

Human Resources

Procedure #4-136
Effective Date: May 10, 2000

CODE OF CONDUCT PROCEDURE - "Under Review"

PURPOSE:

The Code of Conduct procedure has been developed to resolve through principles of fairness, complaints about the behaviour of College community members (see Appendix A), which jeopardize the good order, and proper functioning of the College, or endangers the health, safety, rights or property of College community members.

RATIONALE: Georgian College is committed to creating and maintaining an enabling environment for students and employees. Georgian College values positive and supportive interaction among all members of the College community.

All members of the College community have the right to learn, work, and relax in a supportive environment. Freedom to learn, work and relax depends upon appropriate opportunities and conditions in the classroom, in the office, and on the campus. All College community members shall exercise their freedom with responsibility. In ensuring responsible conduct, the College staff believes that, in most cases, counselling, guidance, example and admonition may be more effective than discipline.

SCOPE:

The Code of Conduct procedure governs the behaviour of all members of the Georgian College community. All College community members are subject to this Code while they are on any College campus, off campus on College business and/or while participating in College events.

All individuals are expected to comply not only with the Code of Conduct Procedure, but also comply with the foregoing statutes and procedures:

- Criminal Code of Canada
- Freedom of Information Act
- Collective Agreements and Terms & Conditions of Employment
- Academic Practices and Procedures
- Ontario Human Rights Code Procedure [#4-134](#)
- Information Technology Acceptable Use Procedure ([# 2-117](#))
- Liquor Licence Act

1. GENERAL PRINCIPLES & RESPONSIBILITIES:

1.1 The College believes that most complaints can be effectively managed within the academic area or department. Accordingly, members of the College community are encouraged, whenever possible, to resolve issues directly with the person who is the subject of their concern. If local resolution is not possible or is unsuccessful, the complainant should follow the resolution process described in this Procedure.

1.2 The College President or designee has the right to take action or direct procedures which diverge from sections of this Procedure when the safety of College community members is at risk or the violation is deemed to be so serious that it is imperative that immediate action be taken.

1.3 Given the sensitive nature of a complaint, all parties concerned will make every attempt throughout the resolution of the complaint to respect the confidential nature of information to the fullest extent possible subject to the obligations of the College in dealing with the complaint, including its legal obligations under The Freedom of Information and Protection of Privacy Act, or any other statutes or legal constraints.

1.4 Complaints relating to multiple issues covered by this Procedure and other College procedures and practices may be processed concurrently. College staff will inform complainants of their options for handling

their concerns and direct complainants to the appropriate College procedures and practices for them to use to seek resolution for each issue.

1.5 The Director of Student Life, Director, Student and Career Success or other College staff is available to provide information, counselling and/or advice, in confidence, to students on the application and scope of the College's Code of Conduct Procedure and to clarify all options available for resolving issues. Similarly, College managers, Human Resource Services Consultants or union representatives are available to advise College staff.

1.6 In the event a complainant decides not to pursue his/her complaint through the process provided for in this Procedure, the College may determine, nevertheless, that the matter should be pursued. The appropriate Vice-President may designate someone within the College to investigate a complaint.

1.7 The College is responsible for the costs of administering this Procedure and processing complaints but not for any legal or other costs incurred personally by the complainant or the respondent.

2. OFFENCES

2.1 Disruptions

No person shall by action, threat, or by any means whatsoever, obstruct any College activity or service. College activities and services include, but are not limited to teaching, studying, working in course of employment, student events, administration, meetings and public service.

2.2 Offences Against Persons

No person shall physically assault another person, threaten another person with bodily harm, or knowingly cause another person to fear bodily harm.

No person shall create a condition, which endangers or threatens the health, safety or well being of themselves or others.

No person shall harass another person. Harassment is defined as any behaviour that is known or ought reasonably to be known to the perpetrator to be offensive, embarrassing or humiliating to other individuals.

No College Community member shall physically assault another person or threaten another person with sexual assault. (See Ontario Human Rights Procedure #4-134)

Note: Complaints of sexual harassment, discrimination or other violations under the Human Rights Code will be referred to the College Human Rights Complaint Consultant (x2200) & College Procedure #4-134 for resolution.

2.3 Unauthorized Entry and/or Presence

No person shall enter or remain in any College facility, room, or office without proper authority.

2.4 Offences Involving Property

No person shall possess College property or the property of any member of the College community without the consent of the College or the rightful owner.

No person shall misappropriate, destroy or otherwise damage College property or the property of any member of the College community.

No person shall deface the inside or outside of any building or property of the College.

