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## Maintaining a Respectful Community

Policy Number:	4202
Key Process Area:	Employee Engagement & Culture
Owner:	VP FA
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### POLICY STATEMENT

NBCC values a ***culture of belonging*** and therefore embraces diversity and inclusion. NBCC welcomes individual experiences and perspectives of our learners, our staff and our partners and aims to ensure that everyone feels valued and has opportunities to add value. To facilitate this, NBCC is committed to fostering a healthy, safe, and supportive community where all persons are treated with respect and dignity.

### PURPOSE

This policy outlines NBCC's commitment to maintaining a respectful community and provides guidance on how learners, staff and partners may access and be held accountable to NBCC values.

This policy constitutes the College's Harassment Code of Practice pursuant to the *Occupational Health and Safety Act (91)*.

### SCOPE AND LIMITATIONS

This policy applies to all staff (Employees) and partners of NBCC. Compliance with this policy is a condition of employment.

The policy applies to a learner's ability to allege misconduct by NBCC staff (Employee(s)) and/or Partners.

This policy does not apply to a learner's ability to allege misconduct by another student, which shall be subject to the Student Issues and Complaints (Policy 1313).

This policy does not preclude the application of specific remedial or corrective action (e.g. discipline and/or learning and development plans) which may appropriately result from contraventions of this policy. Such matters shall be governed by related performance management policies and procedures as well as collective agreements (as applicable).

### 1.0 DEFINITIONS

College Community Members - any person who studies, teaches, conducts research, or works at or under the auspices of the College, regardless of Community Location, including but not limited to:

- A person who is an Employee of the College;
- A student of the College (i.e. learners); and,
- Partners of the College.

Community Locations– includes but is not limited to locations where College Community Members interact such as:

- NBCC campuses including Corporate office.
- Off-site training facilities arranged by NBCC for work or education purposes.

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- During travel (e.g. ground and air transportation) for, attendance at and/or participation in face-to-face or virtual locations (including but not limited to Use of Social Media), whether required due to employment or voluntary, related to:
  - Business or instructional environments related to employment.
  - Official or social NBCC functions.
  - Education programs or opportunities (e.g. conference or seminar).

**Complaint** – is the identification of an Incident by a Complainant.

**Complainant** - is a College Community Member who alleges that they have been disrespected by experiencing Behaviours Which Are Unacceptable (s. 2.2) by the provisions of this policy.

**Employee** – a person who meets the definition of Employee under the Public Service Labour Relations Act and as may be further described in collective agreements.

**Incident** - is the allegation that a College Community Member has been disrespected through Behaviours Which Are Unacceptable (s. 2.2) by the provisions of this policy.

**Investigator** - is an external, trained person appointed by the Vice President to conduct an investigation into Incident(s) under this policy.

**Partners** – including but not limited to Visiting Scholars, volunteers, contractors, fee-for-service individuals, clients of NBCC and any other persons while they are acting on behalf of or at the request of the College.

**Respondent** - is a College Community Member against which an allegation has been made that they have disrespected another College Community Member through Behaviours Which Are Unacceptable (s. 2.2) by the provisions of this policy.

**Vice President** – is the Vice President responsible for Employee Engagement and Culture and Labour Relations.

## **2.0 IMPLEMENTATION**

### **2.1 Rights and Responsibilities**

- 2.1.1** Managers and supervisors have an inherent right to manage all operational requirements in the community, including attendance, performance and conduct. In carrying out these functions, managers and supervisors will treat Employees with dignity and respect in all written and face-to-face communications. Legitimate management actions shall not constitute a breach of this policy.
- 2.1.2** NBCC Employees, students and Partners have the right to work and learn in an environment free from harassment and discrimination.
- 2.1.3** Everyone is responsible for modeling and creating a respectful community by treating Employees, students and Partners with dignity and respect at all times.
- 2.1.4** As persons of authority, managers and supervisors have a particular responsibility to ensure Employees, students and Partners are always treated with dignity and respect in carrying out their management functions. Managers are expected to always model respectful behaviour and take action to intervene if they observe any disrespectful conduct or

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behaviour. This responsibility is to be discharged by:

- a) Incorporating and promoting the principles of this policy into operational requirements, onboarding and performance management.
- b) Providing advice and support to Employees in resolving conflict.
- c) Ensuring Employees, students and Partners aware of this policy and providing information or training sessions as required.

**2.1.5** Where references to specific positions within the policy occur (e.g. Vice President; Director, Employee Engagement and Culture; Director, Labour Relations), each position may appoint a designate, such designation to be placed in writing.

