POLICY NO. 4
CONCERNING SEXUAL HARASSMENT, PSYCHOLOGICAL HARASSMENT, ABUSE OF POWER AND VIOLENCE

This policy constitutes a merger of Policy no. 4 concerning Sexual Harassment and Policy no. 11 concerning Psychological Harassment, Abuse of Power and Violence and was adopted in 2011 by Board Resolution 340-09 on April 12, 2011.

Policy no. 4 concerning Sexual Harassment was adopted for the first time in 1982 and subsequently amended by Board Resolutions:

250-04 April 9, 1996
295-10 October 28, 2003

Policy no. 11 concerning Psychological Harassment, Abuse of Power and Violence was adopted by Board Resolution 304-09 on April 12, 2005.
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POLICY NO. 4 CONCERNING SEXUAL HARASSMENT, PSYCHOLOGICAL HARASSMENT, ABUSE OF POWER AND VIOLENCE

PREAMBLE

All members of the College community have the right to study, work and learn in an atmosphere which is free of harassment of any kind, abuse of power or violence. To ensure such freedoms, John Abbott College has adopted this Policy which delineates the parameters and procedures for preventing undesirable behaviour and dealing with it if it should occur.

The College considers harassment of any kind, abuse of power and violence to be a serious offence. Sexual harassment is a form of discrimination, violence, or both. It infringes on fundamental human rights and undermines personal dignity and integrity. Psychological harassment, abuse of power and violence also undermine personal dignity and integrity. These behaviours interfere with the work, study and academic environment of the College.

Both men and women can be victims of sexual harassment, psychological harassment, abuse of power and violence.

The College will endeavour, at all times, to provide a working and learning environment that is supportive of scholarship, research and the fair treatment of all its members. The basis for interaction among all members of the College must be mutual respect, trust, cooperation and understanding.

Each member of the College community shall promote and maintain an environment free of harassment of any kind, abuse of power and violence. Persons in positions of academic authority or administrative authority have the responsibility to recognize and prevent these behaviours – this, in accordance with the provisions of the Charter of Human Rights and Freedoms, the Act respecting Labour Standards of Québec and the Civil Code of Québec.

ARTICLE 1 - INTERPRETATION

1.1 This policy is to provide an interpretation consistent with the remedial and preventive nature of its objectives. Hereafter, the use of the word “harassment” shall have a comprehensive meaning and be held to include sexual harassment, psychological harassment, abuse of power and violence.

ARTICLE 2 - SCOPE OF POLICY

2.1 This Policy applies to all those working or studying at the College. It also applies to all persons using the services of or providing services to John Abbott College. The Harassment Awareness Committee encourages the prompt reporting of all incidents of harassment, regardless of who the offender may be. Accordingly, the Policy applies, without limitation, to:
2.2 behaviour on campus
2.3 all forms of communication, including, but not limited to, telephone and computer
2.4 behaviour at College sponsored events on and off-campus
2.5 social and athletic functions
2.6 stage, work-study or exchange programs
2.7 field trips, conferences, training sessions and seminars

ARTICLE 3 - OBJECTIVES

3.1 This Policy is intended to counter any form of harassment, abuse of power and violence in order to protect the physical and psychological integrity of individuals, to protect their dignity and ensure a non-discriminatory, harmonious and safe place of work and study.

3.2 This Policy is also intended to be used for the implementation of educational, preventive and administrative measures to raise awareness in the John Abbott College community and to communicate the College’s formal position of zero tolerance against harassment.

3.3 The College will therefore:

3.3.1 foster an awareness of behaviour that can be harassing through educational programs;

3.3.2 act upon complaints of harassment promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned;

3.3.3 ensure that any member of the College community who seeks, in good faith, recourse/redress or is involved in any proceeding under this Policy is able to do so without fear of reprisal and;

3.3.4 ensure that this procedure cannot have the effect of prejudicing the rights of any individual under collective agreements or the law.

