

CAMBRIAN COLLEGE CODE OF CONDUCT

Effective Date: February 11, 2003
Originating Office: Office of the President
Supersedes/Amends Policy dated: N/A (Takes place of now rescinded 1994-5 Board Policies)

TABLE OF CONTENTS

PREAMBLE.....	1
SCOPE	2
DEFINITIONS	2
ADVISOR.....	2
COLLEGE DESIGNEE.....	3
DISCRIMINATION.....	3
DISRUPTIVE, THREATENING OR VIOLENT CONDUCT	3
HARASSMENT	3
NATURAL JUSTICE.....	4
OFFENCES AGAINST PROPERTY.....	4
SEXUAL HARASSMENT.....	4
GENERAL PROVISIONS.....	4
URGENT MEASURES	6
CONSULTATION PROCESS.....	7
RESOLUTION PROCEDURES	8
PROCEDURES FOR INFORMAL RESOLUTION.....	8
FILES OF COMPLAINTS RESOLVED INFORMALLY.....	8
PROCEDURES FOR FORMAL RESOLUTION	8
FILES OF COMPLAINTS RESOLVED FORMALLY.....	9
SANCTIONS.....	9
APPEALS	9
COMPLAINTS RELATING TO OPERATIONS OF THE CODE OF CONDUCT.....	10
THE ADVISORY COMMITTEE FOR THE CODE OF CONDUCT.....	10
REVIEW PROCESS.....	10

PREAMBLE

Cambrian College serves a broad mandate, across many disciplines through diverse stakeholders adhering to a variety of viewpoints. The institution of a unifying general code of conduct is necessary to maintain harmony and to promote institutional goals of excellence and progress. Without derogating from any right or obligation found in any legislation, collective agreement, or any other specific contract or policy, this Code informs and asserts individual rights and responsibilities. The Code also provides a protocol for responding to complaints about conduct that impacts individual members of the College Community. A standardised framework ensures fairness and consistency in all dealings over conduct, while respecting the law, preserving academic freedom, and respecting management, union, employee, student and human rights.

SCOPE

1. Code Applies to All Members of the College Community from Cambrian College Campuses in Ontario

The Cambrian Code of Conduct covers members of the College Community from Cambrian College campuses in Ontario, hereinafter referred to as “members” including:

- academic, support, and administrative staff;
- the President;
- Cambrian students and clients;
- contractors such as those undertaking construction, provision of service or research;
- members and officials of unions, student governments, boards, societies and associations which have a direct relationship with, or are under the authority of the institution;
- members of standing and *ad hoc* committees established by the institution; and visitors, guests or members of the community-at-large while on College property.

2. Contractors, their Employees and Visitors

Contractors, their employees and representatives, and visitors to the College are expected to conduct themselves at any College-related activity in a manner consistent with this policy. Violations of this Code by such persons may be dealt with as potential breaches of contract or may result in suspension of College privileges. Should such persons believe that they have been subjected to conduct on campus in violation of this Code, they may seek counsel from the Advisor.

3. Code Does Not Supersede Other Agreements

Nothing in this Code shall replace or supersede policies or procedures set out in any Collective Agreement to which Cambrian College is a party.

4. Jurisdiction

Complaints with respect to an alleged violation of this Code may be made by members in relation to the conduct of other members where the complainant is directly affected by the conduct in question. As well, the College, through its designated officers, may make a complaint on its own behalf. The alleged violation must have taken place on College premises, either rented or owned, or on other premises in the course of any College sponsored activity or event. Exceptionally, complaints may be made regarding an alleged violation that has taken place at another location, where the potential consequences of the violation may adversely affect the complainant’s course of work or study at the College.

DEFINITIONS

5. Advisor

The Advisor is a person appointed at the pleasure of the President to fulfil the functions attributed to him or her under this Code.

6. College Designee

College Designees shall each be appointed on an *ad hoc* basis, in consultation with the complainant, at the pleasure of the President, to fulfil the functions attributed under the Code, except under the following conditions:

- a) When the respondent to a complaint is the President, the Chair of the Board of Governors shall appoint the Designee, who shall then serve at the pleasure of the Chair of the Board of Governors.
- b) When the respondent to a complaint is a member of the Board of Governors, the Chair or the Vice Chair shall appoint the Designee, who shall then serve at the pleasure of the Board of Governors. The respondent shall recuse him or herself from all deliberations and decisions regarding the particular complaint.
- c) If not terminated sooner, each College Designee's appointment concludes once the procedures provided by this Code are exhausted.

