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**HARASSMENT POLICY**

**ST. MICHAEL'S COLLEGE SCHOOL**

Toronto, Ontario

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APPROVED BY THE ST. MICHAEL'S COLLEGE SCHOOL BOARD  
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# ST. MICHAEL'S COLLEGE SCHOOL

## HARASSMENT POLICY

### A. POLICY STATEMENT

St. Michael's College School ("St. Michael's") is committed to providing and maintaining a working and learning environment free from Harassment.

Harassment in any form is contrary to the standards of St. Michael's as an educational institution and will not be tolerated. St. Michael's will respond to any Harassment in a swift and compassionate manner in accordance with the terms and provisions of this Policy.

### B. DEFINITIONS

1. For the purposes of this Policy, the following terms shall have the following meanings:
  - (a) **Member** shall mean the directors, officers, administrators, teachers, teacher assistants, school counselors, employees, volunteers and/or any other persons who perform duties, either on a paid or volunteer basis, or a full-time or part-time business for St. Michael's;
  - (b) **Respondent** shall mean a person against whom a Complaint of Harassment is made pursuant to the terms of this Policy; and
2. For the purposes of this Policy, **Harassment** shall mean:
  - (a) any improper behavior (comment, conduct or gesture) which:
    - (i) is directed towards an individual or group of individuals, and which is related or motivated by the race, national or ethnic origin, color, religion, gender, sexual orientation, marital status, family status, disability, or pardoned conviction of the individual or group of individuals;
    - (ii) is offensive to that individual or group of individuals, and which the person making the comment, conduct, or gesture knows or ought to know is unwelcome or unwanted; and
    - (iii) might be reasonably expected to cause offense or humiliation to that individual or group of individuals; or

- (b) any improper behavior which might reasonably be perceived by the individual or group of individuals as placing a condition of a discriminatory nature on employment, curricular advancement, or upon any opportunity for training, advancement or participation.
- (c) sexual harassment, meaning engaging in a course of vexatious comment or conduct of a sexual nature including sexual assault, verbal abuse or threats, unwelcome sexual invitations or requests, demands for sexual favors or unwelcome innuendo or taunting about a person's body, physical appearance or sexual orientation.
- (d) workplace harassment, defined in the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1 as engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Harassment may be directed towards members of the same sex or the opposite sex. It may be made on a one-time or continuous basis and does not have to be undertaken with the intent to harass or discriminate in order to be a violation of this Policy.

3. For the purposes of this Policy, some examples of Harassment include the following:

When it is related to or motivated by race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status, family status, disability, or pardoned conviction, then the type of behaviour which constitutes Harassment may include but is not be limited to:

- (a) written or verbal abuse or threats;
- (b) the display of visual material which is offensive, or which one ought to know is offensive;
- (c) unwelcome remarks, jokes, comments, innuendo, taunting, or questioning about an individual's looks, body, attire, age, race, religion, gender, sexual orientation, sexual preferences, or sex life;
- (d) leering, whistling or other suggestive or obscene gestures;
- (e) condescending, paternalistic or patronizing behaviour;
- (f) unwanted physical contact, such as touching, petting, pinching, hugging, rubbing or kissing;
- (g) unwanted and unwelcome sexual flirtations, advances, requests for sexual favors or invitations; and/or
- (h) physical and/or sexual assault.

