

Policy Title:	Anti-Racism/Anti-Hate/Anti-Discrimination Policy	Area of Responsibility: SENIOR VICE PRESIDENT, HUMAN RESOURCES & FACILITIES SERVICES
Policy Section:	Human Resources	Policy No: 5.30
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5.30 Anti-Racism/Anti-Hate/Anti-Discrimination Policy

Purpose

St. Clair College is a community of diverse races, creeds, and cultures. We are committed to promoting and supporting a workplace and learning environment where everyone can work and study together in an atmosphere free of discrimination, hate, and racism. This includes addressing all forms of discrimination, racism and hate, including but not limited to anti-Indigenous racism, anti-Black racism, antisemitism and Islamophobia.

The purpose of this policy is to:

- Promote a safe, inclusive and respectful campus, free from discrimination, racism and hate.
- Improve transparency and consistency in policies and responses to incidents of discrimination, racism and hate.
- Ensure a complaint mechanism is available that is responsive, effective and safe for complainants.
- Foster a positive student experience and thriving campus community to support learning and optimize academic success.
- Ensure the College is positioned to pro-actively assess and address signs of systemic discrimination and respond to, investigate and remedy claims of discrimination in a timely, effective, and proportionate manner.

Scope of Policy

This policy applies to all members of the College community, which includes all students, faculty, staff, management, members of the Board of Governors and its committees, and visitors, including guest speakers.

Definitions

Antisemitism – A certain perception of Jewish people, which may be expressed as hatred toward Jewish people.

Anti-Black Racism – Anti-Black racism is prejudice, attitudes, beliefs, stereotyping and discrimination that is directed at people of African descent and is rooted in their unique history and experience of enslavement and its legacy.

Anti-Indigenous Racism – Anti-Indigenous racism is the ongoing race-based discrimination, negative stereotyping, and injustice experienced by Indigenous Peoples within Canada. It includes ideas and practices that establish, maintain and perpetuate power imbalances, systemic barriers, and inequitable outcomes that stem from the legacy of colonial policies and practices in Canada.

Discrimination – A distinction without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an individual based on a Protected Ground.

Hate – An extreme emotion that involves despising, scorning, or ill-treating a group of people based on their identity. Hate can be motivated by many factors, including race, colour, national or ethnic origin, religion, and/or immigration status. This includes, but is not limited to, anti-Indigenous racism, anti-Black racism, antisemitism, and Islamophobia.

Hate Speech – This is any type of speech that incites hatred, including violence, against a group of individuals based on a Protected Ground under the *Human Rights Code*.

Hate Propaganda – This is any communication used by a person or group that promotes Hate, including public communications that promote Hate against an identifiable group or inciting Hate against any identifiable group.

Islamophobia – A certain perception of Muslims, which may be expressed as hatred toward Muslims.

Protected Ground – A ground set out in the *Human Rights Code*, including race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status and disability.

Race – A socially constructed way of judging, categorizing, and creating difference among people based on geographic, historical, political, economic, social and cultural factors.

Racism – A belief that one group is superior to others performed through any individual action, or institutional practice which treats people differently because of their colour or ethnicity. It involves the socially constructed ideas of race to justify or support, whether consciously or subconsciously, the notion that one race is superior to another.

Systemic Discrimination – This is a pattern of behaviour, policies or practices that are part of the structures of an organization that create or perpetuate disadvantage for racialized persons.

Organizational Commitment

The College is committed to providing an environment free from discrimination, hate and racism, where all individuals are treated with respect and dignity, can contribute fully and have equal opportunities. Discrimination, hate and racism will not be tolerated, condoned or ignored. Where appropriate, disciplinary action, up to and including termination of employment, will be taken.