7. Discrimination

Discrimination is defined as treatment which:

- a) has the effect or purpose of imposing burdens, obligations or disadvantages on members or groups of members; and
- b) for which there is no bona fide and reasonable justification; and
- c) when such treatment is based on one of the prohibited grounds specified in the Ontario Human Rights Code and Canadian Charter of Rights and Freedoms, that is race, colour, ethnic or place of origin, sex, ancestry, sexual orientation, citizenship, creed, family status, disability, or record of offenses.

8. Disruptive, Threatening or Violent Conduct

Disruptive, threatening or violent conduct is defined as:

- a) assaulting another member; or
- b) threatening another member or group of members with physical harm or causing another member or group of members to have reasonable grounds to fear physical harm; or
- c) acting in a manner which threatens or violates the rights and safety of any member of the College community or interferes with the learning/working/social environment.

9. Harassment

Harassment is defined as:

- a) engaging in vexatious comment or conduct towards a member or group of members that is known or ought reasonably to be known to be unwelcome; and
- b) which may or may not be based upon one of the prohibited grounds specified in the Ontario Human Rights Code; and

- c) when such conduct has the effect or purpose of unreasonably interfering with a member's work or academic, athletic or artistic performance or of creating an intimidating or hostile environment for work or study.

10. Natural Justice

The principles of natural justice are defined as “procedural fairness; requirement applicable to public bodies and domestic tribunals when making decisions that affect the rights and interests of individuals; the rules of natural justice require that persons affected by a decision be notified of the case against them and be given a reasonable opportunity of presenting their case, and that the body making the decision listen fairly to both sides and reach a decision untainted by bias; the precise content of natural justice varies according to the nature of the power exercised, the decision involved, and the consequences that flow therefrom.”¹

11. Offences Against Property

Offences against property are defined as wilfully or recklessly taking, having unauthorized possession of, damaging or destroying any property belonging to:

- a) the College; or
- b) any member, when such property is on College premises or on other premises during the course of a College-sponsored activity or event.

12. Sexual Harassment

Sexual Harassment is defined as conduct of a sexual nature such as, but not limited to, sexual assault, verbal abuse or threats of a sexual nature, unwelcome sexual invitations or requests, demands for sexual favours or unwelcome and repeated innuendos or taunting about a member's body or appearance when:

- a) submission to such conduct is made, whether explicitly or implicitly, a term or condition of a member's employment or educational progress; or
- b) submission to or rejection of such conduct is used as the basis for an employment or academic decision affecting that member; or
- c) such conduct has the effect or purpose of unreasonably interfering with a member's work or academic, athletic or artistic performance or of creating an intimidating or hostile environment for work or study.

GENERAL PROVISIONS

13. Rights

Members are entitled to an environment which is free from discrimination, harassment, sexual harassment, threatening, disruptive or violent conduct, or offences against property.

¹Sac, Jeffrey, Q.C. and Poskanzer, Ethan. *Labour Law Terms: Dictionary of Canadian Labour Law*. Toronto: Lancaster House, 1984.

14. Responsibilities

Members are expected to respect this Code. As well, members who have authority over others bear a particular responsibility to act in a timely and effective manner if they become aware of any violation of this Code.

15. Assistance from the Advisor

It is the mandate of the Advisor to assist members in resolving an alleged violation of this Code, in an effective and constructive manner. Such assistance is available to individuals who believe that they have been subjected to conduct that violates this Code, to individuals against whom a complaint has been filed under this Code, and to those with supervisory authority who are called upon to respond to incidents of such alleged conduct.

16. Complaints Subject to a Range of Responses

In keeping with its desire to settle complaints in an effective and constructive manner, the College shall endeavour to seek an appropriate response to any alleged violations of this Code by using informal or formal methods of conflict resolution. If a violation is found to have occurred, every attempt shall be made to use remedies and sanctions that restore harmony, collegiality and cooperation between members.

17. Informing the Community

The Advisor shall undertake to inform all members of the provisions of this Code.

18. Fairness and Consistency

Complaints made under this Code shall be applied in a manner that is consistent with the principles of natural justice and fair for all parties to the complaint, regardless of constituency.

19. Academic Freedom

This Code is not to be applied in such a way as to detract from the right of the College Community to engage in the frank discussion of potentially controversial matters, such as race, sex, sexual orientation, politics or religion. Further, the Code should not be interpreted in such a way as to limit the use of legitimate instructional techniques, such as irony, argument, conjecture and refutation, or the assignment of readings which may present a controversial point of view. This Code also recognises the right to teach according to one's best judgement, within the bounds of the course outline and requirements of competency.

20. Management Rights

This Code is not to be applied in such a way as to detract from the right and duty of those with administrative authority to manage, and if necessary to discipline, academic employees, administrative and support staff, and students in accordance with Collective Agreements and College policies and procedures.

