Harassment and Discrimination, Prevention and Resolution Procedures

Division or Sector: Director General
Responsibility: Director General

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# Table of Contents

1. Guiding Principles .................................................. Page 3  
2. Roles and Responsibilities ........................................ Page 3  
   a) Ask the Person to Stop Immediately .......................... Page 5  
   b) Consult with a College Advisor ............................... Page 5  
   c) Inform a Manager ............................................... Page 6  
   d) Formal Complaint Procedures ............................... Page 7  
4. Appeal Process ......................................................... Page 10  
5. Accommodation Requests ......................................... Page 10  
6. Other Options ......................................................... Page 11  
7. Representation ........................................................ Page 11  
8. Confidentiality ......................................................... Page 11  
9. Abuse of Policy ......................................................... Page 11  
10. Multiple Complaints and Counter Complaints ................. Page 12  
11. Records ............................................................... Page 12  
12. Monitoring of the Approved List of Mediators & Investigators Page 12  

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Vanier College Harassment and Discrimination, Prevention and Resolution Procedures. 2020
1. GUIDING PRINCIPLES

These procedures provide all members of the Vanier College community access to an internal complaint resolution process for dealing with harassment and discrimination complaints.

Nothing in the policy or these procedures precludes an individual from exercising their rights under a collective agreement, management agreement, or from seeking alternate routes such as the Quebec Human Rights Commission.

These procedures respect the principles outlined in the various collective agreements of unionized personnel of the College as they relate to discrimination and harassment.

These procedures are intended to function alongside other College policies relevant to issues of harassment and discrimination, such as the Sexual Violence Prevention & Response Official College Policy and Procedural Document, the Vanier College Code of Conduct and IPESA.

All allegations of harassment and discrimination will be taken seriously and will be handled in a fair, unbiased and timely manner.

All parties involved in a complaint will have a reasonable opportunity to dispute, correct, contradict, admit or take responsibility of all allegations and to present arguments and evidence in support of their position throughout the outlined procedures.

All members of the College community will be treated equitably under these procedures.

2. ROLES & RESPONSIBILITIES

COLLEGE COMMUNITY
All members of the College community share responsibility for creating and maintaining a learning and working environment free from discrimination and harassment. This means not engaging in, allowing, or condoning behavior contrary to the policy.

MANAGEMENT RESPONSIBILITY
By law, managers and college administrators bear the primary responsibility to maintain an environment free from discrimination and harassment and to act promptly and stop it whenever they become aware of it, whether or not a complaint has been made. They are responsible for creating and maintaining a positive and productive learning and working environment, leading by example, and identifying and addressing issues in a timely and fair manner. This involves coaching and counseling employees and students, and if appropriate for the circumstances, taking prompt disciplinary action(s) and providing written documentation or corroborative evidence of steps taken to deal with the situation and put a stop to it.

RESPECTFUL LEARNING AND WORKPLACE ENVIRONMENT ADVISOR
The Advisor is appointed by and responsible to the Director General and is responsible for the administration of the policy and procedures. The Advisor can provide confidential advice and guidance and assist in identifying ways to resolve the situation, review the resolution procedures with all parties to a complaint, help to resolve complaints informally, provide information on alternative complaint procedures and, where appropriate, make referrals to the appropriate body
(i.e. manager, human resources, union or association, lawyer, police). The Advisor will ensure that
the procedures are properly followed and that the individuals understand the options available
to them. The Advisor is expected to deal objectively, impartially and confidentially with all parties
and is neither a counselor or advocate and will make referrals for these services. The Advisor is
not to play an active role in an investigation or decision-making process related to complaints filed
under this policy. The Advisor will maintain confidential records and will prepare an annual report
for the Director General containing statistics on matters relating to discrimination and
harassment, while maintaining confidentiality. The Advisor will help establish educational
programs to promote a widespread understanding of the policy.

STUDENT ADVOCATE
The Student Advocate receives and assesses initial complaints of harassment and/or
discrimination from students, informs them of their rights and possible avenues of recourse,
participates in informal resolution strategies, and offers support, guidance, and accompaniment
to students as appropriate.

SOCIAL SERVICE OFFICE (Code of Conduct)
In conjunction with the Student Advocate, the Social Service Officer participates in informal
resolution strategies, and in accordance with Vanier’s Code of Conduct Policy, will process,
administer and investigate complaints of harassment and/or discrimination against a student, and
take disciplinary and corrective action(s) where needed.