St. Clair College is committed to a comprehensive strategy to address discrimination, hate and racism, including:

- Providing training and education to ensure everyone knows their rights and responsibilities.
- Regularly monitoring organizational systems for barriers related to protected grounds.
- Providing an effective and fair complaints procedure.
- Promoting appropriate standards of conduct at all times.
- Proactively assessing and addressing signs of discrimination.
- Responding to discriminatory acts in a timely, effective, and proportionate manner.
- Implementing proactive measures to support an inclusive campus free from discrimination, including measures to support dialogue, early intervention and de-escalation.
- Continuously reviewing and improving the College's efforts to prevent and respond to incidents of discrimination, hate and racism by analyzing dispute resolution data for trends and patterns in response to complaints that are brought forward.

Freedom of Expression and Academic Freedom

Excellence in the College community is fostered by promoting the freest possible exchange of information, ideas, beliefs and opinions, including discussion of controversial topics and unpopular points of view. However, such exchange of information, ideas, beliefs and opinions must be exercised in a manner that demonstrates respect for others, including ensuring their ability to meaningfully participate in the exchange of such information, ideas, beliefs and opinions.

Furthermore, differing opinions, beliefs and ideas on topics must be presented and expressed in a manner that benefits academic and intellectual pursuits while maintaining a safe space for all. Kindly refer to the Upholding Free Speech Policy #5.22, for further guidance and direction on this issue.

Guidelines for the Complaint Process

(a) Formal Mediation

If the informal approaches to resolving a complaint raised pursuant to this Policy are not successful or not feasible, formal mediation may be considered. Either party may request that mediation be instituted to assist the resolution of the complaint at any point in the process. If the other party is agreeable, and if mediation is assessed by the Policy Coordinator as a viable step to help resolve the conflict, the College will arrange for an independent mediator to conduct the mediation.

(b) Confirmation of Resolution

The resolution of all complaints, where the Policy Coordinator has had a role in the process, will be noted by the College through written correspondence to both parties, including any corrective action that has been issued or that will be issued as a result of an investigation. A copy of this correspondence will be retained in confidence by the Policy Coordinator except in the case of a disciplinary decision. In that instance, a copy of the correspondence relating to the decision shall be placed in the respondent's personnel file.

When either a formal or informal complaint is resolved between the parties rather than a final decision being rendered through the formal investigation process, the College considers that the matter neither has been withdrawn by the complainant nor has there been a finding against the respondent. This allows the complaint process to be reinstated if there is a recurrence of the behaviour as well as prevents the settlement from being interpreted as meaning that the respondent has engaged in discrimination, hateful or racist behaviour.

(c) Alternate Procedure

If a complainant using this policy chooses to use an alternate procedure, such as the Ontario Human Rights Tribunal or a grievance under a collective agreement, if applicable, the College may decide to either terminate or suspend this procedure.

(d) Complaint Withdrawal

A complainant has the right to withdraw a complaint at any stage in this process. However, the College may continue to act on the issue identified in the complaint in order to comply with its legal obligations and/or if the respondent has a history of previous complaints.

(e) Personal Advocates or Advisors

Any person involved in the complaint resolution process at any stage, may seek assistance, be represented and/or be accompanied by another person of his/her choice during all proceedings. When a personal advisor attends or represents a party to a complaint, that party must advise a policy official (eg. First Stage Advisor (see below) and/or Policy Coordinator) in advance of the advisor taking that role. Employees may be assisted by a union representative. Should any representative be legal counsel, the College may engage a similar representative.

(f) Safety

When the College determines that the safety of an individual or the community is at risk, it will act to the best of its ability to address this situation. This may mean, for the purposes of safety, the procedures outlined in this policy, including confidentiality, will be set aside.