### **C. GENERAL POLICY GUIDELINES AND PRINCIPLES**

1. St. Michael's College School ("St. Michael's") will not tolerate Harassment by, between or against its Members.
2. St. Michael's is committed to providing a working and learning environment free of Harassment. Members have the right to work, study and conduct his or her activities in such an environment which promotes equal opportunities and prohibits all forms of Harassment. St. Michael's is committed to providing an environment free of Harassment, whether on the basis of race, national or ethnic origin, colour, religion, age, gender, sexual orientation, marital status, family status, disability, or pardoned conviction.
3. Any Member wishing to make a Harassment complaint (the "Complainant") may do so pursuant to this Policy (the "Complaint"). Complaints will be taken seriously and will be dealt with in a just and compassionate manner by St. Michael's. Any Member who violates this Policy and engages in harassing conduct can expect serious disciplinary consequences up to and inclusive of termination for cause from St. Michael's.
4. If St. Michael's determines that Harassment may have, or is, taking place, there may still be an obligation on St. Michael's to address the matter even if the Complainant decides to pursue the matter through another route or if the Complainant decides not to pursue the matter after a Complaint has been made.
5. Nothing in this Policy will derogate from or supersede the rights of the Complainant to report the harassing conduct pursuant to applicable and appropriate legislation, such legislation including, but not being limited to, the *Criminal Code* (Canada) and the *Human Rights Code* (Ontario).
6. This Policy applies to all Members who are acting in any capacity under the auspices of St. Michael's. It is the goal of this Policy to ensure that all Members of St. Michael's will be able to work in an environment free of Harassment.
7. To this end, Members are encouraged to come forward with a Complaint, or to seek advice regarding Harassment and the options available to address it. St. Michael's is committed to seriously and thoroughly investigating and addressing any Harassment Complaints received by it.
8. St. Michael's understands that it can be extremely difficult to come forward and make a Complaint. St. Michael's also understands that it can be devastating to a person's reputation if he or she is wrongly accused of Harassment. It is for this reason that St. Michael's recognizes the interest of both the Complainant and the Respondent in maintaining the confidentiality of Harassment Complaints.
9. St. Michael's shall maintain all records involving a Complaint in a confidential manner, and shall not disclose the fact that the Complaint was made, the name of the Complainant and the Respondent, the circumstances giving rise to the Complaint, the findings of any investigation, and the manner in which the Complaint was dealt with. Confidentiality

serves two purposes: to ensure fair and private dealings for all parties involved in the Complaint, and to ensure that the records of the Complaint cannot be misused. As a result, information related to a Complaint under this Policy will not be made accessible to anyone other than the Complainant and the Respondent who are directly involved in the Complaint, unless disclosure is required by law.

10. Both the Complainant and the Respondent have the right to a fair and impartial hearing of the Complaint, as provided for by this Policy. A fundamental aspect of a fair hearing is the right of the Respondent to know the identity of the Complainant. A Complainant should expect to have his or her identity revealed to the Respondent.
11. The procedures outlined in this Policy shall be complied with and appropriate action taken in a timely fashion by St. Michael's. Any retaliation by a Respondent against a Complainant for filing a Complaint under this Policy will not be tolerated and will be treated as an occurrence of Harassment pursuant to this Policy. Further, if it is deemed necessary, St. Michael's expressly reserves the right to contact the Police and advise the Police of the retaliation by the Respondent against the Complainant, and to immediately terminate the Respondent for cause, as applicable, and as deemed appropriate by St. Michael's in its sole discretion.
12. Due to the serious nature of any alleged Harassment, St. Michael's expressly reserves the right to take all pre-emptive steps it deems necessary in order to ensure the safety and the emotional and physical well-being of a Complainant. Such preemptive steps may include, but are not limited to, the following:
  - (a) suspension of employment duties of the Respondent for a limited or indefinite time period;
  - (b) immediate termination for cause of the Respondent;
  - (c) banning the Respondent from accessing the property, facilities and/or functions of St. Michael's; and/or
  - (d) immediate reporting of the Complaint to the Police.
13. St. Michael's shall create and maintain a written record of all Complaints. A copy of the Complaint and all further documentation relating to it will be kept in the files of the Complainant and the Respondent regardless of how the Complaint is finally dealt with under this Policy;
14. All Complaints of Harassment must be lodged within one (1) year of the occurrence of the incident(s) of Harassment for this Policy to apply. St. Michael's reserves the right to extend the above described time limitation where reasonable grounds are provided by the Complainant to explain his or her delay in filing a Complaint.