2.5 Unauthorized Use of Facilities, Equipment or Services

No person shall use any facility, equipment or service of the College contrary to express instruction or without proper authority.

No person shall obtain any College equipment, material or service by fraudulent means or by providing false information.

2.6 Information Technology Resources

Georgian College has standards of behaviour for using information technology facilities and resources. All members of the Georgian College community are responsible for obeying the law and College procedure when using information technology facilities and services. See Georgian College Procedure #2-117.

2.7 Aiding in the Commission of an Offence

No person shall aid another in the commission of an offence as defined in this procedure.

2.8 Vexatious Complaints

No person shall knowingly or maliciously bring false charge against any member of the College community under this procedure.

3. RESOLUTION PROCESS

Important Note: If, at any stage of the resolution process, a concern for one's safety, or the safety of others arise, it is important that the complainant notify a member of College management immediately. In such cases, a complainant should not confront the respondent directly.

If a College community member has experienced or has knowledge of an assault, or other threatening or dangerous behaviour against oneself or another, this should be communicated immediately to his/her immediate supervisor (in the case of staff) or Student Life, Student and Career Success staff or Program Co-ordinator (in the case of students). The complainant may also wish to contact the police or have someone call on his/her behalf.

The appropriate Vice President or designate, and the Director, Physical Resources should be immediately notified by the complainant or staff contact person of offences involving assault against other persons. The Vice President, or designate will determine if an investigation into the complaint is required.

Complaints about property offences should be reported to the Director, Physical Resources or designate. The Director, Physical Resources will determine if the police will be involved and/or an internal investigation is required.

In some cases, where threat to person or property is not a threat to safety, and/or an internal investigation is required, the following complaints resolution process will be employed. Depending on the severity of the infraction, the College may proceed to a more progressive step.

STEP 1

Where appropriate, if an individual has knowledge about a violation that would fall within the definitions of this procedure, the individual should make an effort to advise the person who is believed to be the source of the problem.

In instances where the personal safety of the complainant is at risk, the individual should inform one's Manager, Program Co-ordinator, or Academic Director of the problem.

The individual should keep a detailed written record of the alleged violation(s) including date(s), time(s), location(s), and witness(es).

STEP 2

3.2.1 If the behaviour continues and/or the individual is unable or unwilling to approach the person who is the source of the perceived problem, the individual should notify one of the following College contact persons for advice about how to handle the complaint and information about the appropriate College procedure. The name(s) of respondent(s) need not be disclosed at this stage:

If the complainant is a student, s/he should speak to a "contact" person - ie: the Program Co-ordinator, the Academic Director, Student Life staff member, or a counsellor in Student Services.

If the complainant is an employee, s/he should contact his/ her Manager, Human Resource Services Consultant or Union Steward.

3.2.2 Timely reporting of the incident(s) is essential. The complainant must report the incident as soon as reasonably possible in the circumstances following the occurrence of the event(s) which give rise to the complaint or the complainant becoming aware of the occurrence of the event(s). The contact person will inform the appropriate Vice President or Director that a "staff designee" needs to be appointed to determine whether the incident(s) are a violation under this procedure.

Immediate reporting through this procedure is strongly recommended if the respondent or the complainant is a student whose academic success may be adversely affected by a delay in the complaint process. In these cases, it is suggested the complainant report the incident within five working days of its occurrence or knowledge of its occurrence.

If a Vice President or Director determines that an investigation is required at this time, a College staff member will be designated to conduct a formal investigation. The Directors, Student Life or Student and Career Success may act as a resource on the interpretation of this procedure.

NOTE: throughout the remainder of this process, "staff designee" is used to reference the designated staff member assigned by a Vice President or Director to conduct a more formal investigation and complaints resolution process on behalf of the College.

If the staff designee finds that his/her involvement is required at this time, the contact person will refer the complainant to the staff designee. If the staff designee determines that his/her involvement is not required at this time, s/he will provide advice and counsel to the contact person and monitor the situation as appropriate.

The staff designee will:

review this procedure with complainant and advise the complainant of rights and obligations under The Freedom of Information and Protection of Privacy Act;

the options for informal resolution of the complaint which may include mediation;

the option of submitting a written statement of complaint which should contain an account of the incident(s), including date(s) and time(s), the name(s) of the respondent(s), the name(s) of the witness(es), if any, and be signed and dated by the complainant. Failure to provide a written statement of complaint does not preclude the staff designee from working with the complainant and respondent to reach a resolution;

the availability of counselling and other support services; eg. Police, crisis centres, etc.;

the right to withdraw from any further action in connection with the complaint at any stage of the investigation, even though the College may continue to investigate the complaint.

the complainant may request adjudication by a College Complaint Adjudication Panel.