MEDIATOR
A neutral third party who meets with individuals involved in a complaint to assist them in
communicating more effectively, and in exploring possible solutions and agreements to a fair
settlement.

INVESTIGATOR
The investigator conducts an investigation, either alone or as part of a team, to determine if there
is enough evidence to demonstrate that harassment and/or discrimination occurred. The
investigator(s) will interview the complainant(s), the respondent(s), and any witnesses.

THE RESPECTFUL LEARNING AND WORKPLACE ENVIRONMENT ADVISORY COMMITTEE
The role of Respectful Learning and Workplace Environment Advisory Committee is to:
- Monitor the policy and procedures and make recommendations for revisions where
  necessary.
- Advise the Respectful Learning and Workplace Environment Advisor concerning the
development and implementation of regular training programs for all of those involved in
the application of the policy and procedures
- Maintain communication among the various college constituencies groups and the
  committee concerning the policy and procedures.

The committee is composed of the following:
- The Academic Dean or their chosen delegate
- The Director of Human Resources Services or their chosen delegate
- The Director of Services for Students or their chosen delegate
- The Respectful Learning and Workplace Environment Advisor
• The Social Service Officer
• The Student Advocate
• One member appointed by the Vanier College Student Association
• One member appointed by the Vanier College Support Personnel Association
• One member appointed by the Association of Vanier College Professionals
• One member appointed by the Vanier College Teachers’ Association
• One member appointed by the Association of Vanier College Administrators
• One member appointed by the Women’s and Gender Studies Program

3. HARASSMENT AND DISCRIMINATION COMPLAINT PROCEDURES

Ask the Person to Stop Immediately
Depending on the situation, there are issues that can be resolved by communicating with the person directly; as they may be unaware of the impact of their behaviors and may change their behaviour once they are made aware of the issue. Let them know that their behaviour is unwelcome, offensive, embarrassing, humiliating, or demeaning and that it must stop immediately. This direct resolution could be in the form of a direct verbal or written request.

Consult with a College Advisor
The Advisors receive and respond to harassment and/or discrimination complaints and related inquiries and provide confidential advice and guidance. Consulting with the appropriate Advisor can help you identify the best way to address and resolve your concern.

The Respectful Learning and Workplace Environment Advisor is primarily consulted regarding situations between employees.

The Student Advocate is primarily consulted by students regarding situations involving an employee.

The Social Service Office is primarily consulted regarding situations within which a student is named as the respondent to a complaint.

<table>
<thead>
<tr>
<th>COMPLAINANT</th>
<th>RESPONDENT</th>
<th>ADVISOR TO BRING THE ISSUE TO</th>
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<tbody>
<tr>
<td>Student</td>
<td>Student</td>
<td>Social Service Officer</td>
</tr>
<tr>
<td>Employee</td>
<td>Student Advocate</td>
<td>RL&amp;WE Advisor</td>
</tr>
<tr>
<td>Employee</td>
<td>RL&amp;WE Advisor</td>
<td>Social Service Officer</td>
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</tbody>
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*RL&WE Advisor = Respectful Learning and Workplace Environment Advisor

The Respectful Learning and Workplace Environment Advisor, Social Service Officer, and Student Advocate, may, where appropriate and with authorization, communicate with each other regarding referrals so as to effectively assist all parties involved in a situation within the context of their respective roles.
The complaint may be resolved using an informal, confidential, voluntary, assisted conflict-resolution approach aimed at reaching a resolution to the complaint that is acceptable to both the complainant and respondent. Informal resolution strategies may include providing confidential advice and guidance, facilitating discussions with the parties involved in a complaint (such as informal mediation or shuttle diplomacy), coaching, raising awareness to the impact of certain conduct (e.g. impact statements), reconciling differences (e.g. apology letters), group processes, education, sensitizations, and training. The parties may be brought together, or, with the appropriate authorization, communication may be facilitated through the Advisor(s).

The Advisors can discuss the various informal resolution options available and can actively participate in the informal resolution process, either by facilitating the informal resolution process, or providing coaching and guidance on how to request an informal intervention from a manager or director (see “Inform a Manager”).

Normally, attempts at informal resolution should not last longer than three (3) calendar months with the exception of when delays in the process are justified by unique circumstances and/or agreed upon by the parties involved.

You must be prepared to be identified by name and to have the nature of the complaint revealed to the respondent if any action is to be taken by the Advisor under this procedure.