(g) Responsibility for the Policy Process

1. The College appoints the College Resolution Officer as the Policy Coordinator to facilitate the administration of the policy process, including gathering statistics on the use of this policy and to identify trends, including the repetitive nature of complaints or respondents. Facts of this nature will assist the College in developing proactive approaches to reducing the frequency and seriousness of complaints.
2. The first contact for all inquiries, assistance or filing of complaints under this policy is anyone in the position of Administrator of a department. Chairs, Directors, Managers and Supervisors will usually act as First Stage Advisors. If the complaint is alleged against the individual's Manager, the complainant may use the Policy Coordinator as First Stage Advisor, or another Administrator. If the complaint is being filed by a student, they shall use the Policy Coordinator, as First Stage Advisor. If the complaint is alleged against the Policy Coordinator or College Resolution Officer, the individual may use the Senior Vice President, Human Resources & Facilities Services as a First Stage Advisor.
3. If the complaint is alleged against the President of the College, the individual may use the Chair of the Board of Governors as the First Stage Advisor.
4. Where a matter is brought to the College's attention without a formal complaint, but the substance of which, if substantiated, would constitute a violation of this policy, the College may initiate an investigation on its own initiative.
5. When required, mediators will be appointed by the College. In most cases, these individuals will be drawn from outside the St. Clair College community. Upon the parties in a complaint agreeing to mediation, the mediator will organize and facilitate a process to assist in the resolution of the issues in the complaint.
6. The investigation function, undertaken during the formal complaint process, will be carried out by an independent investigator (External Investigator) appointed by the College. In most cases, this individual will come from outside of St. Clair College. The College will use its discretion to determine if the complaint will be investigated internally by the College (Internal Investigator). The Internal Investigator will be an independent party not associated with either the complainant or respondent.
7. The final decision regarding a finding under this policy or of jurisdiction will be made by the President of St. Clair College. In the case of an allegation against the President, the Chair of the Board of Governors will make the final decision.

The Complaint Process

(a) Complainant Responsibility

Recognizing that it is in the best interests of all parties to resolve complaints, a person who has a complaint under this policy should, when possible, discuss the complaint with the person whose action gave rise to the complaint. If the complainant feels unable to do so, they should see a First Stage Advisor.

(b) **Stage 1 – First Stage Advisors**

I. Information for Complainant

In a situation where the complainant fears for his/her safety, the College will work with the complainant to establish a safety plan for them while on campus, as appropriate. Safety and Security will be involved in the implementation and creation of Safety Plans.

While the primary role of the First Stage Advisor is to assist in the resolution of issues relating to discrimination, hate and/or racism, it is important that the complainant receive the following information regarding the policy and procedure, including:

- The right to file a formal written complaint.
- The availability of EAP services, and support services for students and others.
- That if the complainant believes that his or her safety is at risk or threatened by the respondent, this should be noted and the police should be contacted, if necessary.
- The right to have an advisor or representative.
- The understanding that the College has the discretion to pursue an investigation to comply with all legal obligations even if the complainant withdraws from the process.
- The right to use other avenues of recourse, including the grievance process.
- The options available to address a complaint, including alternative dispute resolution.
- The penalties and redress that are available under this policy.
- The confidentiality of the process.

II. Information from Complainant

The complainant is asked to provide the First Stage Advisor with the following information:

- The name and department of the respondent, if applicable.
- The nature of the complaint.
- The time and date of the complaint.
- The names of any witnesses to the event(s) of the complaint.
- The solution suggested to resolve the complaint.

Policy Jurisdiction Decision

The First Stage Advisor will provide advice to the complainant regarding whether it seems, on the face of the information provided, that the complaint falls within the jurisdiction of the policy. In the case that the First Stage Advisor advises that the complaint does not seem to fall under the policy, the complainant may still proceed to the formal complaint stage.

Alternate Resolution

The First Stage Advisor will also provide advice to the complainant whether, on the basis of the information provided, an alternative dispute resolution mechanism is in order. If the complainant is agreeable, and the respondent is also willing to take part, such a mechanism will be put in place. In a situation where formal mediation is required, the First Stage Advisor will consult with the Policy Coordinator to arrange the appointment of the mediator.

(c) **Stage 2 - Formal Written Complaint/Investigation**

I. Formal Written Complaint

Failing resolution of the complaint, the complainant may submit a formal complaint in writing. The formal complaint must be submitted to the Policy Coordinator on the policy complaint form.

