



## PROCEDURES

Title	<b>Prevention of Harassment, Discrimination, and Bullying</b>
Policy No.	A.3.1
Approval Body	Board of Governors
Policy Sponsor	President
Last Revised/Replaces	October 26, 2000
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Support for individuals with concerns or complaints related to Harassment, Discrimination, or Bullying is available from Advisors. Advisors will provide individuals with advice regarding: possible actions the College member might take to resolve the situation directly and remedies available; whether the behavior(s) in question fall within the definitions of Harassment, Discrimination, or Bullying; possible procedures and options available under alternative policies or process.

The best resolution to situations involving objectionable behavior is usually, early informal resolution between the parties involved.

The Procedures below have been organized under the following headings:

### **Informal Resolution**

- A. Early Resolution

### **Formal Resolution**

- B. Filing a Complaint
- C. Responding to a Complaint
- D. Interim Measures
- E. Informal Resolution / Mediation
- F. Investigation
- G. Decision
- H. Records
- I. Timely Processing of Complaints

### **Informal Resolution**

#### **A. Early Resolution**

1. Any College member with concerns about discriminatory, harassing or bullying behavior, is strongly encouraged, to first speak with the Respondent, inform the Respondent of their discomfort with the behaviour, and ask the Respondent to stop and/or take corrective or remedial action; often this is all that is required, for the objectionable behavior to cease.

2. Complainants who are not comfortable speaking directly with the Respondent, should seek advice from an appropriate Advisor.
3. If the Complainant is not satisfied with the outcome of the discussion with the Respondent or the issue is not resolved satisfactorily, the Complainant should seek advice from an appropriate Advisor.
4. If the Complainant matter is not resolved after advice from an Advisor has been sought, or under alternative polices, process(es) or the collective agreements of unionized the Complainant may continue to try and resolve informally or proceed to formal resolution.
5. An Advisor may be legally obligated to act on an issue identified by a Complainant, and move to Formal Resolution (refer to section B. 12).

### **Formal Resolution**

#### **B. Filing a Complaint**

6. A complaint alleging Discrimination, Harassment, or Bullying must be made in writing, and must contain particulars of the alleged Discrimination, including the names of the Complainant and the Respondent, a detailed description of the relevant facts (including dates, times and places), the names of any witnesses, and the remedy the Complainant is requesting.
7. The complaint must be filed with the office of the Senior Administrator.
8. The Senior Administrator will ensure that the Complainant has a copy of the Policy and these Procedures.
9. Except in exceptional circumstances, a complaint must be filed within six (6) months of the alleged contravention. If a continuing contravention is alleged in a complaint, the complaint must be filed within six (6) months of the last alleged instance of the contravention.
10. The Senior Administrator will review the complaint to determine whether the Complainant's allegations, if proven, would fall within the scope of the Policy. The Senior Administrator may decide to interview the Complainant to assist in making this determination. If the Senior Administrator determines that the complaint does not fall within the scope of the Policy, they will:
  - a. immediately advise the Complainant in writing of the determination; and
  - b. refer the Complainant, as appropriate, to other College policies that may address the matter, or to other services within or outside the College that may be able to provide assistance.
11. The Complainant may apply to the Senior Administrator to withdraw all or part of a complaint at any stage of the process.
12. The College's legal responsibility to provide an environment free from Discrimination, Harassment, and Bullying may require the College to initiate and/or proceed with a complaint on its own initiative. In such cases, the Senior Administrator will decide whether or not to proceed under the Policy or under other applicable College policies and procedures.

C. Responding to a Complaint

13. If the Senior Administrator determines that the Complainant's allegations, if proven, would fall within the scope of the Policy, the Senior Administrator will:
- a. immediately notify the Respondent of the complaint;
  - b. provide the Respondent with particulars of the allegations contained in the complaint;
  - c. provide the Respondent with copies of the Policy and this Procedure;
  - d. invite the Respondent to respond to the complaint; and
  - e. in confidence, and on a need-to-know basis, advise the applicable supervisor(s) and/or other appropriate College personnel that a complaint has been made;
  - f. Advise the complainant of the availability of the complaint process through the BC Human Rights Tribunal.
14. If the Respondent wishes to respond to the Complaint, the response must be in writing, and must contain a detailed reply to the allegations in the complaint (including dates, times and places), and the names of any witnesses.

D. Interim Measures

15. Where the Senior Administrator considers it appropriate to do so, the Senior Administrator may put interim measures into place pending the disposition of the complaint. The Senior Administrator shall ensure that such measures are non-punitive in nature.
16. In particular if the Complainant is a student, the Senior Administrator shall ensure that the student's continued learning is not impacted by the harassment, discrimination, or bullying or by the complaint procedure. If the Student's learning is/will be impacted, the student may be referred to Counselling so that appropriate support is provided.