Any resolution of the complaint at this stage must be agreeable to both parties.

If such attempts at informal resolution are not successful or appropriate, you may withdraw the complaint, raise the issue to the attention of a manager, or file a formal complaint.

In order to comply with its legal obligations, the College may invoke an investigation in accordance with these procedures in a situation where the College reasonably believes that harassment and/or discrimination may have occurred, even if a complaint is withdrawn.

Complaint(s) against the Respectful Learning and Workplace Environment Advisor should be referred to the Director General. Complaints against the Student Advocate and/or Social Service Officer should be referred to the Director of Services for Students.

**Inform a Manager**

If a direct resolution, or an Advisor’s assisted intervention, is not possible, or is inappropriate, the issue can be brought to the attention of the respondent’s manager and/or director, either by you directly or by involving your manager and/or director. The appropriate College Advisor can be consulted for coaching and guidance on how to raise an issue to a manager’s attention.

A manager or director can then assess the situation to determine whether an informal intervention can be facilitated, and actively engage in this informal resolution process. As per their role and legal responsibility outlined on page three (3) they may also assess and determine whether a more formalized resolution process is necessary. When a complaint of harassment or discrimination is brought to them, managers are encouraged to consult with the appropriate resource (such as the Respectful Learning and Workplace Environment Advisor, the Social Service
Office, Student Advocate, or Human Resources Services) to support consistency in how relevant policies and procedures are applied.

**Formal Complaint Procedures**
A formal complaint is a formal written request for the College’s intervention to resolve the complaint, which has not been resolved informally. A formal complaint can be submitted using the *Vanier College Harassment and Discrimination Formal Complaint Form*.

A formal written complaint must be made within two (2) calendar years of the incident of the alleged act(s) of harassment or discrimination, or, where the behaviour is of an ongoing nature, within two (2) calendar years from the most recent incident, except in cases where extenuating circumstances are presented.

The deadlines outlined herein for filing a formal complaint, the duration of an investigation, the respondent’s deadline to respond to allegations, and the deadline for appeals are firm and may only be extended in the event of an agreement between the College and the parties involved in a formal complaint. That said, unless otherwise agreed to by the parties, these deadlines are automatically suspended during the summer period, from June 15th to August 15th, and over the Christmas holiday period, from December 15th to January 15th.

It is strongly recommended to seek the advice and guidance of a College Advisor before filing a formal written complaint.

- **Formal complaints against a student** will be referred to the Social Service Office of Student Services, who will process, administer and investigate the complaint in accordance with *Vanier’s Code of Conduct Policy*. It is recommended that students also meet with the Student Advocate in Student Services.

- **Formal complaints against an employee and/or member of the Board of Directors (including Faculty members, Managers and College Administrators)** will be referred to the Respectful Learning and Workplace Environment Advisor, who will review the complaint to determine:
  - If the complaint falls under the jurisdiction of the *Harassment and Discrimination, Prevention and Resolution Policy*, and if not will refer the complainant to the appropriate body or applicable policy and/or procedure and/or to local authorities in cases involving assault and other related dangerous, violent and criminal acts.
  - If the most recent alleged incident(s) occurred within the past two (2) calendar years, except in cases where extenuating circumstances are presented.
  - If there are safety risks or health concerns that require immediate action.
  - If the complainant wants to pursue less formal resolution strategies to resolve the complaint, if appropriate.
  - Communication of the outcome of this review of the complaint and any follow up steps or recommendations will be confirmed in writing by the Respectful Learning and Workplace Environment Advisor.
In the event of a formal complaint, the Respectful Learning and Workplace Environment Advisor will notify the respondent and their manager of the allegations and provide the respondent with a copy of the formal complaint, which also indicates whether or not the complainant is open to formal mediation as a means of trying to resolve the situation.

The respondent will be provided with the opportunity to respond in writing to the allegations being made against them within five (5) working days and may indicate whether or not they are willing to participate in mediation. If the respondent chooses to respond, a copy of the written response will then be provided to the complainant, who may accept the response as a resolution to the complaint, request additional efforts towards informal resolution, a formal mediation, or ask to proceed with a formal investigation.

**Formal Mediation**

If both parties agree to a formal mediation, the Director General will appoint an external mediator chosen from an approved list established by the Respectful Learning and Workplace Environment Advisory Committee. The Respectful Learning and Workplace Environment Advisor will support communication between the mediator and mediation participants, to coordinate the scheduling of mediation sessions in an appropriate location that ensures confidentiality, and provide any needed assistance to the process.