ARTICLE 4 - DEFINITIONS

4.1 Harassment encompasses any reprehensible conduct, whether unintentional or intentional, having the effect of ridiculing or humiliating. Harassment is usually systematic and repetitive, and has an undesired effect; harassment violates an individual’s right to dignity and to the physical or psychological integrity of his or her person. It is normally vexatious, malicious or menacing, and it is of such nature that it compromises an individual’s legal right or has the effect of creating an unfavourable work or study environment. One isolated act can constitute harassment where it is severe and where it continues to produce undesirable effects in the future.
4.2 Harassment is discriminatory where it is based on one of the criteria enumerated under section 10 of the Charter of Human Rights and Freedoms, namely race, colour, gender, pregnancy, sexual orientation, civil status, age except in the manner permitted by law, religion, political convictions, language, ethnicity or nationality, social condition, a handicap or the use of any means to palliate a handicap.

4.3 Sexual harassment is conduct characterized by repeated and undesired words, acts or gestures with a sexual or homophobic connotation, whether unintentional or intentional which by nature attack the dignity of the physical or psychological integrity of the person or lead to unfavourable working and learning conditions or dismissal. One isolated act can constitute harassment where it is severe and where it continues to produce undesirable effects for the future or human rights.

4.4 A sexual relationship between a person in a position of trust or authority and a person under the age of eighteen (18) is illegal and therefore abusive, even though the person may have consented to the relationship.

4.5 Sexual harassment may take a variety of forms including, but not limited to:

4.5.1 Persistent manifestations of sexual interest on the part of someone who knows or can reasonably know that such interest is not wished;

4.5.2 Verbal advances already refused and nevertheless repeated without the consent of the person who is the object of those advances;

4.5.3 Insistent and undesired propositions of a sexual nature;

4.5.4 Systematic or incessant sexual or homophobic remarks or comments;

4.5.5 Non-consensual physical advances such as but not limited to, touching, caressing, brushing against, pinching or kissing;

4.5.6 Remarks, comments, allusions, jokes or insults of a sexual nature, including of a homophobic nature, which are repeated or continual and which disturb the atmosphere of work or study;

4.5.7 An explicit or implicit promise of reward or favourable treatment in return for complying with requests of a sexual nature;

4.5.8 An implicit or explicit threat of retribution or unfavourable, hostile, unjust or discriminatory treatment, upon refusal to submit to a request of a sexual nature, or the reprisals which effectively follow such a refusal;

4.5.9 Voyeurism or exhibitionism;

4.5.10 Attitudes or acts of physical aggression or assault with the intention of imposing an undesired sexual intimacy;

4.5.11 A sexual relationship that involves an abuse of power in a relationship of trust or authority;
4.5.12 Persistent, unwanted contact or attention after the end of a consensual relationship;
4.5.13 Sexually degrading language used to describe a person under any circumstances;
4.5.14 All other offensive manifestations of a sexual nature.

Any act of sexual assault or aggression and incidents of stalking should be immediately reported to the College’s security services and to the police for investigation.

4.6 **Consensual Relationships:** In a consensual relationship, those involved feel perfectly free in their actions, the consent is reciprocal and a refusal is taken seriously and respected. It is understood that sexual harassment has nothing to do with the appropriate expression of desire and acceptable sexual advances. Sexual harassment begins when one no longer feels free to act as one wishes. Anyone who is unsure that a situation involves sexual harassment should seek advice from a Harassment Resource Person (located in Student Services).

4.7 **Psychological harassment** means any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects an individual’s or student’s dignity or psychological or physical integrity and that result in a harmful work or study environment for the individual or student. A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.

4.8 **Psychological harassment** can be illustrated by the following kinds of conduct, such as:

4.8.1 disrespect, contempt, condescending attitudes, and the refusal to share information;
4.8.2 verbal or gestural insults, yelling, lashing out at, blackmailing, pressure tactics;
4.8.3 razing, humiliation, whether in private or in public;
4.8.4 degrading propositions.