E. Informal Resolution / Mediation

17. The Senior Administrator may seek to resolve the complaint informally, with the consent of the Complainant and the Respondent.
18. The Senior Administrator may appoint an external mediator to assist in the informal resolution of the complaint, subject to and in compliance with any applicable collective agreement requirements.
19. All communications between the parties during informal resolution meetings shall be without prejudice and confidential.
20. If an informal resolution acceptable to both the Complainant and the Respondent is reached, the Senior Administrator may:
- a. prepare a Record of Resolution for signing by both parties; and
  - b. provide assistance to facilitate the implementation of the terms set out in the Record of Resolution.

F. Investigation

21. If the informal resolution process does not result in an agreement, or if the Senior Administrator determines in their sole discretion that it is not appropriate to seek an informal resolution, the Senior Administrator may either:
  - a. order that the complaint proceed to a formal investigation; or
  - b. subject to any applicable collective agreement requirements, make a decision regarding the complaint if the Senior Administrator determines in their sole discretion that it is possible to do so based on the information contained in the complaint and the response.
22. If the Senior Administrator orders a formal investigation, the Senior Administrator shall make arrangements for the appointment of an external investigator, subject to and in compliance with any applicable collective agreement requirements.
23. The Senior Administrator will provide the investigator with terms of reference for the investigation, copies of the complaint and the response, and the timeline for completing the investigation and report.
24. The investigator will interview the Complainant, the Respondent, and any witnesses the investigator believes may have information relevant to the complaint. The investigator will review any documents considered to be relevant. During the investigation, the investigator shall ensure that the Respondent is provided with a fair opportunity to respond to the Complainant's allegations.
25. If the Complainant or the Respondent refuses to cooperate with the investigator, the investigator may proceed with the investigation without that person's input.
26. After completion of the investigation, the investigator will prepare a report setting out:
  - a. the investigator's findings of fact regarding the allegations contained in the complaint;
  - b. the investigator's findings regarding credibility; and
  - c. any other information, findings or recommendations that are set out in the investigator's terms of reference.
27. The investigator's report will be delivered to the Senior Administrator.
28. The investigator's report will not normally be disclosed to the parties, unless the Senior Administrator decides disclosure is beneficial in the circumstances. The report shall be disclosed if required by applicable collective agreement provisions or by law.

G. Decision

29. The Senior Administrator will review the investigator's report and make a decision regarding the complaint.
30. If the Senior Administrator determines that the Respondent has not engaged in Harassment, Discrimination, or Bullying or otherwise violated the Policy, the Senior Administrator will:
  - a. dismiss the complaint; and

- b. prepare a Record of Resolution which will be provided to the Complainant and the Respondent.
31. If the Senior Administrator determines that the Respondent has engaged in Harassment, Discrimination, or Bullying or has otherwise violated the Policy, the Senior Administrator will:
- a. obtain and review any previous Record(s) of Resolution involving the Respondent;
  - b. if the Respondent is an employee, review the Respondent's personnel file;
  - c. if the Respondent is a student, review the Respondent's student file and consult with the Vice President Academic & Research or her/his designate;
  - d. make a decision regarding the sanction or penalty, if any, to be imposed on the Respondent, provided that if any sanction or penalty requires approval by the President, the Senior Administrator shall make a recommendation to the President who shall then make the decision;
  - e. make a decision regarding the remedy, if any, to be provided to the Complainant;
  - f. prepare a Record of Resolution which will be provided to the Complainant and the Respondent (edited as necessary to protect confidentiality), and filed in the Respondent's personnel or student file; and
  - g. take any other steps considered to be appropriate in the circumstances.
32. If an investigation concludes that a College member has made a bad faith complaint which is frivolous, vexatious, or malicious in, that College member will be dealt with in accordance with College policies, VCC's Human Resource practices and/or the terms of the applicable collective agreement.

H. Records

33. All written reports and records issued under these Procedures will be considered confidential, except as otherwise provided by the Policy or as required by applicable collective agreements or by law. Files will be retained for a minimum of one (1) year, per section 31 FOIPPA.

I. Timely Processing of Complaints

34. Complaints filed under the Policy will be processed by the College as expeditiously as possible.
35. The College expects all participants to cooperate in the timely disposition of complaints.
36. Any person who interferes with or obstructs the timely investigation or disposition of a complaint may be subject to disciplinary action.