Mediation is a process in which one or more neutral third-party member(s) helps the individuals involved in a complaint reach a solution that is acceptable to both parties. The benefits to mediation include the control you have over the process, and whether or not to accept a settlement. It can be a fast, efficient and confidential resolution option, and of great importance is that future relationships may be enhanced and preserved. The mediation processes are healing in nature, not punitive, therefore it is not suitable if one side is seeking to punish the other or if either side is not willing to consider settlement.

Mediation can be attempted prior to a formal investigation and is to remain available during the investigation process. Only the complainant, the respondent, and the mediator(s) are needed to participate in the mediation meetings, however you can be accompanied if you want to have someone with you. In the event that a complainant and/or respondent choose to be accompanied, the other party will be informed of this accompaniment. Those accompanying complainants or respondents should be told that the meeting is not a formal hearing or investigation and that information obtained during the process is confidential and off the record.

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. 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.

The duration of a formal mediation process should not exceed three (3) calendar months with the exception of when delays in the process are justified by unique circumstances and/or agreed upon by the parties involved.

The terms of any agreed upon formal resolution shall be written up by the mediator(s) and signed by all parties.

**Investigation**

If mediation is not an option, or if no mutual mediation agreement is reached, or should either party decide to terminate the mediation process at any time, unless the complainant withdraws the complaint, the complaint shall then proceed to a formal investigation to make an official ruling and determination as to whether or not a respondent has violated *Vanier’s Harassment and Discrimination, Prevention and Resolution Policy*.

The formal complaint and the respondent's written response to the allegations will be forwarded to the appropriate individual responsible for conducting the investigation. The complainant(s) and respondent(s) will be informed when and to whom these documents are forwarded, of their right to meet with the person(s) leading the investigation in this process, as well as of their right to seek representation (please refer to point 7 of this document for additional information on representation).

- **The investigation of formal complaints against a student** will be handled by the Social Service Office, in accordance with *Vanier’s Code of Conduct Policy*.

- **The investigation of formal complaints against an employee** (including Faculty members), will be handled by the Director of Human Resources Services, who will chair an investigation committee and designate two managers, who were not involved in the incident(s) leading to the complaint, to help investigate the facts of the complaint(s).

- **The investigation of formal complaints against a Manager, a College Administrator, the Director General or a member of the Board of Directors** will be handled by an external investigator, chosen by the Director General, (or by the Chairman of the Board of Directors, if the Director General is part of the complaint) from an approved list established by the Respectful Learning and Workplace Environment Advisory Committee.

The duration of the investigation should not exceed ninety (90) calendar days and within that time a decision should be rendered and communicated to the parties of the complaint. In the event that more time is needed in order to complete the investigation, an explanation detailing the reasons for the delays will be included in the final report.
Upon completing the investigation, the investigator will write a confidential report detailing the nature of the investigation, whether or not there is enough evidence to conclude that harassment and/or discrimination occurred and possible resolutions of the situation and one or more courses of action. The report will be forwarded to the office of the Director General (or to the Chairman of the Board of Directors if the Director General is part of the complaint) and the Director of Human Resources Services.

Should the complaint be upheld, appropriate sanctions and measures will be taken by the Director of Human Resources Services, in consultation with senior management, and in conformity with the appropriate provisions of the applicable collective agreement/management agreement and/or applicable College policy to address the situation.

The Director of Human Resources Services will then communicate, in writing, to both the complainant(s) and the respondent(s) the decision, and any disciplinary action, remedies and/or changes in work.

The Director General will provide a summary of the outcome report to the Respectful Learning and Workplace Environment Advisor for record-keeping purposes and may request their assistance in implementing any follow-up recommendations as appropriate.

The matter will then be considered closed by the College, unless there is a request for an appeal.

4. APPEAL PROCESS

The appeal process for complaints against a student will be handled in accordance with Vanier’s Code of Conduct Policy.

A complainant or respondent may appeal in writing to the Director General (or to the Chairman of the Board of Directors, if the Director General is part of the complaint) within ten (10) working days of receiving the decision and must include the specific reasons justifying the appeal. Appeals must be based only on substantive issues, such as conflict of interest, bias against a party or failure to respect the procedures.

