



PROCEDURE

Procedure Number: OHS 008	Procedure Title: Respectful College Community
Supersedes Existing Policy? Y	Procedure Owner: Vice President, People and Culture
Associated Policy: Y	Date Last Approved by CET: February 10, 2021

1. Purpose

The following procedures provide guidelines for the measures to be taken by Loyalist College and College community members to address and resolve issues of harassment and/or discrimination.

The College may take action which diverges from procedures associated with the policy and procedures when:

- the safety of College community members is deemed to be at risk, or,
- a violation is deemed to be so serious that immediate action is required, or
- other action is necessary to ensure that the College meets its legal obligations.

All parties involved in a complaint must be treated fairly. Loyalist College’s Respectful College Community Policy and Resolution Procedures are based on the principles of fairness and due process for complainants and respondents.

2. Application

This procedure 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. All college-sanctioned activities and functions are covered by this policy and extend beyond the physical boundaries of Loyalist College. Activities that take place under the auspices of Loyalist College such as placement, field trips, and social events are covered by this policy, regardless whether they take place on or off College premises.

Behaviours that constitute workplace violence are covered under the staff OH&S Policy 007 – Workplace Violence Prevention.

Sexual Violence and Sexual Harassment, as they apply to all members of the College community, are covered under Loyalist College policy SS 612 Sexual Assault and Sexualized Violence.

Incidents where both the complainant and the respondent are students will be handled by Student Success with the involvement of Risk Assessment Review Committee where deemed necessary.

3. Time Limits

A complaint must be filed within six months of the last incident giving rise to the complaint. In exceptional circumstances, a complaint that does not meet the timeline may be accepted for consideration under this Policy when circumstances warrant an extension of this deadline, the delay

was incurred in good faith and/or no person is negatively affected by this delay.

4. Withdrawal of Complaint

The complainant may withdraw the complaint at any stage of the process.

If the complainant decides not to pursue their complaint through the procedures outlined in this Policy, the College maintains the right to determine that the matter should continue to be pursued and, if appropriate, addressed. The College will determine the appropriate process to pursue the matter.

Situations where the College may decide to continue action include but are not limited to:

- Where a pattern of enquiries, concerns or complaints over a period of time has been identified which may suggest the existence of a problem that has not been adequately or effectively addressed;
- Where there is reason to believe that a systemic problem exists which causes, encourages or contributes to personal harassment.

5. Complaint Resolution Options

Every situation is unique in terms of the circumstances surrounding incidents of harassment and/or discrimination and the needs and interests of those involved. Therefore, the College provides multiple, flexible and timely resolution options for addressing and resolving complaints of harassment and/or discrimination, or resolving conflict prior to escalation. By providing multiple options for resolution, students and employees are able to choose the course of action that will best meet their individual need.

If, at any stage in this procedure, the matter is dealt with to the community member's satisfaction, the matter will be considered resolved.

Resolution options fall into three broad categories:

- Self-Managed Resolution
- Alternative Resolutions
- Formal resolution

Wherever possible and appropriate, self-managed or alternative resolution of complaints will be attempted before formal resolution is initiated. A member who has a complaint (complainant) alleging harassment and/or discrimination is encouraged to attempt the following before requesting a formal resolution:

5.1 Self-Managed Resolutions

- a) Wherever possible, a College community member who believes that they are experiencing harassment and/or discrimination is encouraged to communicate directly with the other person(s) and inform them, firmly, privately and respectfully, that their behaviour is unwelcome, has caused offence and must stop. This communication may be in written format, where the concerning behaviour and impact of the behaviour is described, and clear direction is given that the behaviour must stop immediately.

- b) The community member should document incidents giving rise to concerns of harassment and/or discrimination, and any discussion or resolution attempts between themselves and the person(s) concerned.
- c) Any community member who observes an incident of harassment can provide direct support by speaking up or speaking out. In circumstances where this is not appropriate, support can still be provided to the victim by letting them know the incident was observed and they can assist in addressing the behaviour.
- d) When an individual is unable to speak directly to the person responsible, where it is unreasonable or unsafe, or where the direct approach has been attempted and fails to produce a satisfactory result, he or she may seek assistance.
- e) **Assistance and Consultation:** In situations where direct action by the complainant has not been successful, they may choose to identify their concern to the following individuals:
 - If you are a Student: Other members of the College community, including but not limited to, Director of Student Success, other resources within Student Success, faculty, Dean, Health Centre staff, Residence staff.
 - If you are an Employee: Vice President of People and Culture (Human Resources), People and Culture Staff, Dean, Manager or Supervisor.

The individuals identified above will support the complainant in proceeding to consultation with the individuals identified below to assist them in understanding options for resolution.