#### **D. PROCEDURE FOR ADDRESSING COMPLAINTS**

1. This Policy provides both an informal resolution procedure (“Informal Resolution Procedure”) and a formal resolution procedure (“Formal Resolution Procedure”) for Complainants. While Members are not required to undertake the Informal Resolution Procedure provided in this Policy before commencing the Formal Resolution Procedure, under most circumstances such a course of action will be recommended. St. Michael’s acknowledges, however, that there will be certain situations which, due to the serious nature of the alleged Harassment, will require the immediate implementation of the Formal Resolution Procedure, the immediate involvement of the Police, and/or the imposition of those preemptive steps described above in Section C.12 of this Policy.
2. As part of this Policy, St. Michael’s shall have two (2) harassment officers in place, who will be chosen from among the Members of St. Michael’s (“Harassment Officers”). At all times, one of the Harassment Officers shall be a man and the other Harassment Officer shall be a woman. Harassment Officers must be at least eighteen (18) years of age. St. Michael’s shall make the names of the Harassment Officers known to Members of St. Michael’s and shall provide their contact information to all interested Members upon request. Any requests for the contact information of Harassment Officer should be directed to the Principal or his designate.
3. The Harassment Officers shall have the following duties and responsibilities:
  - (a) to provide general information on Harassment to all interested Members;
  - (b) to provide general and specific information on the Harassment Policy of St. Michael’s to all interested Members;
  - (c) to assist in the implementation of this Policy;
  - (d) to assure that this Policy is complied with as much as possible;
  - (e) to investigate Complaints, including meeting with the Complainant, the Respondent and any witnesses, and to take statements from them; and
  - (f) to assist in both the Informal Resolution Process and the Formal Resolution Process of Complaints as directed by the Harassment Committee.
4. In the event that a Harassment Officer is the subject of a Complaint under this Policy, then such Harassment Officer shall be removed from his or her responsibilities as a Harassment Officer until such time as the Complaint against him or her has been fully dealt with. Pending resolution of the Complaint against the Harassment Officer, St. Michael’s shall appoint a suitable individual to assume the responsibilities of the Harassment Officer.
5. St. Michael’s shall appoint a Harassment Committee, which will be composed of three Members of St. Michael’s, one of which must be a female Member.

6. The Harassment Committee shall be generally responsible for the implementation of this Policy and, more specifically, with the assistance of the Harassment Officers, shall have the following duties and responsibilities:
  - (a) to make all Members of St. Michael's aware of the problem of Harassment and the procedures available under this Policy to deal with Harassment;
  - (b) to provide advice to Members who believe that they have experienced Harassment;
  - (c) to investigate all Complaints in a sensitive, responsible, timely and impartial manner;
  - (d) to inform Complainants and Respondents of the procedures contained in this Policy and their rights and responsibilities;
  - (e) to impose appropriate disciplinary and corrective measures when there has been a finding of Harassment, regardless of who the harasser may be;
  - (f) to take all reasonable steps to support and assist any Member of St. Michael's who believe that they have experienced Harassment by any individual who is not subject to this Policy;
  - (g) to appoint unbiased Harassment Officers, to provide for their training, and to ensure that they have the appropriate resources and support needed to fulfill their responsibilities under this Policy;
  - (h) to regularly review the terms of this Policy to ensure that it adequately meets the needs of Members of St. Michael's, as well as the legal and moral obligations of St. Michael's; and
  - (i) to recommend changes and revisions to this Policy as deemed appropriate by the Harassment Committee.
7. In the event that a member of the Harassment Committee is the subject of a Complaint under this Policy, then such member of the Harassment Committee shall be removed from the Harassment Committee until such time as the Complaint against him or her has been fully dealt with. Pending resolution of the Complaint against the Respondent member of the Harassment Committee, St. Michael's shall appoint a suitable individual to assume the responsibilities of the Respondent member.

#### **E. THE INITIAL COMPLAINT AND INTERVIEW**

1. If a Complainant believes that he or she has been Harassed by a Member, then the Complainant is encouraged, but is not required, to advise the Member of his or her discomfort and/or disapproval of the Harassment and to request that it cease immediately.
2. If the Complainant is uncomfortable about advising the Member directly about his or her concerns, then the Complainant should make a Complaint to a Harassment Officer or to a member of the Harassment Committee;
3. Upon the receipt of a Complaint, the Harassment Officer or the member of the Harassment Committee who receives the Complaint shall complete a preliminary meeting with the Complainant and shall do the following:
  - (a) advise the Complainant of his or her rights under this Policy;
  - (b) advise the Complainant of the options available if he or she wishes to pursue an informal resolution of his or her Complaint;
  - (c) advise the Complainant of his or her right to file a formal written Complaint under this Policy and to proceed immediately with the Formal Resolution Procedure;
  - (d) advise the Complainant of other options available to the Complainant in relation to the Harassment, including his or her right to seek legal advice regarding the commencement of civil proceedings or the obtaining of appropriate restraining orders, the commencement of an application with the Human Rights Tribunal of Ontario, or the right to contact the Police to initiate charges under the *Criminal Code* (Canada);
  - (e) The Complainant will then, in consultation with the Harassment Officer, determine which, if any, of the following courses of action will be taken in relation to the Complaint:
    - (i). to take no further steps;
    - (ii). to commence the Informal Resolution Procedure provided for in this Policy;
    - (iii). to commence the Formal Resolution Procedure provided for in this Policy;  
or
    - (iv). to pursue other options available to the Complainant, including the commencement of an application with the Human Rights Tribunal of Ontario, or the initiation of a complaint with the Police.
  - (f) If the Complainant decides to take no further steps, then the Complaint will be deemed to have been withdrawn. The Harassment Officer will then prepare a written report of the Complaint and the decision of the Complainant to take no further steps. Where possible, the Complainant will sign the written report as