A successful appeal may result in a change in the sanctions or measures taken, or a new investigation of the complaint administered by a different external investigator than the one who conducted the initial investigation.

5. ACCOMMODATION REQUESTS

During a harassment and/or discrimination complaint-resolution procedure, accommodations may be requested to minimize discomfort, and/or protect against reprisals, over the course of the process. Individuals intending to make such a request can consult with the appropriate College Advisor for advice and guidance. Where appropriate, communication parameters can be negotiated and mutually agreed upon informally with an Advisor’s assistance. Otherwise, accommodation requests should be brought to the appropriate supervisor and/or person(s) leading an investigation. Accommodations will be reviewed in accordance with individuals’ rights under collective agreements, management agreements, and in alignment with the legal
obligations, rules, regulations and processes outlined in other applicable policies including the Code of Conduct and IPESA.

6. OTHER OPTIONS (Union Grievance, Outside Agencies)

Nothing in the Harassment and Discrimination, Prevention and Resolution Policy precludes anyone from exercising their rights under a collective agreement, management agreement, or from filing a complaint with the Commission des droits de la personne et des droits de la jeunesse, or the police.

7. REPRESENTATION

Members of unions and employee associations are entitled to make use of the representation that their collective agreements confer and will be informed of their rights accordingly.

Anyone covered by this policy, who incurs costs related to representation or support are responsible for their own costs.

8. CONFIDENTIALITY

The College recognizes the importance of confidentiality to all parties. Individuals involved in the complaint process should make every reasonable effort to maintain confidentiality by only discussing the complaint with someone they feel could advise them, and should refrain from discussing the complaint with anyone who does not have a "need to know.” Individuals who receive documents pertaining to a formal complaint procedure will be required to confirm in writing an agreement to maintain confidentiality of the document’s contents.

All inquiries will be handled discreetly and the College will not disclose a complainant’s or alleged respondent’s name, or any circumstances related to a complaint, to anyone, except as necessary to investigate the complaint, take disciplinary action or as required by law.

Confidentiality does not mean anonymity. The complainant must be prepared to be identified by name and to have the nature of the complaint revealed to the alleged respondent if the complainant is requesting intervention and/or investigation to resolve the complaint.

9. ABUSE OF POLICY

All members of the College community have the right to be assisted and/or advised by a resource person such as a manager, the Student Advocate, the Social Service Officer, the Respectful Learning and Workplace Environment Advisor, Human Resources Services, union or association, and they have the right to bring forward a complaint of discrimination and/or harassment. Interference in the complaint resolution process or retaliation against a complainant, respondent, witness or individuals involved with the administration of the procedures, whether or not the complaint was substantiated, may by itself result in a violation of the policy. Interference or retaliation may take the form of direct contact between the parties or more subtle action such as shunning, spreading of rumours and breaches of confidentiality.

Allegations of harassment or discrimination are serious matters. Complaints made without sufficient grounds so as to purposely annoy, embarrass or harm the respondent are considered to be frivolous, vexatious, or bad faith complaints and may result in sanctions against the
complainant. Sanctions will be in accordance with disciplinary measures in the appropriate collective agreement or student discipline procedures.

10. MULTIPLE COMPLAINTS AND COUNTER COMPLAINTS
Where there is more than one formal complaint arising from the same incident(s) against the same respondent, the complaints may be dealt with in the same proceeding. Unless contested by a respondent, complaints related to the same incident(s) involving multiple respondents may also, where appropriate, be dealt with in the same proceeding.

Where the respondent files a counter complaint, this complaint may be dealt with at the same time, provided there is written consent from both parties.

11. RECORDS
The College will ensure that all documentation collected or filed during the investigation procedures is handled in accordance with the Act Respecting Access to Information and the Protection of Personal Information.

All student and employee files related to these procedures will be kept for five (5) years from the time the file is closed and will be destroyed at the end of this period.

12. MONITORING OF THE APPROVED LIST OF MEDIATORS & INVESTIGATORS
The Respectful Learning and Workplace Environment Advisor, the Director of Human Resources (or their chosen delegate), and the Director of Student Services (or their chosen delegate) will review and update the approved list of external mediators and investigators on an annual basis.

The Respectful Learning and Workplace Environment Advisory Committee will be advised of any changes made to the list and will provide feedback regarding factors to consider in this review process.

13. MONITORING OF THIS PROCEDURAL DOCUMENT
Vanier College will review and amend this procedural document as required, or at least every 5 years following its adoption.