## **2.2 Behaviours Which Are Unacceptable**

**2.2.1 Personal Disrespect** is objectionable or offensive behaviour that is directed at an individual and is known, or ought reasonably to be known, to be unwelcome. This includes objectionable conduct, comments or displays made on either a one-time or continuous basis that demeans, belittles or causes personal humiliation or embarrassment. Examples include, but are not limited to:

- a) bullying behaviour
- b) rumour or gossip
- c) isolation and exclusion
- d) denigration of a student, co-worker, colleague, person in authority (face-to-face or through social media), or members of public with whom they interact as a result of their employment

**2.2.2 Discrimination** is the unequal treatment of people based on identifiable characteristics which grounds are protected by the *New Brunswick Human Rights Act* as race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, family status, sexual orientation, gender identity or expression, sex (includes pregnancy, the possibility of pregnancy or circumstances related to pregnancy), social condition, political belief or activity.

**2.2.3 Sexual Harassment** is any conduct, comment, gesture or contact of a sexual nature that is likely to cause offence or humiliation to an individual. It is conduct or comments of a sexual nature that is known, or ought reasonably to be known, to be unwelcome. Sexual harassment includes behaviour that might reasonably be perceived by a person as placing a condition of a sexual nature on employment or any opportunity for training or promotion. Examples include, but are not limited to:

- a) leering
- b) sexist jokes
- c) display of sexually offensive material
- d) use of sexually degrading words to describe a person
- e) derogatory or degrading remarks about sexual orientation

- f) sexually suggestive or obscene comments or gestures
- g) inquiries or comments about a person's sex life
- h) unwelcome sexual flirtations, repeated unwanted social or sexual invitations
- i) unwanted touching
- j) sexual assault

**2.2.4 Abuse of Authority** is an individual's improper use of the power and/or authority inherent in a position to jeopardize other employee's jobs, to undermine job performance, to threaten the economic livelihood of College Community Members, or in any way to interfere with or unduly influence a College Community Member's career or education. It is the exercise of authority in a manner serving no legitimate work or educational purpose and ought reasonably to be known to be inappropriate. Examples include, but are not limited to:

- a) intimidation
- b) threats of dismissal or other negative consequence
- c) insults
- d) physical contact
- e) coercion

**2.2.5 Creating a Poisoned Community Environment** is usually characterized by demonstrating offensive or intimidating behaviour that creates a negative community environment. It can be directed at an individual, a group or no one in particular. A poisoned community environment can be created by employees, by a manager or where there is generally little or no effort by an authority figure to restrain or correct the offensive or hostile behaviour by those under their supervision.

**2.2.6 Violence** is physical violence and psychological violence, including bullying, mobbing, teasing, ridicule or any other act or words that could psychologically offend or isolate a person in the workplace or learning community.

**2.2.7 Use of Social Media** to threaten, harass or abuse.

Social media is any form of electronic or digital medium of communication including email, voice mail, Facebook, Twitter, instant messaging, texting, sexting and blogging.

The misuse of social media and its impact is not restricted to the physical workplace and learning community.

## **2.3 PROCESS**

### **2.3.1 Timelines**

A College Community Member may file a Complaint under this policy within one (1) year from the date of the alleged Incident.

### **2.3.2 Supporting College Community Members with Processes**

- a) College Community Members, whether Complainant or Respondent shall be supported through access to NBCC's Informal Process and/or Formal Process.

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- b) Application of the Informal Process does not preclude the use of the Formal Process (at the Employee's, student's or Partner's request).
- c) At its sole discretion, NBCC may apply the Informal Process and/or either of the following Formal Processes (or both) to address the Incident in a manner balancing efficiency and our values.
- d) At its sole discretion, NBCC may upon obtaining knowledge of an Incident proceed as the Complainant on behalf of the affected College Community Member(s).

### **2.3.3 Expectations of Confidentiality**

- a) In both the Informal Process and/or either of the Formal Processes, the Director of Employee Engagement and Culture, Labour Relations or the Investigator shall inform Complainants, Respondents, witnesses and related support persons of the expectation of confidentiality under this policy.

### **2.3.4 Informal Process**

- a) Complainants are encouraged to address Incident(s) by communicating directly with the Respondent.
- b) If the Complainant is not able to approach Respondent in order to attempt resolution of the Incident, he/she may seek help from their manager or the Manager of Student Development (as may be appropriate to students).
- c) The Complainant's manager, or the Manager of Student Development may:
  - i) Prepare the Complainant to deal directly with the Respondent.
  - ii) Conduct a facilitated discussion between the parties.
  - iii) Provide mediation to the parties (especially if there is a continued future working relationship).
  - iv) Prepare the Complainant to proceed with the Formal Process, if the Informal Process is not feasible or proves impossible to continue.

### **2.3.5 Formal Process**

- a) At its sole discretion, NBCC may apply the Internal Investigative Process or the External Investigative Process (or both) to address an Incident in a manner balancing efficiency and our values.
- b) NBCC will exercise due diligence in determining whether an Incident warrants an External Investigative Process. NBCC recognizes that, in most instances, it will be in the interest of all parties to attempt an Internal Investigative Process.
- c) The Complainant will prepare a written complaint, describing the Incident(s) citing names, dates and times of the Behaviours Which Are Unacceptable (s. 2,2).
- d) The Complaint will be forwarded to the Director, Employee Engagement and Culture who will initially consult with the Director of Labour Relations and the Vice-President

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responsible for Employee Engagement and Culture to decide if the Internal Investigative Process or External Investigative Process is warranted.