STEP 3

(NOTE: this step is ONLY appropriate if the complainant is not experiencing any threat to his/her personal safety)

3.3.1 Mediation can often lead to successful resolution dependent on the severity of the complaint. The staff designee may recommend mediation to the parties at any stage in the process if there is no perceived or

actual threat to either party. Either the complainant or respondent also may request mediation; however both must agree to participate.

3.3.2 If the respondent has not yet been informed of the complaint, the staff designee will, with the approval of the complainant, advise the respondent of the complaint and of the complainant's request for a mediated resolution.

3.3.3 Once there is agreement on proceeding with mediation, the staff designee will recommend a mediator. Mediators may be college employees and students nominated by their respective constituent groups and trained in mediation skills. External mediators may be contacted through Human Resource Services. Both the complainant and the respondent must agree on the mediator.

3.3.4 The mediation process will be "without prejudice" and "off-the-record" unless the parties specifically agree to the contrary, provided that any settlement reached will be on the record and will be disclosed to the staff designee. The mandate of

the mediator is to bring the complainant and the respondent together to explore each other's point of view and to assist the parties in reaching a solution. The mediator will not make decisions, recommendations nor act as an advocate for either party.

3.3.5 The staff designee will arrange for the mediator to meet with the complainant and the respondent as soon as possible dependent on the availability of the complainant and respondent. The process of mediation should conclude within 20 working days of the first meeting.

3.3.6 The mediator will keep the staff designee generally apprised of the progress of the mediation without revealing what any party has disclosed during the mediation, unless the parties both/all agree to the disclosure.

3.3.7 In the event a mediated resolution of the complaint would require the involvement of the College or an official of the College, the mediator may, with the agreement of the parties, contact the staff designee in order to facilitate the involvement of the appropriate College official for the purposes of the mediation.

3.3.8 The mediator will deliver a signed agreement to the staff designee as soon as possible after the conclusion of the meetings and will provide interim oral reports as requested by the staff designee.

3.3.9 Mediation is terminated when:

The complainant and respondent reach a mutual agreement to resolve the complaint.

The complainant or the respondent decides not to pursue this process any further.

The mediator recommends to the College contact person that the complaint proceed to an Adjudication Panel.

STEP 4

3.4.1 If/when the complainant decides to proceed to Step 4, s/he will submit a written complaint statement to the staff designee within five (5) working days. The complainant shall be informed that s/he may be identified to the respondent, if this has not already happened, and his/her statements shared with the respondent.

Note: The staff designee shall advise the respondent of the substance of a verbal complaint against the respondent where the staff designee determines that the verbal complaint raises issues that must be pursued by way of investigation.

3.4.2 Within five (5) working days of receiving the complaint and with the knowledge of the complainant, the staff designee will contact the respondent and give the respondent a copy of the written complaint.

If this has not already happened, the staff designee will advise respondent of:

the identity of the complainant and the nature and details of the complaint;

the Code of Conduct Procedure;

the opportunity to respond in writing and that the response will be shared with the complainant;

the various courses of action to reach a mutually satisfactory resolution.

3.4.3 After receiving the written complaint, the respondent may provide a written response to the staff designee.

3.4.4 After receiving the respondent's written response, the staff designee will give the complainant a copy of the respondent's reply to the complaint within five (5) working days.

3.4.5 In exceptional cases, the staff designee may defer informing the respondent of the complaint, for up to six months following the events which gave rise to the complaint, pending further investigation under special circumstances such as: lack of clarity about the nature of the complaint; concern for the safety, well-being, employment or academic status of the parties involved; or if the complaint appears to be unclear, unfounded, vexatious or made in bad faith.

The staff designee will inform the appropriate Vice President or Director, who will decide whether to take further action on behalf of the College. The Vice President or Director will weigh the elements of any possible prejudice to the respondent as a result of the delay in advising him/her of the complaint, risk to the complainant, and the College's responsibility to ensure a positive learning and working environment for all members of the College community.

3.4.6 The complainant may decide at any point in the process to take no further action and/or to withdraw the complaint. The Vice President/Director will decide whether to take further action on behalf of the College.

If the complaint is resolved at any stage in the process or the complainant decides to take no further action, the staff designee may terminate the complaint procedure.

To record the termination of the complaint procedure, the staff designee will:

- facilitate the signing of a resolution statement/agreement by both parties, and give copies to the complainant and the respondent, or
- document the decision to terminate the process.

The staff designee will keep the original statement/agreement, or document in the confidential file.