II. Receipt of Formal Complaint

On receiving a written complaint, or when the College decides to pursue the matter to meet its legislative obligations, the Policy Coordinator shall, within five business days:

- (a) acknowledge receipt of the complaint in writing
- (b) inform the respondent in writing of the complaint, providing a copy of the complaint, or listing of the allegations, and giving the respondent an opportunity to respond to the allegations within ten business days. The Policy Coordinator must provide the respondent with a copy of this policy as well as inform the respondent of his/her rights and responsibilities under the policy, including the right to have a representative and the importance of confidentiality.

III. Response to Complainant

Upon receipt of the respondent's response to the complaint, the Policy Coordinator shall disclose such information back to the complainant within five business days of its receipt.

IV. Meetings with Parties

Within ten business days of the complainant receiving the response of the respondent, the Policy Coordinator may meet separately with the complainant and the respondent to clarify the details of their submissions and to identify the steps that have been taken to attempt to resolve the matter. If appropriate, the Policy Coordinator may ask a First Stage Advisor to assist in the resolution of the complaint at this point.

Complaint Review Panel (CRP)

If, after the clarification of the submissions from the parties, the matter has not been resolved, the Policy Coordinator will refer the matter to the CRP, who will conduct a preliminary assessment of the complaint. The CRP will be comprised of the Policy Coordinator and two Administrators, in the case of employees, including faculty, or the Policy Coordinator, an Administrator and a student, in the case of students. This will be done within ten (10) business days of receiving the complaint and will involve a determination of the following:

- The complaint is within the timelines of the policy.
- The allegations fall within the scope of the policy.
- The complaint falls within the College's jurisdiction.
- There is sufficient information to warrant an investigation.
- The actions complained of are, have been, or should be the subject of other complaint processes including criminal charges, the HRT0, grievances and/or other procedures within the College.
- There is evidence to establish that the Policy has been breached in which case a determination is made without further investigation.

Should the preliminary assessment determine that one or more of the foregoing are not met, the CRP may dismiss the complaint. The parties will be informed of the dismissal at this time and be advised that they have the right to appeal this decision.

In the event there are health and safety concerns that require immediate attention, the CRP may issue interim measures during the course of the formal complaint process. For example: safety planning, communication ban between all parties, exclusions from certain areas of the College, in consultation with Human Resources – alternative supervisory relationship, a possible suspension with pay, interim suspension (students only) etc.

Formal Investigation

Where the CRP determines that matter requires investigation, the Policy Coordinator shall facilitate the appointment of an External Investigator. The investigation shall commence within ten business days of this appointment.

The Investigator may:

1. Interview the complainant and the respondent(s),
2. Interview witnesses suggested by the parties,

3. Interview other witnesses who may provide useful information for the investigation,
4. Gather evidence using legally permissible means,
5. Submit, within thirty calendar days from the beginning of the investigation, a written report of the findings of the investigation to the Policy Coordinator. Depending on the complexity of the investigation and the availability of the parties and witnesses for interviews, this timeline may be extended.

(d) Stage 3 - Investigation Report/Decision Making Meeting

I. Upon Receipt of Investigative Report

The Policy Coordinator shall provide the Senior Vice President, Human Resources & Facilities Services with a copy of the investigative report. The Senior Vice President, Human Resources & Facilities Services shall then:

- (a) Determine that there has been no finding of under this policy; or
- (b) Determine that there is insufficient or a lack of credible evidence to substantiate that a finding under this policy occurred; or
- (c) Determine that there has been a finding(s) of racism, hate or discrimination.

This analysis shall be assessed on a balance of probabilities (i.e. it is more likely than not that harassment/discrimination occurred) and shall be completed within five (5) business days. The Senior Vice President, Human Resources & Facilities Services shall then direct the Policy Coordinator to provide the parties with the findings of the investigation in writing forthwith.