- e) The complainant will be notified by the Director, Employee Engagement and Culture regarding which process will be engaged.
- f) Whether subject to the Internal or External Investigative Processes, all participating parties have the right to be accompanied by a support person of their choice during any interviews. As these processes are not legal proceedings, the support person selected shall not be a lawyer.

### **2.3.6 Internal Investigative Process**

- a) The Director of Employee Engagement and Culture shall confirm with the Complainant, and inform the Respondent, in a face-to-face manner (whether in person or virtual) that an Internal Investigative Process has been initiated. The Respondent will be given information regarding the nature of the Complaint.
- b) If there is a reporting relationship between the parties, it may be necessary to temporarily change reporting relationships or physically separate the parties during this process.
- c) The Director, Employee Engagement and Culture will conduct an investigative process (e.g. interviews, research) deemed reasonable in the circumstances in an attempt to gain agreement on the facts outlined in the Complaint and to recommend an appropriate resolution.
- d) If there is not agreement as to the facts, the Complaint may proceed to an External Investigative Process.
- e) If there is agreement as to the facts, the Director will provide a report (summary) to the Vice President detailing the results of the investigation and provide a conclusion as to whether the Complaint has merit under the letter and spirit of NBCC policy.
- f) Prepare the Complainant to proceed with the External Investigative Process, if the Internal Investigative Process is not feasible or proves impossible to continue.

### **2.3.7 External Investigative Process**

- a) The Vice President will appoint an Investigator to review the Complaint.
- b) The Investigator will gather evidence and conduct interviews as they deem appropriate to support their work.
- c) The Investigator will provide a report to the Vice President detailing the results of the investigation; including, but not limited to findings of fact, stipulating assessment of witness credibility, and provide a final conclusion as to whether the Complaint has merit on a balance of probabilities (i.e. whether, and in relation to what provision(s), there is a breach(es) under the specific parameters of NBCC policy.)
- d) The Investigator shall provide the report no later than three (3) months of NBCC's receipt of the Complaint, unless there are extenuating circumstances.
- e) The Investigator will ensure that due process is followed from the start to the

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completion of the investigation.

- f) The Investigator may, at their discretion, make recommendations to NBCC or the parties to attempt resolution during the process.
- g) The Investigator, if requested by NBCC, will provide recommendations (under separate cover). Recommendations will not be part of the report.

#### **2.3.8 Concluding A Formal Process**

- a) On receipt of the report resulting from a Formal Process, consultation on recommended resolution will occur with the Director, Employee Engagement and Culture; Director, Labour Relations; Vice President; and any member of management which may be deemed appropriate. The Vice-President will approve a resolution plan based on the results of this consultation.
- b) The Director, Employee Engagement and Culture and/or Director, Labour Relations; and an appropriate member of management will communicate to each party the outcomes of the Formal Process in a face-to-face manner whether in-person or virtual. This communication should occur within three (3) weeks of the Vice-President receiving the report. The report will include findings of fact, , and the final conclusion as to whether the Complaint has merit on a balance of probabilities (i.e. whether, and in relation to what provision(s), there is a breach(es) under the specific parameters of NBCC policy.) If applicable, the report will all also set out any approved resolution.
- c) This verbal communication shall be followed up on a timely basis by providing a written summary of the discussion to each party.
- d) If appropriate, Employee Engagement and Culture, Labour Relations or management may take remedial or corrective action following transmittal of this written summary.
- e) The Complainant and Respondent will each be requested and required to acknowledge this communication in writing on a timely basis but remedial or corrective action need not be delayed due to a lack of compliance.

## **2.4 Other**

- 2.4.1** Resolution of a complaint, regardless of whether by internal or external processes, does not preclude specific remedial or corrective action (e.g. discipline and/or learning and development plans) which may appropriately result from contraventions of this policy. Such matters shall be governed by related performance management policies and procedures as well as collective agreements (as applicable).
- 2.4.2** If NBCC finds that a Complaint was made vexatiously or with malice, the Complainant may be subject to remedial or corrective action.
- 2.4.3** Reports resulting from a Formal Process are final. There is no appeal process.
- 2.4.4** Confidentiality will be maintained throughout the entire process as much as is practical within the parameters of disclosure, due process, privacy laws and normal operational

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requirements. Flagrant breach of confidentiality shall represent a breach of this policy.

- 2.4.5** NBCC is committed to providing ongoing support through their Employee and Family Assistance Program (EFAP), counseling, coaching and any other proactive measures to anyone needing assistance following the investigative process.

## **2.5 Additional Processes Available to the Complainant**

- 2.5.1** Human Rights Commission: for any issues coming within the protected grounds of discrimination pursuant to the NB Human Rights Act.
- 2.5.2** Criminal Code of Canada: for any matters falling within a criminal offence, the employee may contact the police to do an investigation.

## **3.0 OTHER RELATED DOCUMENTS**

Not applicable.