**RELATED POLICY**

Refer to A.3.1 Prevention of Harassment, Discrimination and Bullying Policy

## EXAMPLES OF HARASSMENT, DISCRIMINATION AND BULLYING

Bullying includes but is not limited to the following behaviours:

- persistently and excessively criticizing and scrutinizing the victim's work without justification;
- spreading malicious rumours;
- belittling the victim's opinions;
- spying on or stalking the victim;
- tampering with the victim's desk, workspace or belongings;
- excluding or ignoring the victim;
- undermining or sabotaging the victim's work by, say, setting unreasonable deadlines or withholding key information;
- engaging in physically abusive or aggressive behaviour such as pushing, hitting, spitting, finger pointing or aggressively invading the victim's personal space.

Discrimination includes but is not limited to the following behaviours, where the purpose or effect of the behaviour discriminates against a person on the basis of, or because of: age, ancestry, colour, criminal conviction that is unrelated to employment or intended employment, ethnic origin, family status, sex (including gender identity and gender expression) mental disability, physical disability, political beliefs, race, religion, and sexual orientation or other possible grounds. Examples include,

- Denying raises, benefits, promotions, leadership opportunities or performance evaluations;
- Preventing any person from using College facilities or services;
- Making determinations regarding a person's salary;
- Instigating or allowing an environment that is unwelcoming or hostile.

Harassment includes but is not limited to the following behaviours, where the purpose or effect of the behaviour discriminates against a person on the basis of, or because of: age, ancestry, colour, criminal conviction that is unrelated to employment or intended employment, ethnic origin, family status, sex (including gender identity and gender expression) mental disability, physical disability, political beliefs, race, religion, and sexual orientation or other possible grounds. Examples include,

- words, gestures, actions, jokes, or innuendoes, the natural consequence of which is to humiliate, ridicule, insult or degrade;
- threats, coercion, Bullying or intimidation;
- actual or threatened physical assault;
- displaying or circulating offensive pictures or other material;
- persistent rudeness, taunting, patronizing or ostracizing;
- deliberately 'outing' a gay, lesbian, bisexual, or transgender individual.

Sexual harassment includes but is not limited to the following behaviours:

- unwanted touching or physical contact;
- unwelcome sexual flirtations, advances or propositions;
- sexually suggestive, obscene or degrading comments or gestures;
- offensive jokes or remarks of a sexual nature;

- leering or staring;
- displaying or circulating pictures or other material of a sexual nature (however, the legitimate study, display, use or distribution of topics, material or art forms of a sexual nature that are within appropriate academic norms is not sexual harassment);
- unwelcome questions or remarks about a person's sex life, gender, appearance, clothing, sexual orientation, etc.;
- express or implied promise of reward in return for complying with a sexually-oriented request;
- reprisal, or express or implied threat of reprisal, for refusing to comply with a sexually-oriented request.

Sexual orientation-based harassment or discrimination can include:

- Intimidating or derogatory gestures;
- Gay-bashing and other forms of physical or sexual violence, assault or threats of violence;
- Negative or derogatory comments, innuendo, insults or slurs about gay, lesbian, bisexual, two- spirited, transgender and/or queer persons;
- Offensive nicknaming or name-calling;
- Privileging of heterosexuality as everyone's assumed orientation "unless known otherwise" ;
- Silencing of talk about sexual diversity or treating topics of gay, lesbian, bisexual, two- spirited, transgender and/or queer issues differently than other issues;
- Forcing people to "come out" or stay "in the closet" against their wishes;
- Linking homosexuality with pedophilia or child abuse;
- Written threats or derogatory emails;
- Homophobic graffiti or posters;
- Assuming non-heterosexual persons "recruit" others to join their sexual orientation;
- Negative stereotyping of particular groups based on their sexual orientation;
- Assuming that sexual orientation is solely about sexual practice, is a "lifestyle choice" or is an orientation less valid than heterosexuality;
- Literature that promotes hatred towards persons based on their sexual orientation;
- Assuming that all gay people have AIDS or are responsible for the spread of it.

Gender identity-based harassment or discrimination can include:

- Calling people names such as: she male, tranny, fag, dyke, drag queen/king
- Taunting people by suggesting they don't know what gender they are
- Intimidating or derogatory gestures
- Privileging of cisgendered experience
- Assuming that cisgender experience is the norm
- Outing people as transgender/transsexual
- Written threats or derogatory emails
- Negative stereotyping of trans people.
- Assuming that a transsexual is not a "real" woman or man as people who are cisgender
- Literature that promotes hatred toward people based on their gender identity