II. Informing all Parties

All parties (the respondent and the complainant) will be informed by the Policy Coordinator, Senior Vice President, Human Resources & Facilities Services (in the case of a complaint against the Policy Coordinator) or the Chair of the Board of Governors (in the case of a complaint against the President) of the final results of the investigation and the action taken or that will be taken to address the results of the investigation.

Appeal Process

Requesting Permission to Appeal

Where the Complainant or the Respondent is a unionized employee, the appeal process and timelines shall be guided by the arbitration/grievance process.

Where the Complainant or the Respondent is a non-union employee, student, student employee or other they may request an appeal of any finding made by the Investigator and/or any sanction imposed, by requesting permission in writing, addressed to the Senior Vice President, Academic and Career Supports within five (5) business days of receiving the written notice of the investigative findings.

The Senior Vice President, Academic and Career Supports shall grant permission to appeal if the Appellant can establish, on the balance of probabilities, at least one of the following grounds:

- There is new information that is likely to change the outcome; or
- There is evidence of a procedural error or bias in the process; or
- The sanction imposed is not consistent with the finding of misconduct.

If the request for permission is denied by the Senior Vice President, Academic and Career Supports, there is no further right of appeal and the matter shall be considered as concluded.

If the request for permission is approved by the Senior Vice President, Academic and Career Supports, the matter, including the entire record of the evidence and the report of the external agency or person, shall be forwarded within five (5) days to the President, who will have ten (10) days to appoint members to the Appeal Panel.

Appeal Panel

Within ten (10) days, the President will appoint members to the Appeal Panel which shall consist of three (3) College Administrators. In situations where the appellant is a student, the Appeal Panel will consist of three (3) members, one (1) Administrator and two (2) students each from the student government. The President may appoint himself to the Appeal Panel.

The Appeal Panel shall convene within 10 days of appointment, and the Panel select one person to act as the Chair of the Appeal Panel. The Appeal Panel may, in its discretion, retain external legal counsel for the purpose of providing legal counsel and assistance to the Appeal Panel.

In recognition of the potential uniqueness of each situation, the Appeal Panel shall have full discretion to establish a reasonable appeal process and timeline (shall not exceed 30 days) for each appeal. Appeal proceedings shall be conducted in accordance with the principles of procedural fairness. The Respondent to the appeal will be provided an opportunity to provide a written response to the appeal.

Appeal hearings will generally be conducted in person. The Appellant may appear before the Appeal Panel to make oral submissions and call relevant evidence, as the Appeal Panel may consider appropriate.

The Appeal Panel will determine if, on the balance of probabilities, the original decision should be revised based on the following considerations:

- Was the original investigation fair and unbiased?
- Were material mistakes made in the investigation that require correction?
- Were findings made by the Investigator reasonable and supported by the evidence?
- Was College policy correctly applied to the findings that were made and the sanctions that were imposed?
- Has any new evidence been presented that could impact the outcome of the investigation?

The Appeal Panel will consider all information, documents, evidence and submissions provided in the appeal proceedings.

The Appeal Panel will issue a written appeal decision within fifteen (15) days from the conclusion of the appeal hearing. Copies of the appeal decision will be provided to the Complainant and the Respondent. The decision of the Appeal Panel shall be final and there is no further right of appeal.

Anonymous Complaints

Anonymous complaints about contraventions of this policy may be made via the Whistleblower Policy, Policy 2.22.

Trivial, Frivolous, Vexatious or Made in Bad Faith Complaints

Complaints which are trivial, frivolous, vexatious or made in bad faith shall result in a penalty against the complainant. The severity of the penalty will be determined based on the seriousness and impact of the complaint.

Collection of Data/Annual Report

Administrative Advisors must provide the Policy Coordinator with detailed information on their activities in this role. Dependent upon the type of contact made, information to be forwarded includes:

- Date of inquiry, number of meetings on the issue, section of policy (issue) dealt with, position and gender of individual making inquiry, position and gender of respondent, resolution of inquiry (actions taken).

The Policy Coordinator will prepare an annual statistical report for the President regarding the various complaints and actions taken under this policy.