4.9 **Psychological harassment** can also manifest itself in gestures, acts, or words which are repeatedly inflicted on an individual by other individuals (mobbing).

4.10 **Abuse of power or abuse of authority** consists of using power or authority conferred by position, in an inappropriate and illegitimate manner, which compromises the employment or the learning of an individual, and which harms or prevents their work or study.

Abuse of power or authority can take the form of acts, threats, or insinuations by a person in a position of power or authority, which negatively affects the work or study conditions of an employee or a student.

Bullying constitutes an abuse of power, as does the attempt to inflict stress upon a person by placing them in a situation with the objective of displaying their weaknesses.

The threat of dismissal, layoff, refusal to renew the employment contract, demotion, transfer, the loss of work-related privileges or important modifications thereto without a just reason, all constitute the abuse of power.
The threat offering student grades constitutes abuse of power.

4.11 Violence encompasses acts or threats done or uttered by an individual or a group of individuals which violate, in an intentional or unintentional manner, the integrity or the physical or psychological security of an individual or group of individuals. Violence can take any form, such as physical or verbal aggression, harassment, or abuse of power or authority.

ARTICLE 5 - RETALIATION

5.1 Any act of retaliation against a person who uses this Policy to report a complaint of harassment is an offence subject to disciplinary measures, in accordance with the applicable collective agreement or with College policy.

ARTICLE 6 - RESOURCE PERSONS

6.1 The Director of Student Services names two Resource Persons, with appropriate professional qualifications, from the Counseling Department (preferably one female and one male). Their function is to support and assist those lodging a complaint. Their term is one year and renewable. A Resource Person's responsibilities are:

6.1.1 to inform the complainant of his/her rights and the possible avenues of recourse, including talking with the respondent, suggesting mediation or filing a complaint under this policy;

6.1.2 to assist, at the complainant’s request, in the preparation of a formal written complaint and to forward the complaint to the Director of Human Resources Services or in the case of a student-to-student complaint, to the Director of Student Services;

6.1.3 to undertake immediate intervention where the severity of the circumstances warrant, including by ensuring the complainant is provided with psychological support;

6.1.4 to submit an annual report, while maintaining confidentiality, to the Harassment Awareness Committee and to the Director of Human Resources Services. This report should include the types of complaints, the nature of relationships (for example, teacher/student) and the outcome of each reported case.

6.2 In cases of physical violence, the Resource Person must ensure that the complainant has received the appropriate medical treatment and that he or she has a medical report. In such a case, the Resource Person must immediately contact campus security and the police for investigation. They must also refer the complainant to the Coordinator of Human Resources Services for employees and to the Director of Student Services for students.

6.3 The complainant, Resource Person, and respondent may at any time meet informally to discuss the situation, make recommendations and hopefully resolve the issue. If the meeting is successful, the situation is considered to be remedied and the dossier is closed.
ARTICLE 7 - HARASSMENT AWARENESS COMMITTEE

7.1 The Harassment Awareness Committee will be composed of the Coordinator of Human Resources Services, who will chair the committee, and of two representatives from each of the following segments of the College population: students, faculty, professionals, administrative support personnel and administrators. The representatives from each segment will be one female and one male when this is possible. If it is not possible, each segment can nominate two members of the same gender. They will be appointed by their respective associations and/or unions for a renewable term of one year. This appointment will be made no later than the first of September each year. The Resource Persons are ex-officio members on the Committee.

7.2 The Committee's mandate will be:

7.2.1 to coordinate preventative and educational awareness projects;

7.2.2 to make recommendations to the Director of Human Resources Services about mechanisms for preventing the occurrence of psychological and sexual harassment and on changes to this policy as required;

7.2.3 to compile, in consultation with the Director of Human Resources Services, prior to the start of each academic year, a list of persons who may act as mediators;

7.2.4 to report on its activities to the Director of Human Resources Services, and its respective associations and/or unions, annually; such report is to include the information received from the Resource Persons.

