

DISCRIMINATION AND HARASSMENT POLICY

University Policy No.: GV0205
Classification: Governance
Approving Authority: Board of Governors
Effective Date: June, 2015
Supersedes: January, 2008
Mandated Review: January, 2015

Associated Procedures:

[Discrimination and Harassment Complaint Procedures](#)

PURPOSE

- 1.00 The purpose of this policy is to prevent Discrimination and Harassment from taking place, and this policy also complies with the *British Columbia Human Rights Code*. It also addresses Sexual Harassment and Personal Harassment. Discrimination and Harassment as defined in this policy are prohibited at the University of Victoria.
- 1.03 This policy also deals with the process for addressing incidents of workplace bullying and harassment, as defined in regulations under the Workers'

3.00 **Harassment:** any behaviour that satisfies one or more of the following definitions of Harassment:

3.01 **Harassment Based on a Prohibited Ground of Discrimination:** behaviour directed towards another person that:

- a. is abusive or demeaning; **and**
- b. includes a direct or indirect reference to a Prohibited Ground of Discrimination; **and**
- c. would be viewed by a reasonable person experiencing the behaviour as an interference with that person's participation in a University-Related Activity **or** creating an intimidating, humiliating or hostile environment.

3.02 **Sexual Harassment:** behaviour of a sexual nature by a person:

- a. who knows or ought reasonably to know that the behaviour is unwanted or unwelcome; **and**
- b. leads to a hostile or offensive environment

- c. any person holding a university appointment whether or not that person is an employee;
- d. members of the Board of Governors; and
- e. anyone residing on campus.

9.00 **Eligible WorkSafeBC claimant**

Responsibilities of University Employees

25.00 In addition to their responsibilities as Members of the University Community, university employees must report workplace bullying or harassment that they experience or observe other university employees experiencing. The two main routes for reporting workplace bullying and harassment are to the employee's supervisor or to the Equity and Human Rights office. Other options for reporting are specified in section 48.00 of the procedures.

Individuals with Supervisory Responsibilities

26.00 Individuals with supervisory responsibilities, in both academic and non-academic units, bear the responsibility to maintain work and learning environments free from Discrimination and Harassment by initiating positive measures and taking prompt remedial action should Discrimination or Harassment occur. This includes, but is not limited to:

- a. addressing incidents of possible Discrimination and Harassment that occur in the unit in a timely and confidential manner and keeping appropriate documentation of action taken;
- b. educating themselves and those in their unit with respect to human rights and with respect to workplace bullying and harassment;
- c. taking the initiative to seek appropriate advice and guidance to carry out their responsibilities with respect to Discrimination and Harassment;
- d. upon request, participating in the resolution of Informal Complaints;
- e. implementing the recommendations (which may include discipline) when required as the outcome of a Formal Complaint; and
- f. addressing promptly, confidentially and fairly complaints of workplace bullying and harassment from employees and seeking advice from the Equity and Human Rights Office or the appropriate supervisor as required to do so.

The Director's Responsibilities

27.00 The Director is responsible for:

- a. offering Consultation to Members of the University Community;
- b. offering advice and guidance to individuals with supervisory responsibility to carry out their responsibilities under this policy;
- c. offering advice and guidance to all parties to a complaint and those reporting incidents of Discrimination and Harassment;
- d. maintaining an un-biased approach to all complaints and all parties to a complaint;
- e. protecting the confidentiality of information received, while balancing the legal requirement to act upon and investigate allegations of violations of this policy;

- f. advancing the goals of the policy;
- g. processing complaints fairly and expeditiously;
- h. maintaining complaint records as specified in the procedures; and
- i. promoting public education on human rights and prevention of Discrimination and Harassment for Members of the University Community.

Complaints

- 28.00 This policy provides a process for addressing Discrimination and Harassment when they occur. Subject to any collective agreement, complaints will be handled according to this policy and the procedures. Complaints of workplace bullying and harassment may also be reported by University employees to the Director, to the employee's supervisor or as provided in section 48.00 of the Procedures. Complaints of workplace bullying and harassment will be dealt with confidentially, expeditiously and in accordance with the requirements of any collective agreement.
- 29.00 Members of the University Community who believe they have been Discriminated against or Harassed may:
- a. seek Consultation with the Director;
 - b. make an Informal Complaint; or
 - c. make a Formal Complaint under the Procedures.
- 30.00 University employees who believe they have been subjected to workplace bullying or harassment may seek a consultation with the Director. Normally, such complaints will be addressed through informal procedures or referred to the appropriate supervisor or Line Authority.
- 31.00 The President or any Vice-President may invoke this policy in situations where they believe that Discrimination or Harassment may have occurred and in which they

31.04 This process does not preclude a complainant from proceeding with a complaint.

32.00 The Director may make a request for an Environmental Assessment to the relevant Line Authority for a particular unit or department.