3.4.7 If, in investigating a formal complaint, the staff designee finds the complaint is without merit, trivial, frivolous, vexatious or made in bad faith, the staff designee will terminate the process with written notification to the complainant and the respondent, giving reasons for his/her decision. The contact person may also recommend, to the appropriate Vice President(s), that sanctions be imposed against the complainant for filing a complaint deemed to be without merit, trivial, frivolous, vexatious or made in bad faith.

3.4.8 The staff designee will investigate all complaints before adjudication or before any serious sanction (beyond a warning, interim suspension or temporary dismissal) is applied. The investigation of a complaint will normally include developing a case plan, meeting with the complainant, respondent and witnesses, collecting and preparing documentation such as a report of the complaint incident signed by the complainant, the respondent's reply, witness statements or records of interviews, etc.; and writing a case analysis/investigative report and presenting it to an Adjudication Panel (if one is called) or the appropriate Vice-President, if action is recommended.

3.4.9 The complainant and the respondent will be advised of the outcome of the investigation and, if the investigative report is to be presented to an Adjudication Panel or the President, each will be given a copy of the investigative report.

3.5.1 A complainant may request adjudication by a College Adjudication Panel (Panel) if resolution steps 1 through 4 have not resulted in a resolution of the complaint.

3.5.2 The staff designee may request that the appropriate Vice President or Director appoint a Chair to convene a College Adjudication Panel if resolution steps 1 through 4 have not resulted in a resolution of the complaint.

The Vice President or Director may appoint a Chair to convene an Adjudication Panel at any time during the process if the results of the staff designee's investigations indicate an immediate serious problem affecting the safety or well being of College community members or College property. In these cases, the Panel may be asked to recommend immediate and long-term action to ensure a positive working and learning environment at the College.

3.5.3 The Adjudication Panel will convene within fifteen (15) days following the completion of the investigation. Extensions to this time line will be considered under extenuating circumstances. The Vice President or Director will select three individuals to form a Panel — one from the complainant's constituent group, one from the respondent's constituent group and one College designee as Chair.

3.5.4 The role of the Panel is to formally adjudicate a resolution to the complaint. The Panel will have access to all information available concerning the case subject to the Freedom of Information and Protection of Privacy Act, if applicable.

3.5.5 Before the hearing, the staff designee will collect statements from the complainant(s) and respondent(s) summarizing their positions, their perceptions of the essential issues of the case, the resolution outcome each desires, and any witnesses or special evidence they wish the Panel to hear or consider.

3.5.6 The staff designee will communicate any information regarding the scheduling of the Panel to the complainant and the respondent. The contact person will provide information to both parties about the adjudication process and the schedule. S/he can also provide information about assistance for them from appropriate sources; the unions, professional administrative staff association, student administrative council, student services or the employee assistance program.

3.5.7 One person of their choice other than a witness may accompany the complainant and respondent when meeting with the Adjudication Panel. The complainant and respondent are responsible for arranging their own support persons and advising the staff designee. The staff designee will provide information to the support persons about the adjudication process, the schedule, and their role.

In consultation with the complainant and respondent, the staff designee will prepare a list of witnesses who may have relevant evidence to provide to the Adjudication Panel. The Chair of the Panel may permit additional witnesses to be added to this list at the request of either the complainant or respondent or where the Chair is of the view that a witness should be added. The staff designee will inform witnesses on the list of the adjudication process, the schedule and, generally, the role of witnesses at an Adjudication Panel hearing.

Except for the attendance of persons directed to be in attendance by the Panel, all proceedings will be closed. Witnesses will not be permitted to be present during the proceedings until their testimony is needed. They will leave the room after their testimony has been completed.

3.5.8 The Chair will facilitate the adjudication process, call upon the staff designee to give a full report on his/her investigation, ask the complainant and respondent to make their statements, ask any witnesses to speak, consider pertinent documents and witness statements, and facilitate discussion among the Panel members.

3.5.9 The Chair will make the final decision. The Panel will make the final decision with respect to whether a violation of behaviour proscribed by this procedure has occurred. The standard of proof applied will be on a balance of probabilities. If the decision of the panel is not unanimous, the decision of the Chair will prevail.

3.5.10 The Chair decides on a resolution outcome to the complaint, resolution processes, and any sanctions or remedies. If the Chair believes that any steps should be taken, s/he will consult with the appropriate Vice President or Director before s/he writes the decision.

3.5.11 The Chair will write a report to summarize the facts of the case, the panel's findings and his/her final decision. The report will be sent, within ten (10) days after adjudication has ended, to the staff designee and the Vice President or Director responsible for ensuring the enforcement of the outcome. The complainant and the respondent will be informed of the final decision. The complainant will be advised of the general nature of the sanctions, if any. He/she will not be entitled to any further information. Justice must appear to be done.

