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Administration	

Policy Owner	Corporate Administration, Office of the Chief Administrative Officer
Approval Body	Regional Council
Approval Date	
Effective Date	
Review by Date	

1. POLICY

Niagara Region is committed to delivering exceptional services and engaging with members of the public in a fair, responsive and understanding manner, while fostering a safe, respectful and harassment-free workplace and space for its employees, volunteers, Members of Council and the public. In order to achieve these objectives, inappropriate behavior and misconduct by members of the public who require access to and/or make use of Regional premises or services may need to be limited in a manner that is clear, consistent, reasonable, and proportional to the individual's conduct.

2. PURPOSE

This policy contributes to the Region's objectives of delivering exceptional services and engaging with the public in a fair, responsive and understanding manner, while recognizing that there may be circumstances that require action to protect staff, volunteers, Members of Council and members of the public from inappropriate behaviour, referred to in this policy as "Misconduct".

Some situations of Misconduct may cause concern for the reasonable safety of others at Regional premises or may interfere with the public's use and enjoyment of Regional services and facilities. Further, Misconduct may consume a disproportionate amount of staff and/or Council Member time and resources and compromise their ability to provide assistance or deliver effective and efficient service to others.

Accordingly, under this policy and associated procedures, inappropriate behaviour that qualifies as Misconduct may result in the application of restrictions against members of the public. Any restrictions applied will be reasonable, consistent and proportionate to address the particular Misconduct at hand, and communicated in a manner that is clear and understandable.

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3. SCOPE

General

This policy applies to:

- all persons attending, accessing and/or making use of any and all Regional properties, facilities, services, programs, meetings or events; and
- the conduct of all persons interacting with Regional staff, volunteers, Members of Council, or members of the public, in any manner, including, but not limited to:
 - i. in-person communications;
 - ii. written communications;
 - iii. telephone communications;
 - iv. all forms of virtual and electronic communications, including e-meetings, e-mail, text message, and social media;
 - v. at Regional property and facilities; and
- at non-Regional properties, facilities or workplaces where Regional services and programs or events are provided.

Implementation

This policy will be followed in determining whether behaviour constitutes Misconduct based on a consideration of all of the circumstances of a particular case. Once it has been determined that Misconduct has occurred, this policy, together with the Region’s Public Conduct Procedure, will be followed in the implementation of any restrictions and any applicable review or appeal of those restrictions.

This policy is not intended to apply to generally unreasonable or difficult individuals or in any way limit or detract from the Region’s commitment and duty to accommodate members of the public in its provision of respectful and inclusive services.

Further, this policy is meant to complement, not replace, department-specific training, protocols, procedures and guidelines applicable to staff interactions with the public. In their interactions with members of the public, staff shall engage in appropriate dialogue, communications, actions, de-escalation practices and resolutions in accordance with their applicable departmental training, protocols, procedures, guidelines and applicable sector-specific legislation, regulations, directives and guidelines. This may include the ability to end individual customer service interactions with the public or asking someone to leave the premises on an ad-hoc/“one-off” basis where deemed appropriate in staff’s discretion and in accordance with applicable departmental protocols, procedures and Management direction.

Where any conflict occurs between this policy and a departmental or divisional policy, this policy will take precedence, save and except departmental policies and procedures applicable to Region operated housing shelters or where there are

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applicable sector-specific legislation, regulations, directives or guidelines to the contrary.

This policy shall be applied in conjunction with the Region’s Trespass By-law, Respectful Workplace Conduct Policy, Harassment in the Workplace Policy and Procedures, Workplace Violence & Workplace Harassment Prevention Program Procedure, Code of Conduct for Members of Council, and Procedural By-law.

In addition, this policy shall be applied in conjunction with all corporate and department specific emergency procedures. **Staff should not, under any circumstances, place themselves at risk or jeopardize the safety of others when addressing inappropriate behaviour and/or Misconduct.** If an incident presents an immediate threat to persons or property, staff should contact 9-1-1 and then contact their supervisor.