21. Union Rights

This Code is not to be administered in such a way as to detract from the rights of unions to defend the interests of their members and to exercise their rights under a Collective Agreement.

22. Student Rights

This code is not to be administered in such a way as to detract from the rights of student organizations to defend the interests of their constituents in accordance with College policies and procedures.

23. Recourse at Law

This Code does not detract from the right of members to seek recourse at law.

URGENT MEASURES

24. The College's response to any urgent situation involving threatening or violent conduct shall be coordinated by the Security Office in accordance with provisions of College policy and procedures.

25. Reporting and Responding to Urgent Situations

Members who are faced with an urgent situation involving threatening or violent conduct, where there is reasonable cause to believe that the safety of persons may be threatened, shall immediately contact the Security Office. The Security Office shall take whatever action is necessary to secure the safety of persons.

26. Temporary Suspension

- a) Where a member of the academic, administrative or support staff presents a clear and present danger to the safety of persons or to the activities of the College as a whole or of any of its individual members, the individual may be temporarily suspended by the College, and the matter shall be dealt with according to the provisions of the relevant Collective Agreement or College policies.
- b) The member against whom such action is taken may seek recourse through the grievance procedures of the relevant Collective Agreement or the grievance procedures contained in College policies and procedures.
- c) Where a student or other College community member presents a clear and present danger to the safety of persons, or to the activities of the College as a whole or to any of its individual members, the College may suspend the individual on a temporary basis, exclude the individual from any College premises or part thereof, and take any other steps that may be appropriate. The suspending officer shall notify the Registrar, the relevant Dean or relevant supervisor as applicable, and the Security Office of the terms of the suspension.
- d) In the case of any temporary suspension, the College shall meet with the respondent within three (3) working days of the suspension order. The sole purpose of the meeting shall be to determine whether or not sufficient reason exists for continuation of the suspension. The College shall render its decision and inform the relevant parties immediately following the meeting. The respondent may be accompanied by support persons.
- e) Should the respondent be unable to attend the meeting within the three (3) days, he or she shall notify the College as soon as practicable with the times he or she is able to attend a meeting. Upon such notification, the College shall convene a meeting as soon as possible.

- f) In the event that the suspension is upheld by the College, the respondent may appeal in accordance with College policies and procedures.
- g) In the event that the suspension is not upheld by the College at the preliminary meeting, the complaint shall proceed according to College policies and procedures.
- h) In the event that the temporary suspension is not upheld or the College determines that the complaint is unfounded, that decision shall not invalidate the suspending officer's prior action. However, every effort shall be made to remedy any disadvantage that the individual may have experienced as a consequence of the temporary suspension.

CONSULTATION PROCESS

27. Consultation with the Advisor

- a) Members who believe that they have been subjected to conduct that violates this Code may consult the Advisor. The primary goal of the Advisor is to assist the complainant in making an informed choice as to the most appropriate method of resolution to a complaint or conflict.
- b) The Advisor shall be impartial in the exercise of his or her functions and shall respect the confidentiality of all parties to any matter in which the Advisor has been requested to assist.
- c) The Advisor shall assist the complainant in the determination of the appropriate College Designee.

28. Consultation with the College Designee

- a) The College Designee is a person appointed by the College to respond to a particular area of complaint. The College Designee shall be impartial in the exercise of his or her functions, and shall respect the confidentiality of all parties to any matter in which the Designee has been requested to assist.
- b) The College Designee will make a determination whether the complaint:
 - i. is not within the jurisdiction of this Code, in which case the College Designee shall, if appropriate, redirect the complainant to the relevant channels for redress; or
 - ii. is being heard, or has already been heard by another College officer, or through another College procedure in which case the College Designee shall consult with and, if appropriate, redirect the complainant to the relevant College authority; or
 - iii. is within the jurisdiction of this Code in which case the College Designee shall provide the complainant with information regarding the informal and formal processes.

29. The complainant will decide whether:

- a) to proceed with informal conflict resolution;
- b) to proceed with a formal process;
- c) to take no further action; or
- d) to pursue any other course of action available at law, under a Collective Agreement or under any other College policies or procedures.

RESOLUTION PROCEDURES

PROCEDURES FOR INFORMAL RESOLUTION

30. Should the complainant opt to proceed with informal conflict resolution, he or she shall authorize the College Designee to take steps to attempt resolution of the complaint. Such steps may take a variety of forms, for example, helping to clarify perceptions, raising awareness of the impact of certain conduct, reconciling differences or sorting out misunderstandings. The parties may be brought together or communication may be effected through the College Designee.