- f) **Consultant: (Student Success staff/designate, Manager, People and Culture staff)**
 - The Consultant is available to complainants, potential complainants, respondents, witnesses, and managers to provide information, advice and guidance with respect to the Respectful College Community Policy and Resolution Procedures.
 - The Consultant is an impartial and neutral source of information regarding the Respectful College Community Policy and Resolution Procedures. The Consultant does not act as an advocate for any involved party.
 - The Consultant will provide the individual with information needed with respect to the policy and procedures so that they may make an informed decision regarding their course of action. This information will include:
 - A discussion about the multiple resolution options available within the broad categories of informal and formal resolution.
 - Advising potential complainants and respondents of their right to procedural fairness including:
 - The right to file a written complaint;
 - The right to be informed of the complaint and provided with an opportunity to respond to the allegations;
 - Availability of counseling or additional resources as applicable;
 - Right to be accompanied by a support person who may include friend, colleague, union representative, student advocate.
- g) Upon completion of consultation the complainant has the option to:
 - Proceed on his or her own with a self-managed alternate resolution option;

- Submit a written, signed Statement and Request for Action which will contain the details surrounding the incident, and the proposed Alternate Resolution option;
- Submit a formal written complaint and request for investigation;
- Take no further action.

5.2 Alternative Resolutions

a) Direct Approach

- This option may have been attempted initially, without success, but with guidance from the Consultant this approach may still be the most effective option.

b) Facilitated Resolution

- Support from an intermediary (for example, the Consultant described above) may offer the opportunity for face-to-face resolution discussions. If the parties feel that assistance is required to reach a resolution, a skilled intermediary may agree to facilitate the discussion.

c) Education

- This approach would be used primarily as a preventative measure in cases where the individual who witnessed or experienced the harassment and/or discrimination does not wish to take personal action but would like the behaviour to stop. Neither the identity of the complainant nor the respondent is disclosed. The appropriate person in authority would be advised that this resolution has been requested and discussions would take place with respect to providing educational/preventative strategies within the classroom/program.

d) Customized Resolution

- Based on a combination of above approaches or one mutually agreed to by parties involved.

e) Statement and Request for Action

- If this option is chosen, the complainant will complete a written and signed statement (See OHS-008 Appendix A, Statement and Request for Action Form) containing information pertaining to the situation or behaviour giving rise to the complaint, and the proposed Alternate Resolution option. This process is meant to support a resolution outside of the formal complaint process.
- The Statement and Request for Action Form will be provided to the Vice President of People and Culture (Human Resources), who may involve the Director of Student success if the case involves a student.
- The Vice President of People and Culture (Human Resources) will provide the respondent with information related to the complaint and the proposed resolution option/outcome being requested by the complainant.
- The Vice President of People and Culture (Human Resources) will provide the respondent with information regarding their rights, options and responsibilities. It will be communicated that the proposal is an alternate resolution option and not a formal complaint or part of an investigation.

5.3 Formal Resolution

a) Formal written complaint

Complaint involving students only

- If the complaint pertains to an incident where the complainant and respondent are both students, the complainant will complete a Violence Prevention Incident Report (VPIR) form. Procedures outlined in the Student Code of Conduct will be followed.

Complaint between Student and Employee or between Employees

- For purposes of this procedure, Employees may be staff, faculty or outside contract staff.
- Should efforts to resolve the issue through informal resolution be unsuccessful, the complainant may submit a written and signed formal complaint using OHS-008, Appendix B (Formal Complaint Form) to the Vice President of People and Culture (Human Resources).
- The Vice President of People and Culture (Human Resources) will decide whether or not to pursue the complaint through formal resolution and the appropriate method of investigation required.
- If the decision is made to pursue the complaint through formal resolution, the Vice President of People and Culture (Human Resources) will immediately inform the respondent of the nature of the complaint, provide a copy of this Policy and Procedure and request that the respondent provide a written response to the allegations within 5 working days. The Vice President of People and Culture (Human Resources) will inform the manager with line authority for both the complainant and the respondent as well as the Vice- President(s) for the affected functional area(s). When the respondent or complainant is a student, the Director of Student Success and VP Academic are informed.
- The Vice President of People and Culture (Human Resources) will offer mediation, if appropriate and mutually agreeable to both the complainant and the respondent. At any time during the formal resolution procedure, the parties may agree to return to informal resolution options.
- Should the parties engage in mediation, within 20 College business days, the complainant and the respondent must have resolved the situation, or the mediation will be suspended.

5.4 Formal Investigation

- If mediation is not successful, or it is determined that a formal investigation is the appropriate next step, an investigation will commence.
- The Vice President of People and Culture (Human Resources) will inform the complainant and the respondent that they have the option of being accompanied during all investigation interviews by union representation (if bargaining unit employee), a coworker, or other support person.
- In general, the Vice President of People and Culture (Human Resources) will conduct investigations but may engage the assistance of the Risk Assessment Review Committee as necessary and appropriate. Investigations may also be undertaken by an external Investigator engaged by Loyalist College.
- Any investigation of a complaint made against a member of the Board of Governors, People and Culture(Human Resources) staff, or the College Leadership team will be

conducted by an external Investigator.