Identifying Misconduct

The term “**Misconduct**” for the purposes of this policy applies to a range of inappropriate conduct and interactions, from disruptive conduct, such as frequent, unreasonable, frivolous or vexatious requests or meritless/unsubstantiated complaints by a member of the public, to more severely offending conduct such as aggressive, intimidating or disrespectful behaviour, threats of violence, or actual violence. The overriding question is whether the behaviour is likely to cause, or has caused, an unjustified disruption, distress or harm to staff, volunteers, Members of Council, or members of the public.

Not all unreasonable or difficult behaviour constitutes Misconduct, and this policy should not be applied to label all generally unreasonable or difficult behaviour as Misconduct.

Depending on the particular circumstances, Misconduct may include:

- verbal or non-verbal conduct that is, in the view of a reasonable person, designed to, or reasonably likely to, harm, distress, intimidate, harass, threaten, abuse, coerce, disparage, embarrass, disrespect or humiliate the recipient, or is part of a pattern of conduct by an individual that amounts to an abuse of a Regional program, service or process;
- behaviour that causes concern for the reasonable safety of staff or other individuals attending, accessing and/or making use of Regional premises, facilities, workplaces, services, programs or events;
- any conduct, which because of its nature or frequency, has a disproportionate and unreasonable impact on the Region, Members of Council, employees, volunteers, other members of the public, services, time and/or resources;
- behaviour that interferes with normal operations of the Region or which interferes with the ability of other persons to use and enjoy Regional services, programs and physical or digital spaces;

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- repeated requests or complaints by an individual that are unsubstantiated, have no serious purpose or value, or about a matter so trivial or meritless on its face that investigation would be disproportionate in terms of time and cost; or
- behaviour that is unacceptable in all circumstances – regardless of how stressed, angry, or frustrated an individual may be - because it unacceptably compromises the health, safety, and security of staff, volunteers, Members of Council, other members of the public or the individual themselves.

Further guidance and examples as to what may constitute Misconduct, together with the procedures to be followed in identifying and responding to Misconduct and implementing appropriate restrictions, and any applicable review or appeal of those restrictions, are outlined in the Region’s Public Conduct Procedure as approved by CLT.

Relevant Considerations in Addressing Misconduct

In determining if an individual’s behaviour qualifies as Misconduct and/or warrants the application of restriction(s) under this policy and related procedures, the specific circumstances of the matter will be considered, including, but not limited to the following:

- the severity of the Misconduct;
- whether there is a repeated pattern or history of Misconduct;
- the likelihood of recurrence of the Misconduct by the individual;
- the personal circumstances of the individual, if known to staff;
- whether the individual has been dealt with properly and in accordance with the relevant policies and procedures;
- whether staff have made reasonable efforts to address or resolve the issue;
- any relevant extenuating circumstances;
- the impact of restrictions or prohibitions on the individual;
- whether the individual is presenting new material or information about the situation or making a new request or complaint;
- any other factor relevant to a consideration of the issues; and,
- where prohibiting entry of an individual on or to one or more Regional premises and/or issuance of a Trespass Notice is being considered, compliance with the Trespass By-law.

Guiding Principle - Restrictions will be Measured and Proportional

Any restrictions imposed to address Misconduct under this policy and related procedure shall be tailored to the individual circumstances of each case and proportionate to the harm, or potential harm, arising from the Misconduct. Generally, where appropriate, a graduated system of warnings, suspensions, and prohibitions shall be employed with an aim of imposing the least onerous sanction that will achieve

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the objectives of the Public Conduct Policy, including staff and public safety, inclusiveness, and freedom from harassment.