confirmation that he or she has decided to take no further steps in relation to the Complaint.

- (g) If the Complainant decides to commence the Formal Resolution Procedure provided for in this Policy, then the Harassment Officer shall prepare a written record of this decision and shall obtain the Complainant's signature on the written record to evidence his or her decision. The Formal Resolution Procedure shall thereafter be commenced as provided for in this Policy. A copy of the written report shall be provided to the Complainant.
- (h) If the Complainant decides to proceed with the Informal Resolution Procedure provided for in this Policy, then the Harassment Officer shall prepare a written record of this decision and shall obtain the Complainant's signature on the written record to evidence his or her decision. The Informal Resolution Procedure shall thereafter be commenced as provided for in this Policy. A copy of the written report shall be provided to the Complainant.
- (i) If the Complainant decides to pursue other options available to him or her not provided for under this Policy, then the Complaint pursuant to this Policy shall be deemed to be at an end. The Resolution Officer shall prepare a written record of this decision of the Complainant and shall obtain his or her signature on the written record as evidence of his or her decision. A copy of the written report shall be provided to the Complainant.
- (j) The termination of a Complaint under this Policy will not remove the right of St. Michael's to deal with the alleged Harassment in a manner which it deems appropriate in the circumstances.

#### **F. INFORMAL RESOLUTION PROCEDURE**

1. In order to proceed with the Informal Resolution Procedure, the consent of both the Complainant and the Respondent is required. The Harassment Officer who took the Complaint from the Complainant will contact the Respondent and will determine whether the Respondent is agreeable to taking part in the Informal Resolution Procedure. The Harassment Officer shall advise the Respondent of the following:
  - (a) the name of the Complainant;
  - (b) the date of the alleged incident(s) of Harassment;
  - (c) the specific circumstances surrounding the alleged incident(s) of Harassment;
  - (d) a copy of any written Complaint, if one was provided;
  - (e) that he or she will be provided with the opportunity to respond to the Complaint;

- (f) that he or she is entitled to be represented or accompanied by another person of their choice (including legal counsel) at any stage in the Complaint process.
2. The Harassment Officer shall advise the Respondent that he or she is not obligated to take part in the Informal Resolution Procedure and that the Respondent is entitled to have another person of their choice present throughout the Informal Resolution Procedure, which person may be the Respondent's legal counsel.
3. Any documents or verbal exchanges between the Complainant and the Respondent that form part of the Informal Resolution Procedure shall be considered to be strictly confidential and shall not be used in any future proceeding, including the Formal Resolution Procedure, if it is commenced, except as required by law.
4. The Harassment Officer shall convene a meeting, or meetings as required, designed to allow the Complainant and the Respondent to discuss the Complaint in an effort to reach a resolution satisfactory to both the Complainant and the Respondent. If the Complainant and/or the Respondent are unwilling to meet together, then the Harassment Officer shall meet with each of them in turn, and will attempt to negotiate a resolution to the Complaint.
5. The Informal Resolution Procedure may result in any one of the following outcomes:
  - (a) resolution of the Complaint;
  - (b) withdrawal of the Complaint; or
  - (c) failure to resolve the Complaint.
6. Where the Complainant and the Respondent resolve the Complaint they will both be asked to sign a statement attesting to the resolution of the Complaint. Both the Complainant and the Respondent will be provided with a copy of the signed statement. Thereafter, St. Michael's will consider the Complaint resolved and will take no further steps in relation to the Complaint.
7. Where the Complainant decides to withdraw the Complaint, the Complainant will be asked to sign a statement attesting to his or her decision. Both the Complainant and the Respondent will be provided with a copy of the signed statement of the Complainant. Thereafter, St. Michael's will consider the Complaint to be at an end and will take no further steps in relation to the Complaint.
8. When a Complaint cannot be resolved, then the Complainant will be entitled to do either of the following:
  - (a) take no further steps;
  - (b) commence the Formal Resolution Procedure provided for in this Policy.

