal.

8. Any student, employee, or Board member retaliation or interference against anyone making a harassment complaint will result in disciplinary action as per the College's Discipline policy and Article 18 of the Collective Bargaining Agreement.
9. The College is committed to training staff that may be involved in dealing with a harassment complaint.
10. This policy does not preclude any union member (complainant or accused) from having a union representative or support person of their choice present during any step of this process. Similarly, this policy does not preclude any student from having a support person of their choice present during any step of this process.
11. This policy does not preclude any person from placing a complaint with the Saskatchewan Human Rights Commission, requesting assistance from the department of Occupational Health & Safety, or exercising any other legal rights.
12. All confidentiality regarding a harassment complaint is subject to exception when an incident must be reported to appropriate authorities in accordance with law.
13. All students, employees and Board members will be provided with information about the College's Anti-Harassment Policy.
14. The College, through the Director of Human Resources in consultation with the Anti-Harassment counsellors, will coordinate training regarding aspects of the Anti-Harassment policy.
15. This policy covers staff and Board Members at any time they are representing the College and students at any time they are engaged in College activities.
16. The process for dealing with alleged harassment will be corrective and progressive. It will focus on resolution of the problem at the earliest possible stage. The accused will be given opportunities to correct his/her behaviour throughout the following stages of the process: Initial Stage, Conflict Resolution to Mediation.
17. If an individual perceives they are being harassed; it is advisable to document incidents that occur in case it needs to go to a Formal Complaint. Use 5W's and if possible include actual witnesses to the incidents.

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18. Everyone has an obligation to participate in all processes outlined in this policy.
19. Any legal or other incurred cost will be the responsibility of the party not the College.
20. Employees or Students who witness harassment or observe an individual experience humiliating, degrading or disrespectful behaviour are encouraged to:
  - Take action to bring the incident to the attention of an appropriate official.
  - Offer the person support. If the offer is accepted, witnesses use this policy to help the person assess their option.
  - Contact Student counsellor or an Anti-Harassment Committee member.
21. Employees or Students are obligated to report to their Manager or Anti-Harassment Committee or Counsellor, any incidents they have observed that involve a threat to cause bodily harm, assault, sexual assault or any other risk to the individual.
22. It is misconduct for Supervisors and employee who know of harassment, not to take immediate corrective action.

## **Procedures**

### Stage 1 – Informal Process

A student or an employee faced with harassment should take the following steps:

- a. The person experiencing harassment should immediately inform the alleged harasser that the behavior is unwelcome, or perceived to be inappropriate, and that it should stop immediately. Make it clear that the behavior must stop.
- b. An employee, who feels unable to approach an alleged harasser, should ask his/her immediate supervisor for assistance in speaking with the accused. If the alleged harasser is the immediate supervisor, the employee should contact the out-of-scope supervisor or the Union for assistance. If the alleged harasser is the President, the employee should contact the Board Chairperson for assistance.

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- c. A student who feels unable to approach an alleged harasser should ask their instructor, counselor, or College staff member they are comfortable with for assistance. Unless the student feels otherwise, this person should assist the student in speaking with the alleged harasser.
- d. Document the incidents related to the harassment and maintain a written record which includes who, where, when, how, witnesses. A record of events is not required in order to file a complaint, but it can strengthen your case and help you remember details over time.
- e. The Anti-Harassment counselors may be consulted as resource persons during either the Informal process or the Conflict Resolution process during either Stage 1, 2 or 3.

If the harassment does not stop, seek consultation from any member of the Anti-Harassment committee.

Stage 2 – Consultation with a member of the Anti-Harassment Counsellor or Anti-Harassment Committee

- a. A person who believes that s/he has grounds for a complaint of harassment may seek the confidential advice of the Counsellor or Committee member. They will explain the options available through this policy.
- b. They shall facilitate and monitor the processing of each complaint. They shall advise all parties of support services, and ensure that they are aware of their rights, including their right to have a friend and/or advocate with them through all stages of these procedures.
- c. Following consultation with a counsellor or committee member, the complainant has the following options;
  - 1. To proceed with Stage 3 (Informal) or Stage 4 (Formal) process;
  - 2. Go back to Stage 1;
  - 3. Go back to Stage 1 with assistance from the Anti-Harassment committee member;
  - 4. To take no further action under these procedures;
  - 5. To pursue any other course of action available to you.