2.1. Roles and Responsibilities

Employees

Regional employees (including students and volunteers) are responsible for the following:

- if an employee experiences, witnesses, or receives a report regarding any incident or behaviour that may constitute Misconduct, that employee will report the matter to their Supervisor, Manager, Associate Director or Director, providing any supporting material in the manner outlined in the Region’s Public Conduct Procedure; and
- in their interactions with members of the public, employees shall engage in appropriate dialogue, communications, actions, de-escalation practices and resolutions in accordance with the Region’s Public Conduct Procedure as supplemented by their applicable departmental training, protocols, procedures, guidelines, Management direction and applicable sector-specific legislation, regulations, directives and guidelines. This may include the ability to end individual customer service interactions with the public or asking someone to leave the premises on an ad-hoc/“one-off” basis where deemed appropriate in staff’s discretion and in accordance with applicable departmental protocols/procedures and Management direction.

Supervisors, Managers and Associate Directors

Supervisors, Managers and Associate Directors are responsible for:

- receiving and reviewing all information regarding any alleged Misconduct; providing direction to their direct reports and engaging in the enforcement steps outlined in the Region’s Public Conduct Procedure in a manner which upholds the principles and provisions of this policy; and
- ensuring that Regional employees are provided with appropriate support, assistance, resources and resolution mechanisms provided under other applicable corporate policies and programs, including, without limitation, the Region’s Health and Safety Policy, Workplace Violence and Workplace Harassment Prevention Program Procedure and Employee and Family Assistance Program.

Directors

Directors are responsible for:

- receiving and reviewing all information regarding any alleged Misconduct; providing direction to their direct reports and carrying out the investigative, decision-making and enforcement responsibilities and actions outlined in the

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Region’s Public Conduct Procedure in a manner which upholds the principles and provisions of this policy, including:

- making the determination of whether to classify an individual’s conduct as Misconduct;
- determining whether any restriction(s) are to be imposed on the individual, including any temporary or interim restrictions, and communicating those restrictions, together with any applicable review date or appeal rights, to the individual;
- where appropriate, and only after consideration of all possible alternative measures, Directors are authorized to prohibit the individual’s entry on or to one or more Regional premises for a duration **not exceeding 7 days** by issuance of a Trespass Notice, in accordance with the Trespass By-law; and
- referring the matter to their Commissioner for investigating and determination, where deemed appropriate as a result of the circumstances surrounding the alleged Misconduct, including, without limitation, where the Director has **any actual or potential conflicts of interest**, situations where the alleged Misconduct may concern more than one Regional department, service or program, or where the Director believes the alleged Misconduct is of such severity that it warrants prohibiting the individual from entering on or to Regional property for a duration **exceeding 7 days**;
- ensuring that all direct reports are aware of and trained on this policy and the related procedure;
- ensuring that all direct reports are provided with appropriate support, assistance, resources and resolution mechanisms provided under other applicable corporate policies and programs, including, without limitation, the Region’s Health and Safety Policy, Workplace Violence and Workplace Harassment Prevention Program Procedure and Employee and Family Assistance Program; and
- ensuring that this policy and the related procedure is integrated into their applicable departmental/divisional protocols, procedures, guidelines and training.

Director of Legal and Court Services

The Director of Legal and Court Services shall provide legal support and guidance to all employees as needed for the purposes of implementation of this policy and related procedure in compliance with applicable law.

Commissioners

Commissioners are responsible for:

- carrying out all Director responsibilities and actions outlined in this policy and related procedure where a matter of potential Misconduct has been referred to the Commissioner for investigation and determination, or where otherwise

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deemed appropriate as a result of the circumstances surrounding the alleged Misconduct, including, without limitation, where the Director has **any actual or potential conflicts of interest**, situations where the alleged Misconduct may concern more than one Regional department, service or program, or where the Director or Commissioner believes the alleged Misconduct is of such severity that it warrants prohibiting the individual from entering on or to Regional property for a duration **exceeding 7 days**;