9. Should the Complainant decide to take no further steps, the Complaint shall be deemed to have been withdrawn, unless the Complainant commences the Formal Resolution Procedure within twenty (20) days of the termination of the Informal Resolution Procedure.
10. If the Formal Resolution Procedure is commenced by the Complainant, then the Harassment Officer who participated in the Informal Resolution Procedure shall not participate in the Formal Resolution Procedure. The Harassment Officer shall not provide evidence or disclose any information related to the Complaint or the Informal Resolution Procedure, unless required to do so by law.

### **G. FORMAL RESOLUTION PROCEDURE**

1. To commence the Formal Resolution Procedure contemplated in this section, the Complainant shall make a Complaint to the Harassment Committee. The Complaint must contain sufficient details of the Harassment complained of to allow the Harassment Committee to properly and thoroughly investigate and address the Complaint. If the Complainant requires assistance in making the Complaint, he or she will receive such assistance from an Harassment Officer.
2. Upon receiving the Complaint, the Harassment Committee shall interview the Complainant, the Respondent and any witnesses to the alleged Harassment, and will prepare a written statement of the respective interviews which will be signed by the party interviewed to confirm the truth and accuracy of the statement taken. The Harassment Committee will complete its investigation within 20 days of receiving the Complaint, unless a reasonable extension is required.
3. The Harassment Committee shall prepare a written report outlining its findings, which will include any statements taken from the Complainant, the Respondent and any witnesses (the "Report"). The Harassment Committee will provide a copy of the Report to the Principal and the Board of Directors of St. Michael's, the Complainant and the Respondent. The Report shall be completed within 10 working days after the investigation has been completed unless a reasonable extension is required.
4. The Harassment Committee shall then convene a meeting between the Complainant and the Respondent (the "Meeting"). The Harassment Committee will provide the Complainant and the Respondent with a minimum of three (3) days' written notice of the Meeting. If, upon receiving written notice, the Complainant and/or the Respondent do not appear at the Meeting, then the Harassment Committee may proceed with the Meeting in their absence.
5. The Meeting shall be held in camera. Both the Complainant and the Respondent shall have the right to be accompanied to the Meeting by legal counsel and the right to cross examine witnesses. The purpose of the Meeting shall be to provide the Complainant and the Respondent with the opportunity to comment on the Report and to advise the Harassment Committee of any further pertinent information to assist the Harassment Committee in making its final decision (the "Decision").

6. If during the Meeting it becomes apparent that additional information is required for the Harrassment Committee to render its Decision, it may adjourn the Meeting to permit the parties to produce such additional information or facts or to permit the Harassment Committee to obtain such additional information.
7. At the conclusion of the Meeting, or as soon thereafter as is reasonably required, the Harassment Committee shall render its Decision in relation to the Complaint as well as the remedies and/or sanctions to be imposed, if any, on the Respondent as a result of the Decision.
8. The Meeting and any Decision arrived at by the Harassment Committee shall be kept in the strictest confidence by all the parties involved, unless disclosure is required by law.
9. The Decision of the Harassment Committee is final and is not subject to review or appeal.
10. The remedies and/or sanctions which may be imposed as part of the Decision may include, but not be limited to, suspension with or without pay, or termination for cause from St. Michael's, depending on the seriousness and nature of the Complaint. The remedies and/or sanctions to be imposed by St. Michael's shall be in its sole discretion. If the Harassment Committee determines that the Complaint was frivolous or vexatious in nature or was made with no basis in fact, then it shall dismiss the Complaint and may take such disciplinary and/or other action against the Complainant as it deems appropriate, which appropriate action may include termination for cause from St. Michael's.

#### **H. APPLICATION OF COLLECTIVE BARGAINING AGREEMENT**

1. Where a Member who is accused of Harrassment under this Policy is subject to a Collective Bargaining Agreement, the terms of the Collective Bargaining Agreement respecting punishment of the Member shall be applicable and shall supercede the terms of this Policy, where the terms of this Policy and the Collective Bargaining Agreement conflict.