ARTICLE 8 - PRELIMINARY PROCESS

8.1 An individual who believes that he/she is a victim of harassment is strongly encouraged to make a direct request to the alleged respondent that the offensive behaviour or action(s) cease. If the request is unsuccessful or if the complainant does not wish to make such a request, the complainant should seek the confidential advice of a Resource Person.

ARTICLE 9 - FORMAL COMPLAINT

9.1 A complaint of harassment must be made in writing to the Director of Human Resources Services or in the case of a student-to-student complaint, to the Director of Student Services, within ninety (90) days after the last incidence of the alleged acts of psychological harassment. For complaints of sexual harassment, the delay for filing a written complaint is six (6) months. The complainant is strongly encouraged to seek the advice of a Resource Person before filing a formal complaint.

9.2 The complaint must contain the complainant's full name, phone number and address and be signed by the complainant. The complaint must clearly identify the respondent by name or
describe the respondent so that he or she may be identified as easily as possible. The complaint must further describe the relationship between the complainant and the respondent and contain a sufficiently detailed description of the situation including the context, the location, the circumstances, as well as the date(s) and the time(s) that the event(s) complained of.

9.3 The complaint must remain confidential as long as the investigation is on-going and the appropriate recommendations have not been implemented. All complaints must be handled with tact and discretion.

9.4 The Resource Person may assist the complainant with the drafting of the complaint but the description of the events must remain that of the complainant. The complainant maintains control of the complaint and may stop the process at any time.

**ARTICLE 10 - MEDIATION**

10.1 Mediation is an informal, confidential process by which an impartial third party assists the parties to voluntarily find acceptable mutual solutions to their problem. However, the mediator does not have the power to decide for the parties.

10.2 Mediation may be requested by either party, both before or after a formal written complaint has been filed, but must be agreed to by both parties. Refusal of mediation must never be used against a party during the procedure. Recourse to mediation, when unsuccessful, does not prevent the complainant from seeking additional recourse.

10.3 The complainant and the respondent must agree on the choice of the mediator from a list compiled by the Harassment Awareness Committee.

10.4 Within a thirty (30) day period, from the date of appointment of the mediator, the mediation process should be concluded. The options for resolution must be of a voluntary nature. If resolution is achieved, no further action should be taken and the matter is closed.

**ARTICLE 11 - INVESTIGATION OF FORMAL COMPLAINT**

11.1 Once a formal complaint has been filed, The Director of Human Resources Services or the Director of Student Services informs the respondent (the person who is the object of the complaint) and gives the respondent a copy of the written complaint within fifteen (15) calendar days of receipt with all contact information removed; the respondent is entitled to submit a written response to the allegations. A copy of the response is provided to the complainant within seven (7) days.

11.2 The Director of Human Resources Services will contact the Coordinator of Human Resources Services when a complaint is filed against a College employee.
11.3 Unless the complainant and respondent have agreed to mediation or other acceptable settlement process, the Director of Human Resources Services will appoint two other members of Management (where possible, one male and one female), who are not in direct working relationship, to an investigative panel and will also chair this investigative panel. In cases of a student-to-student complaint, the Director of Student Services will appoint and chair the investigative panel comprised of two other members of Management (where possible, one male and one female), who are not in direct working relationship.

The investigative panel will begin to hear the complaint within thirty (30) days of receipt (excluding official vacation periods).

11.4 Unless the complaint appears clearly frivolous or unfounded, the investigative panel will conduct an impartial investigation into the allegations made and the response provided if any; both the complainant and the respondent will be advised of their right to be accompanied by a representative of their choice during any meetings with the investigative panel.