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Stage 3 - Informal Process (Mediation / Conflict Resolution by internal or external facilitator)

- a. If the inappropriate behaviour continues after the responder has been told his/her behaviour should stop, the complainant may initiate the conflict resolution or the mediation stage. The Anti-Harassment Counsellors should use the Informal Process Intake Form to record notes. The Anti-Harassment Counsellor will immediately inform the potential responder that a complaint has been made.
- b. The counsellor will arrange a meeting with both the complainant and the responder ensuring that all individuals have an opportunity to speak separately and in private. All participants must be informed that all matters discussed should be kept confidential within the proceedings. Should the counsellor for any reason find it difficult to objectively facilitate the conflict resolution process they must inform the party(s) involved. They may refer to one of the other counsellors or to the Director of Human Resources who will either proceed with this stage *internally* or refer it to an independent mediator.
- c. If conflict resolution is unsuccessful, there will be an attempt to resolve the situation through mediation, if agreed to by both parties. All results must be documented and saved in a confidential file. The confidential file will be a separate sequestered file maintained by the Director, Human Resources. This stage of the process should not exceed five (5) working days.
- d. If the conflict resolution process was successful, there will be no record of the complaint on the files of the perspective parties involved.
- e. A trained and experienced mediator should conduct the mediation process. They can assist two or more parties to reach a resolution to their differences or can also help to resolve conflicts among groups.
- f. The mediator may initiate separate meetings with each party to arrive at an understanding of the individuals' issues and interests. This may be followed by joint sessions. The parties will work together to apply the process which is most appropriate to each situation.

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#### Stage 4– Formal Complaint (External Investigation)

- a. If the harassment continues after Stage 3 has been completed, the complainant may initiate Stage 4 by submitting a completed Formal Harassment Complaint Form to the immediate out-of-scope supervisor. Individuals should be referred to the Anti-Harassment Counsellor for assistance in initiating this stage.
- b. The Anti-Harassment Committee member will ensure the necessary forms are forwarded to the appropriate out-of-scope supervisor.
- c. The out-of-scope supervisor will immediately inform the accused, the Union, and the Director, Human Resources that a formal complaint has been lodged and an investigation will occur.
- d. The Director, Human Resources and out of scope Director will determine if an investigation will take place or recommend the return to previous stages as per the policy. The Director, Human Resources will be notify the parties within a 7 working days of receipt of complaint.
- e. If it is determined that an investigation will take place, the Director of Human Resources, will appoint an investigator within 3 working days of the decision to proceed with the Formal Complaint. If applicable, the union will be notified.
- f. Complaints respecting events that are more than 12 months old will not be investigated unless there are special circumstances. Such circumstances could include:
  - Matters relevant to events or harassment issues that are currently present or likely to be present in the college;
  - Where the alleged harasser, is currently in the employ of the college and the complaint is of such serious nature that if true, would warrant discipline, therapy or training.
  - Where the complaint is relevant to a current claim for compensation.
- g. As a recording system, the President will create a separate, sequestered file in which the formal complaint and all subsequent documentation shall be retained.
- h. The College will engage a mutually agreed-to external investigator to investigate allegations in cases involving an employee. The investigator(s) have the authority to gather all pertinent documentation, conduct interviews as required, and determine if a case of harassment has occurred.

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- i. The goal of this policy is to return the workplace to a respectful and productive environment. Investigators will recognize and support opportunities for mediation or conflict resolution in lieu of the investigation when appropriate.
- j. Submission of the external investigator’s written report to the President should occur within 20 working days of the appointment of the investigator. Extensions under extenuating circumstances may be granted upon written request to the President.
- k. The President will inform the complainant, the responder, the supervisors, and the Union of the ruling.
- l. It is the responsibility of the College to implement appropriate disciplinary action, if warranted, and restore a healthy working and/or learning environment.
- m. The complainant or responder has the right to appeal the ruling in writing to the President within 10 working days. The President will decide on the appeal and inform the participants within 14 working days.
- n. If an in-scope complainant or responder is not satisfied with the initial ruling, or the decision of the President upon appeal, he/she may initiate action under the terms of the Collective Agreement.
- o. If an out-of-scope complainant or responder is not satisfied with the initial ruling, or the decision of the President upon appeal, he/she may appeal to the Chairperson of the Board.
- p. In any situation where the President is the alleged harasser, all responsibilities outlined in the above procedure relating to the President become the responsibilities of the Chairperson of the Board.

**Procedure for handling complaints related to external sources:**

Members of the general public who engage in harassing behavior on College premises shall be informed by the person experiencing the harassment that their behavior is offensive or unacceptable and that it should stop immediately. If warranted, the alleged harasser may be directed to leave the College facility immediately. The complainant must inform the appropriate out-of-scope supervisor of the incident. If the alleged harasser is an employee of another agency, the out-of-scope supervisor shall report the incident to that person’s employer.

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Evidence and Documents Relating to the Investigation:

Due to the possibility of subsequent action, e.g. legal proceedings, arbitration, judicial review, review by the Saskatchewan Human Right Commission or Occupational Health and Safety Division of the Department of Labour, materials related to the investigation will be retained for six years. All such materials are to be submitted to the Director, Human Resources upon conclusion of the investigation. The President or designate shall have access to the investigation files concerning one of the college's employees or students.