Confidentiality

33.00 The university recognizes that the protection of confidentiality is essential to the proper functioning of this policy and the procedures.

34.00 All Members of the University Community may consult with the Director about concerns and the information will be kept confidential unless there is a legal obligation to make further inquiries and take action to address the situation. Once a complaint has been made, confidentiality may be subject to the circumstances described in section 37.00.

35.00 The university recognizes its legal duty to comply with the *Freedom of Information and Protection of Privacy Act*. If there is a conflict between this policy or the procedures and the *Freedom of Information and Protection of Privacy Act*, the provisions of the *Freedom of Information and Protection of Privacy Act* shall prevail.

Implementation

- 39.00 This policy shall be implemented according to the procedures.
- 39.01 The procedures provide access to Consultation and expert advice for all Members of the University Community, educational and pro-active approaches to informal resolution and fair, transparent investigation and adjudication procedures.
- 40.00 A determination that this policy has been violated obtained through investigation of a Formal Complaint, a complaint by the University under section 31.00 or a Hearing may result in disciplinary action.
- 41.00 All Members of the University Community whose relationship with the university is governed by a collective agreement or any other agreement should consult the terms and conditions within their contracts or agreements that are relevant to a complaint under this policy.
- 42.00 Under the direction of the President, the Director shall conduct an annual review of the sections of this policy and associated Procedures pertaining to workplace bullying and Harassment and periodically shall conduct a full review of this policy and associated Procedures including consultation with and through the University Human Rights Committee (UHRC).

General

- 43.00 The complainant, the respondent and any other parties to proceedings under this policy are entitled to be treated fairly.
- 44.00 Those named in allegations, Informal Complaints or Formal Complaints under this policy will be presumed innocent unless a formal decision to the contrary is reached under the terms of thi

REPORTING

48.00 While maintaining confidentiality where required by the policy, the Office shall submit an annual report to the President.

AUTHORITIES AND OFFICERS

The following is a list of authorities and officers for this policy:

- a) Approving Authority: Board of Governors
- b) Designated Executive Officer: President
- c) Procedural Authority: President
- d) Procedural Officer: University Secretary

RELEVANT LEGISLATION

[University Act](#)

[British Columbia Human Rights Code](#)

[Freedom of Information and Protection of Privacy Act](#)

[Judicial Review Procedure Act](#)

[British Columbia Workers Compensation Act and Regulations](#)

**Definition of Workplace Bullying and Harassment: Includes any inappropriate conduct or comment by a person towards a university employee that the person knew or reasonably ought to have known would cause that university employee to be humiliated or intimidated, but excludes any reasonable action taken by the employer or a supervisor relating to the management and direction of a university employee or the place of employment (Adapted from the B.C. Workers' Compensation Act regulations)*

RELATED POLICIES AND DOCUMENTS

[Policy on Human Rights, Equity and Fairness\(GV0200\)](#)

[Employment Equity policy \(HR6100\)](#)

[Employment Accommodation policy \(HR6115\)](#)

[Equity Policy for Female Faculty Members \(HR6105\)](#)

[Policy on Violence and Threatening Behaviour \(SS9105\)](#)

[Policy on Academic Accommodation and Access for Students with Disabilities \(AC1205\)](#)

[Guidelines on Preferential or Limited Hiring \(HR6110\)](#)

[Policy on Prevention of Violence in the Workplace \(SS9120\)](#)

[Accommodation for Students for Days of Religious Observation \(AC1210\)](#)

Collective Agreement Between University of Victoria and Faculty (

Collective Agreement Between University of Victoria and the Canadian Union of Public Employees LOCAL 917

Collective Agreement between Professional Employees Association and University of Victoria

Agreement Between University of Victoria and the Canadian Union of Public Employees LOCAL 951

Agreement Between University of Victoria and Canadian Union of Public Employees LOCAL 4163 (components 1, 2 and 3)

Terms of Reference UVSS/UVIC Operational Relations Committee

Agreements made between EQHR and separately incorporated organizations regarding the implementation of this Policy and the Procedures

University Directory of Records- Harassment Complaints and Records

Confidentiality

7.00 Inquiries and Consultations that take place before a complaint has been filed with the Office, the Director or the designate of the Director are in confidence, unless the Director receives information that would lead a reasonable person to believe that there is a serious risk to the health, safety or welfare of any person or the university has a legal obligation to make further inquiries and take action to address the situation (see sections 37.00 of the policy and 11.00 of these procedures).

8.00 If, at any time, before or after a complaint has been filed, the Director receives information that a 5p.1 (t (p5.8 (

- c. any other circumstances arise that, in the opinion of the Director, could be addressed by an Environmental Assessment.