- where appropriate, and only after consideration of all possible alternative measures, Commissioners are authorized to prohibit the individual’s entry on or to one or more Regional premises for a duration **not exceeding 2 years**, by issuance of a Trespass Notice, in accordance with the Trespass By-law;
- referring investigation and determination of the potential Misconduct to another Commissioner, the Deputy CAO, or in consultation with the Director of Legal and Court Services and the Director of Human Resources, an independent third-party investigator, where deemed appropriate as a result of the circumstances surrounding the alleged Misconduct, including, without limitation, any actual or potential conflicts of interest or situations or where the Misconduct involves or has broad implications across multiple corporate departments;
- conducting appeals of any restriction(s) imposed by Directors where applicable, as outlined in the Region’s Public Conduct Procedure in a manner which upholds the principles and provisions of this policy;
- ensuring that all direct reports understand the purpose and scope of this policy and related procedure and comply with same;
- reviewing departmental or divisional policies and procedures for consistency and alignment with this policy, including to ensure:
 - reasonable and practicable measures are taken to protect staff, Council, members of the public, and Regional premises;
 - that all relevant statutory requirements are met;
 - consistency and accountability across Regional services; and
- the promotion of a culture of safety, security, civility and respect at Regional premises, facilities and workplaces and in the provision of services to the public.

Deputy CAO

The Deputy CAO is responsible for:

- carrying out all Director and Commissioner responsibilities and actions outlined in this policy and related procedure where a matter of potential Misconduct has been referred to the Deputy CAO for investigation and determination;
- where appropriate, and only after consideration of all possible alternative measures, the Deputy CAO is authorized to prohibit the individual’s entry on or to one or more Regional premises for a duration **not exceeding 5 years**, by issuance of a Trespass Notice, in accordance with the Trespass By-law;

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- conducting appeals of any restriction(s) imposed by Commissioners, where applicable, as outlined in the Region’s Public Conduct Procedure in a manner which upholds the principles and provisions of this policy; and
- promoting a culture of safety, security, civility, accommodation, inclusivity and respect at Regional premises, facilities and workplaces in the provision of services to the public.

CAO

The CAO is responsible for:

- conducting appeals of any restriction(s) imposed by the Deputy CAO, where applicable, as outlined in the Region’s Public Conduct Procedure in a manner which upholds the principles and provisions of this policy; and
- promoting a culture of safety, security, civility, accommodation, inclusivity and respect at Regional premises, facilities and workplaces in the provision of services to the public.

Corporate Leadership Team

The Corporate Leadership Team is responsible for:

- (i) approving and directing the development of corporate procedures to support this policy, including updates as needed from time to time; and
- (ii) ensuring other departmental or divisional policies and procedures are reviewed by Commissioners for consistency and alignment with this policy.

Members of Council

Members of Council may consult with the Integrity Commissioner regarding cases of potential Misconduct that the Member of Council wishes to address. Upon being consulted by a Member of Council, the Integrity Commissioner shall provide advice to the Member respecting any proposed action under this policy as it relates to the Member’s obligations under the Code of Conduct for Members of Council. The appeal mechanism for any restriction(s) placed on an individual through the procedure for Members of Council is the Integrity Commissioner pursuant to the Code of Conduct.

Members of Council may also wish to notify the Regional Clerk and the Regional Chair’s Office in situations where the potential Misconduct may impact or interfere with Regional meetings, events, other Members of Council and/or Staff.

References and Related Documents.

2.2. Legislation, By-Laws and/or Directives

- Trespass By-Law
- Procedural By-Law
- Occupational Health and Safety Act*, R.S.O. 1990, c. 0.1

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Human Rights Code (Ontario), R.S.O. 1990, c. H.19
The Canadian Charter of Rights and Freedoms

Procedures

Public Conduct Procedure

Related Policies, Procedures and Guidelines

Harassment in the Workplace Policy and Procedure – C-HR-012

Respectful Workplace Conduct Policy – C-HR-016

Respectful Workplace Conduct Procedures and Guidelines – C-HR-016-001

Workplace Violence & Workplace Harassment Prevention Program Procedure – C-HS-001-011

Employee Code of Conduct

Code of Conduct for Members of Council

Document Control

The electronic version of this document is recognized as the only valid version.

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Approval History

Approver(s)	Approved Date	Effective Date

Revision History

Revision No.	Date	Summary of Change(s)	Changed by

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