STEP 6

3.6.1 Respondents and complainants may only appeal (a) alleged procedural mistakes that fundamentally affected the final decision made by the Chair or (b) the decision(s) made by the College contact person in Sections 3.4.7.

3.6.2 Respondents and complainants have 10 working days from receipt of the Chair's written decision to appeal alleged procedural mistakes.

3.6.3 Appeals will be made in writing to the President. The President or designee will determine if the appeal has merit and will either decide the appeal or remit the matter back to the Chair. The President or designee should inform the appellant in writing of the appeal outcome within 20 working days of receiving the appellant's request.

3.6.4 The appeal decision is final and will be implemented by the College.

4. SANCTIONS AND REMEDIES

4.1 In most cases, the complainant's principal concern is to seek a change in the respondent's behaviour, the department or employee's practice, or the College procedure at issue. The complainant and the respondent through an informal resolution process or mediation can often agree upon changes in behaviour, practices and procedures. Similarly, respondents and complainants may agree to remedies without appearing before an Adjudication Panel subject to any necessary agreement by the College to the resolution reached. Sanctions will relate to the seriousness of the breach and the principles of progressive discipline and will be determined by the College.

4.2 Sanctions and remedies may be appropriate in some cases. The complainant and the respondent may agree them upon informally or through mediation or the Chair of the Adjudication Panel may direct them.

4.3 If the complaint proceeds to the Adjudication Panel stage, and in the event the Chair of the Complaint Adjudication Panel finds that misconduct has occurred and makes a determination at the end of the hearing, appropriate action will be taken.

4.4 The nature and type of sanction(s) depend upon the severity of the incident. Serious infractions are those, which may affect the health and/or safety of the individual, and other members of the College community, cause damage to College property, interrupt the College's operations, violations of the law and/or repeated minor infractions. Sanction or remedy may include, but is not limited to, an oral or written apology, a written reprimand or warning, interim suspension, temporary dismissal, a behavioural contract, probation, barring from campus, mandatory training/education, transfer, demotion, suspension, dismissal or expulsion.

4.5 In the event a determination is made at the end of the investigation that no misconduct occurred, and then the complainant will be advised of this fact and counselled. If it is determined that the complaint was initiated maliciously, then appropriate action will be taken.

5. RECORD RETENTION

5.1 All handwritten notes/reports, typed notes/reports and computer-generated reports taken by those involved in the investigation will be dated and signed and included in the investigation file.

5.2 All notes, along with the signed resolution agreement if applicable, will be submitted to the Office of the Registrar (for students) and Human Resource Services (for staff) upon resolution of the complaint.

5.3 All information will be treated confidentially to the extent permitted by law and in accordance with the Freedom of Information and Protection of Privacy Act. Records of all complaints will be maintained and secured by the Office of the Registrar or Human Resource Services separately from other employee and student records or files.

These Departments will retain these notes in a confidential file for a period of seven (7) years from the date of resolution after which time all records shall be destroyed. If there is a recurrence of the incident, or the resolution is breached, or outside action is taken such as a court action, the seven (7) year period will be extended as required.

APPENDIX A

DEFINITIONS

Balance of Probabilities

Balance of probabilities is the standard of proof, which must be met by a party who asserts an allegation or fact in a hearing. The party must adduce sufficient relative, probative and credible evidence to establish that it is more likely or probable than not that the allegation or fact that she/he asserts is true

College Community members

The College community includes employees; students; members of the Board of Governors or College committees; groups or associations who have a direct relationship to or are under the authority of the institution; visitors and contractors.

College Contact Person

A College contact person is the first point of contact for the student or staff member (complainant). The contact person will advise the complainant of the College's procedure and notify his/her manager if a complaint requires further investigation.

Complainants and Respondents

The complainant is the person who makes the complaint. The respondent is the person whose behaviour is complained about, or the manager of the department responsible for the procedure or situation complained about. Any references to "parties" means both the complainant and the respondent.

Staff Designee

A Vice President or Director to investigate the complaint and determine if further action is warranted appoints the staff designee. The staff designee will inform the complainant of the procedure and his/her responsibilities within the procedure. The staff designee will also assist the complainant through the procedure if further action is required.

Working Days

All days referred to in this Procedure are working days; i.e. days the College is open for business

GEORGIAN COLLEGE OF APPLIED ARTS AND TECHNOLOGY

Effective Date: May 10, 2000

Human Resources

Procedure: #4-136

CODE OF CONDUCT PROCEDURE

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