29.02 The purpose of the Environmental Assessment is may be to determine whether the situation constitutes a workplace hazard and/or to identify strategies to enhance and improve the environment (e.g., facilitation and education) and prevent incidents of discrimination and harassment.

30.00 Environmental Assessments are generally not appropriate in situations where there is an identified respondent or respondents or even a sense that one or several individuals are the root of a problem with the environment. In such situations directing people to the complaint procedures or other existing options for addressing the situation directly or exploring the potential for the university making a complaint may be options for moving forward.

31.00 Environmental Assessments will be done in cooperation and collaboration with the relevant union or Faculty Association and management as appropriate. An Environmental Assessment is generally an inclusive process offering an opportunity to all those potentially affected by the environment to have input.

32.00 The Environmental Assessment process begins with creating possibilities for individuals to share their experience of the environment in confidence. Those responses are compiled and themes are identified for consideration in facilitated group discussion.

33.00 The Environmental Assessment will result in a written report that includes recommendations consistent with the purpose of enhancing and improving the work/learning environment. These recommendations may include a provision that the Director or applicable Line Authority designate a person or persons to act as a facilitator to the department or unit or to conduct educational sessions.

Procedures for a Vice-President or President to invoke this Policy

34.00 The procedures in sections 34.00 to 45.00 are to be considered in situations that meet the criteria below:

- a. the Director is in receipt of multiple allegations of Discrimination or Harassment made against the same respondent or respondents;
- b. there is no person or persons willing to file a complaint and appear as complainant; and
- c. the Director determines that it would advance the goals of the Policy to address the allegations.

35.00 The Director will advise all potential witnesses and respondents who may be subject to sections 34.00 through 45.00 of these procedures to inform their union or the Faculty Association, consistent with the requirements of the Framework Agreement or collective agreement as appropriate.

36.00 The Director will communicate with individuals who have made relevant allegations to determine who might provide evidence of Discrimination or Harassment should a Vice-President or President invoke this Policy.

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- 43.00 If a decision is made to proceed with a complaint, the complaint process should begin as soon as possible, but no later than 20 working days from the date of the decision to proceed.
- 44.00 The Vice-President will appoint an investigator who is not the Director or a mediator to implement procedures for a Formal or Informal Complaint.
- 45.00 The procedures for Informal Complaints and Formal Complaints will be adapted as necessary to allow the process to continue without a named complainant, but such adaptation will not jeopardize an individual's right to fair procedures.

Procedures for Reporting Workplace Bullying and Harassment

- 46.00 If a university employee believes they have been the subject of workplace bullying and harassment they are required to report whenever possible to their supervisor or to the Equity and Human Rights Office. Other options for reporting are specified in section 48.00 below. University employees have the option of filing an Informal Complaint or, where the behavior also satisfies the test for Discrimination or Harassment, a Formal Complaint under this Policy. If the university employee does not file a complaint, the university will not investigate the complaint.

- 59.01 The Investigation Report may, if appropriate, contain recommendations with regard to further action that should be taken including disciplinary action.
- 60.00 If either the complainant or respondent disagree with the findings or recommendations contained in the Investigation Report, within 5 working days of receiving the final Investigation Report, either party may request a hearing.
- 61.00 If no hearing is requested, the Director will forward the Investigation Report to the applicable Line Authority. If the investigation report makes recommendations, the Line Authority will consult with appropriate university offices (e.g., Human Resources, responsible line managers, academic Chairs, Directors, Student Affairs, EQHR, etc.) concerning implementation.
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- 69.00 The Adjudicator will conduct the hearing, in private, in accordance with the principles of natural justice.
- 69.01 Prior to the hearing, the Adjudicator may require the parties to attend a pre-hearing conference to determine procedures to be followed at the hearing and to exchange any relevant documents prior to the commencement of the hearing.
- 70.00 The Adjudicator will normally have 30 working days from the date of receipt of the request for a formal hearing in which to complete the hearing and write the hearing report.
- 70.01 The hearing report shall include a binding determination with regard to whether the alleged Discrimination or Harassment by the respondent occurred.
- 71.00 Where the hearing report finds that Discrimination or Harassment occurred, the hearing report may include recommendations for remedial or preventive action and disciplinary measures, if appropriate, which may include suspension or dismissal.

Roster of Adjudicators

76.00 The University Secretary will select a roster of adjudicators from which an Adjudicator for a hearing will be chosen.

76.01 The University Secretary will consult with student, Faculty Association and staff representatives as appropriate concerning candidates for the list and the selection of Adjudicators to become part of the roster.

77.00 The roster of adjudicators will be composed of six Adjudicators.

77.01 Adjudicators will be appointed for fixed three-year terms.

77.02 Adjudicators will be persons not currently employed by the university who have experience:

a. in administrative proceedings, particularly in conducting