11.5 The investigative panel will:

- collect all the facts relevant to the investigation;
- interview the complainant, the respondent, the witnesses and any other interested parties;
- require that these persons maintain the most strict level of confidentiality;
- provide a sufficiently detailed account of the exchanges with one party to the other party in order to allow for reply or rebuttal;
- gather all the documents required in support of the facts
- conclude its deliberations and render a detailed confidential report within thirty (30) days of the conclusion of its investigation, as to whether harassment has occurred;
- prepare a written report to be forwarded to the complainant and the respondent;
- issue recommendations to the College with regard to interim measures only, when justified by the circumstances, to prevent the situation from repeating itself while the investigation is ongoing.

**ARTICLE 12 - APPEAL PROCESS**

12.1 The conclusions of the report are subject to appeal only on the grounds that the conclusions reached were arbitrary or discriminatory, or, if the procedures outlined herein for the handling of the complaint were materially breached.

12.2 Appeals must be submitted to the Director General’s office in writing within ten (10) working days of receiving the conclusions of the investigation and must include the specific reasons justifying the appeal.

12.3 In the event that the Director General was directly involved in the investigation, the College will name a neutral party from the Board of Governors. The appeal must be treated by the Director or neutral party within ten (10) working days of receiving a request for appeal.
12.4 In the event that the Director of Human Resources Services or Director of Student Services were the object of a direct complaint, the complaint should be filed with the Director General who appoints a replacement from management to chair the investigative panel.

ARTICLE 13 - ADMINISTRATIVE AND/OR DISCIPLINARY MEASURES

13.1 In cases where the investigative panel finds that harassment has occurred, the respondent is subject to administrative and/or disciplinary measures.

The Administration will decide on the appropriate measures in accordance with the relevant collective agreement, the Human Resources By-law or the Policy on Student Conduct and Discipline Procedures.

13.2 A complainant determined by the investigative panel to have been dishonest in making a harassment complaint or to have made a malicious complaint is subject to administrative and/or disciplinary measures in accordance with the relevant collective agreements or Policy on Student Conduct and Discipline Procedures.

ARTICLE 14 - CONFIDENTIALITY

14.1 All the persons called upon to intervene or to be interviewed within the context of the above procedures will be held to the strictest confidentiality except where quasi-judicial or judicial proceedings (arbitration hearing or other tribunal) result from or are initiated following the investigation or any administrative or disciplinary measure issued.

14.2 The Director of Human Resources Services and the Director of Student Services are responsible for maintaining the confidentiality of all information they receive in the exercise of their duties under this Policy. The keeping of files, the use of the information contained therein and the destruction of files or parts thereof are subject to the applicable laws governing such matters and the relevant collective agreements.

14.3 The College will keep all files for five (5) years from the time the file is closed and destroy them at the end of this period.

14.4 All reports other than the confidential detailed written report of the investigative panel prepared by any individual and/or committee mentioned in this Policy will identify the parties by number or letter and under no circumstances by name.

ARTICLE 15 - PERIODIC POLICY RENEWAL

15.1 All the practices and procedures set forth in this policy are open to review and re-evaluation. The Director of Human Resources Services will report to the Board of Governors at least every three years on the extent of compliance with the Policy and recommend any necessary changes.
ARTICLE 16 - RESPONSIBILITY FOR APPLYING THIS POLICY

16.1 The Director of Human Resources Services is responsible for the application this Policy.

ARTICLE 17 - EFFECTIVE DATE

17.1 This policy constitutes a merger of Policy no. 4 concerning Sexual Harassment and Policy no. 11 concerning Psychological Harassment, Abuse of Power and Violence.

17.2 Policy no. 4 concerning Sexual Harassment was adopted for the first time in 1982 and subsequently amended by Board Resolutions:

- 250-04 April 9, 1996
- 295-10 October 28, 2003

17.3 Policy no. 11 concerning Psychological Harassment, Abuse of Power and Violence was adopted by Board Resolution 304-09 on April 12, 2005.

This Policy was approved by Board Resolution 340-09 on April 12, 2011 and became effective on April 13, 2011.