COMPLAINT FORM

PAGE ONE (INFORMATION DISCLOSED TO RESPONDENT)

Complainant's Name: _____

Position: _____

Respondent's Name: _____

Address: _____

Telephone (business): _____ (residence): _____

Position: _____

Department/Location: _____

Alleged Violation (Hate, Racism and/or Discrimination): _____

In your own words please indicate the details of your complaint under the Workplace Harassment Policy: *If you would like to provide a more detailed description, please attach to this form.* Provide copies of any documentation which may be relevant to the issues of this complaint. List the documents provided.

Please describe any actions that you have taken to try to resolve this matter.

Signature of complainant:

Date:

This document and any attachments to it that you provide in the course of filing a complaint will be held in confidence by St. Clair College. Page one of this complaint form and its attachments will be disclosed to the respondent named in the complaint and to the investigator, adjudicators and mediators appointed to assist with the resolution of this complaint, as outlined in the policy procedures. **Subject to the proviso noted below, privileged information, such as the complainant's requirements to resolve the complaint and list of witnesses, provided on page two of this complaint form will not be disclosed to the respondent without your further consent. Your signature confirms that you have been made aware of and give permission for the above use of this information.**

Information gathered under this policy may be required to be disclosed under the Ontario Human Rights Code, Occupational Health and Safety or other legal proceedings.

PAGE 2 (NON-DISCLOSED INFORMATION)

Complainant Information:

Name: _____

Address: _____

Telephone: (business) _____ **(residence)** _____

Email: _____

Department & location: _____

Name of Respondent:

What are you seeking in order to resolve this complaint?

Witnesses to the events of this complaint:

Please identify, in order of importance, anyone that you feel would provide helpful information to assist the investigation of this complaint

Name: _____ **Telephone:** _____

Name: _____ **Telephone:** _____

Name: _____ **Telephone:** _____

Name: _____ **Telephone:** _____

Signature of complainant:

Date:

Complaint received by: _____ Date: _____

PLEASE DATE STAMP UPON RECEIPT

RESPONDENT'S RESPONSE FORM

PAGE ONE – INFORMATION NOT DISCLOSED TO THE COMPLAINANT

Name:	
Address: Street:	
Province/Postal Code:	Email:
Telephone: (business)	Telephone: (residence)
Position held/ work location:	
Witnesses to the events of this complaint: Please identify, in order of importance, anyone that you feel would provide helpful information to assist the investigation of this complaint	
Name: _____ Telephone: _____	
Name: _____ Telephone: _____	
Name: _____ Telephone: _____	
Name: _____ Telephone: _____	
Signature _____	Date:
	Date:
	PLEASE DATE STAMP UPON RECEIPT

PAGE TWO – INFORMATION DISCLOSED TO COMPLAINANT

Respondent's Name: _____

Position/location:

RESPONSE TO ALLEGATIONS

With reference to the enclosed complaint, provide a detailed response to the allegations. In responding please refer and respond to each allegation separately. The information that you provide should be as specific as possible with respect to dates, times, places, documents and persons involved.

(You may attach additional pages if there is not enough room on this form.)

Please describe any actions that you have taken to try to resolve this matter:

Provide copies of any documentation which may be relevant to the issues of this case as referred to in the complaint or in your response. Please list the documents provided with comments where applicable.

This document and any attachments to it that you provide in the course of responding to this complaint will be held in confidence by St. Clair College. Page 2 of this form and its attachments will be disclosed to the complainant and to the investigator; adjudicators and mediators appointed to assist with the resolution of this complain as outlined in the policy procedures. **Subject to the proviso noted below, privileged information, such as the list of *witnesses*, provided on page 1 of this form will not be disclosed to the complainant without your further consent. Your signature confirms that you have been made aware of and give permission for the above use of this information.**

Signature: _____ **Date:** _____

Information gathered under this policy may be required to be disclosed under the Ontario Human Rights Code, Occupational Health and Safety Act or other legal proceedings.