31. Some situations lend themselves to structured mediation. If both parties agree to try this method, the College Designee may personally act as mediator or may assist the parties in obtaining the services of another member of the College who is qualified to perform this function.

32. Any informal agreement reached between the parties is entirely voluntary. Neither the College Designee nor any other mediator has authority to impose conditions or sanctions upon either party.

33. The complainant may withdraw the complaint at any point during the process of informal resolution. As well, the complainant may decide to proceed to the formal process.

FILES OF COMPLAINTS RESOLVED INFORMALLY

34. Upon completion of the informal process, the College Designee may keep personal notes.

35. No formal file will be kept.

PROCEDURES FOR FORMAL RESOLUTION

36. A complainant may opt to proceed directly to a formal process at the onset or after an attempt at informal conflict resolution has proven to be unsuccessful. If the informal process is unsuccessful, and the complainant chooses to pursue the formal process, the College must appoint a Designee not previously involved with the complaint.

37. The College Designee shall provide the complainant with the following information:

- a) it is the responsibility of the complainant to provide in writing a complaint which must be signed and dated, and must identify the respondent and the precise nature of the complaint;
- b) it is the right of the complainant to consult any person(s) in the preparation of his or her case, and to be accompanied or represented by any person(s) during the process of resolution;
- c) it is the right of the respondent to receive full disclosure.

38. The College Designee shall take the necessary steps to investigate the complaint in such a manner as to respect the principles of natural justice and the procedures of any Collective Agreement, College Policy, or Terms and Conditions of employment that may apply.

39. Communication of the Decisions Taken

- a) Within 15 working days of receiving a formal written complaint, the College is to render a decision. This decision must be expressed in writing to both the complainant and respondent. The 15 working days may be extended should extenuating circumstances exist.

- b) If the decision or action taken by the College does not constitute a disciplinary action as defined by relevant Collective Agreements or College Policy, the College Designee shall monitor compliance by the respondent. Once satisfied that compliance has been effected, the College Designee shall inform the complainant.
- c) If disciplinary action is taken and is subsequently overturned by a higher authority or by grievance and arbitration procedures, the complainant and College Designee shall be notified.

FILES OF COMPLAINTS RESOLVED FORMALLY

40. Each College Designee shall maintain his or her own files of formal complaints which shall include a summary of the investigation, the record of resolution, the sanction, if any, and the result of any appeal or grievance.

SANCTIONS

41. The College may impose one or more of the following sanctions:

- a written reprimand;
- imposed conditions;
- payment as compensation for damage or loss of property;
- correction of a situation which the individual created or helped to create;
- continued suspension or expulsion.

42. Failure to comply with imposed sanctions may result in further College action.

APPEALS

43. A staff member may seek appeal through the grievance procedures of the relevant Collective Agreement or the grievance procedures contained in College policies and procedures.

44. A student may appeal through the Cambrian College Grievance Procedure and all other members may appeal through the Office of the President.

COMPLAINTS RELATING TO OPERATIONS OF THE CODE OF CONDUCT

45. If a member of the College community considers that the Advisor or College Designee has failed to follow the procedures outlined in this Code, with respect to any matter to which the member has been a party, he or she may submit a written complaint to the President detailing the alleged procedural failure. The President shall investigate the complaint and inform the member of the results of the investigation. If, however, the alleged procedural failure refers to the actions of the President, then the Chair of the Board shall instead investigate and report as above.

THE ADVISORY COMMITTEE FOR THE CODE OF CONDUCT

46. The President shall appoint an Advisory Committee for the Code of Conduct (the Committee) composed of the following members:

- one (1) student member;
- one (1) support staff member;
- one (1) academic staff member;
- one (1) administrative member;
- the Advisor, ex-officio.

47. The Committee shall select a chair from among its members.

48. Appointments shall be for two years, renewable.

49. The mandate of the Committee shall be to:

- a) a. assist the Advisor in the development and implementation of activities to disseminate information about this Code;
- b) b. make recommendations to the President on the continued development of the Code of Conduct, as necessary;
- c) c. receive the annual report of the Advisor and make any representations to the President with regard to the content or implementation of the report, as necessary.

50. The Committee shall meet at the call of the Chair, or at the call of any three (3) members of the Committee, but no less than twice per academic year.

51. The Advisor shall respect the confidentiality of all nominative information relating to cases or complaints during discussions with the Committee.

REVIEW PROCESS

52. Based on a collation of data under the Code, the Advisor shall submit an annual report to the President and Advisory Committee. The report shall include statistics on all complaints received and make recommendations, as necessary, with regard to the operation of the Code. The annual report shall be published.

53. Each College Designee shall submit statistical data to the Advisory Committee annually.