- Investigations will be conducted in an efficient and timely manner. However, in some cases investigations may take longer to complete.

5.5 The Decision

- The Investigator will report the findings of the investigation to the Director of Student Success or the Vice President of People and Culture (Human Resources) as applicable.
- This shall be done in a timely manner after conclusion of the investigation, although additional time to complete the investigation may be required in some circumstances.
- The Vice President of People and Culture (Human Resources) will, after communicating with the respondent's immediate manager or, if the respondent is a student, with the Vice- President Academic, review the case, make a decision and determine disciplinary or corrective action, if warranted.

5.6 Notification

- Within 10 working days of the decision being reached, the complainant and the respondent will be provided with a written summary of the Investigator's finding and the action, if any, relating directly to that party, that the College will be taking to bring closure to the complaint.
- The complainant has the right to know that corrective action has been taken as a result of the report but not the specifics of any disciplinary action. Corrective action may include disciplinary action as well as preventative, educational and remedial measures.

6. Confidentiality

- All information about complaints is confidential to the greatest extent possible, taking into account the circumstances giving rise to the complaint and subject to the College's obligation to conduct a thorough investigation.
- A complainant is not entitled to complete confidentiality or anonymity. The respondent will be informed of the identity of the complainant.
- Parties and witnesses are expected to keep information discussed confidential.
- Confidentiality with respect to the findings of an investigation will be maintained, except to the extent necessary to implement and/or defend the corrective and/or disciplinary action taken, or as required by law.

7. Record Keeping

When the matter is resolved, all records pertaining to the complaint and resulting actions, including the investigation documentation and report, will be returned to the Human Resources Advisor and stored in the Human Resources office in a secure location.

8. Consequences

Behaviour that constitutes harassment and/or discrimination as defined in this Policy is inconsistent

with Loyalist College's commitment to providing a respectful work and learning environment. When harassment and/or discrimination is deemed to have occurred, corrective action will be taken which may include a wide range of preventative, remedial and/or disciplinary measures up to and including dismissal or expulsion. Examples of remedial and disciplinary action include the direction to cease the harassment and/or discrimination, apology, participation in an educational program, reprimand, suspension and/or termination or expulsion.

9. Reprisals

It is a violation of this Policy for any person to be treated negatively as a result of any involvement in the process of bringing forward a complaint, participating in providing evidence related to a complaint, or participating in the resolution of a complaint. Any allegations of retaliation or reprisal will be treated as a formal complaint under this Policy and subject to the same procedures as outlined above.

10. Right to Grieve or Appeal the Outcome of Formal Resolution Procedures

- Any disciplinary action taken as a result of harassment and/or discrimination may be subject to grievance under the relevant collective agreement or appealed to the President. An appeal to the President is not allowed when an employee elects to proceed under the grievance procedure.
- Appeals to the President should occur within ten (10) College business days of the decision being communicated to the complainant / respondent and be in writing. If either party appeals, a copy of the submission will be given to the opposing party to allow an opportunity to respond in writing within five working days.
- The President or designate will review the investigation report, the decision, the appeal submission and response. If the President or designate decides to hold a hearing, he/she will advise the parties of a date for an appeal hearing to take place. That hearing will be presided over by the President or designate. The procedure at this hearing is meant to be informal and the President or designate will determine the procedure to be followed at the hearing. Otherwise, the President or designate will make a final decision based on the Investigator's report, the appeal submission and the response.
- The President or designate will provide a written decision with reasons to the parties as soon as reasonably possible. The parties will also be informed of any remedial action that will be taken, if appropriate. This decision is final and cannot be appealed.

11. Related Documents

- OHS-008 Appendix (A) – Statement and Request for Action
- OHS-008 Appendix (B) – Formal Complaint Form
- OHS-008 Appendix (C) – Respectful College Community Policy Statement

College Policies

- Policy OHS-007 - Violence Prevention
- SS 612 – Sexual Assault and Sexualized Violence Policy and Procedure.
- AOP209 – Student Code of Conduct: Positive Learning & Living Environment

12. References

- Occupational Health & Safety Act, Violence & Harassment, sections 32.0.1 – 32.0.8
- Workplace Violence & Harassment: Understanding the Law. Ontario Ministry of Labour, 2016. <https://www.ontario.ca/page/understand-law-workplace-violence-and-harassment>
- Freedom of Information and Protection of Privacy Act
- Ontario Human Rights Code
- Accessibility for Ontarians with Disabilities Act (AODA)