

Procedure Name:	BULLYING, HARASSMENT, AND DISCRIMINATION	
Approved By:	President's Council & Board of Governors	
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Procedure Holder:	President's Council	
Operational Lead:	Director, Human Resources	
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## BULLYING, HARASSMENT, AND DISCRIMINATION PROCEDURE

### 1.00 PURPOSE

- 1.1 This procedure outlines the process to be followed for reporting and investigating allegations of Bullying, Harassment, and Discrimination.

### 2.00 DEFINITIONS

- 2.1 **Bullying:** Included in the definition of harassment.
- 2.2 **College Community:** Anyone who works or studies at the College.
- 2.3 **College-Related Activity:** Any activity occurring on College property (including student residences), at College-sanctioned events or conducted under the authority of the College. To be a College-Related Activity, the activity must have a real and substantial connection to the College or College-related functions, whether the activity occurred on College property, in person, or online.
- 2.4 **Complainant:** The person who seeks recourse under the *Bullying, Harassment and Discrimination Policy* based on a belief that they have witnessed or experienced conduct which is prohibited by the Policy. The College may act as a Complainant in appropriate circumstances.
- 2.5 **Complaint:** A statement of alleged facts made by a Complainant seeking recourse under the *Bullying, Harassment and Discrimination Policy*. A Complainant may use the *Complaint Form* to file a Complaint.
- 2.6 **Dean:** The Dean of Student Success, who usually receives the Complaint from a student.
- 2.7 **Director:** The Director of Human Resources, who usually receives the Complaint from an employee.
- 2.8 **Discrimination:** Conduct or comments directed at an individual or a group based on one or more of the grounds protected under the *BC Human Rights Code*: sex, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, age, physical or mental disability, sexual orientation, gender identity or expression, or a criminal conviction unrelated to the person's employment.

- 2.9 **Employee:** A person who is employed by the College, including administrators, faculty members, staff and contractors, and students when employed by the College (e.g., as Student Assistants). The definition also includes members of the Board of Governors.
- 2.10 **Harassment:** Harassment, which includes Bullying, means any inappropriate action, conduct, or comment by a person towards another person that the person responsible for the action or comment knew or reasonably ought to have known would cause the other person to be humiliated or intimidated but excludes:
- a) any reasonable action taken by the College, or by its employees in supervisory positions, relating to the management and direction of Employees or the workplace;
  - b) any reasonable action taken by the College, or by an instructor, faculty member, or person in a similar position, relating to the management and direction of Students in the classroom, the management of Student conduct, or the management, direction, assignment, or supervision of academic work.
- 2.11 **Investigator:** A person appointed by the College to investigate a Complaint; may be an internal representative of the College or a person external to the College.
- 2.12 **Respondent:** Any person against whom an allegation has been made under the *Bullying, Harassment, and Discrimination Policy*.
- 2.13 **Retaliatory Action:** Any adverse action taken against a person because that person reports or alleges a violation of policy, seeks advice on making a Complaint, makes a Complaint, or cooperates in an investigation of a Complaint.
- 2.14 **Sexual Harassment:** Conduct or comments of a sexual nature that are unwelcome, and that detrimentally affect the work or learning environment or lead to adverse job- or education-related consequences. Sexual Harassment is not within scope of this policy: see [EDU-007, Sexual Violence and Misconduct Policy](#) for a more complete definition.
- 2.15 **Student:** A person enrolled in studies at the College in credit or non-credit courses.
- 3.00 REPORTING BULLYING, HARASSMENT, OR DISCRIMINATION
- 3.1 Bullying, Harassment, and Discrimination constitute serious conduct that impacts employee health and safety. Any employee who experiences, observes, or knows of conduct that places employees or students at risk must report that conduct.
- a) A Complaint against another employee should be directed to the Director, Human Resources.
  - b) A Complaint against the Director, Human Resources should be directed to the President & CEO.
  - c) A complaint against the President & CEO or a member of the Board of Governors should be directed to the Board Chair, or to the Board Vice-Chair if the Complaint involves the Board Chair.
- 3.2 Students are not required to make reports but are strongly encouraged to do so.
- a) A Complaint against an Employee should be reported to the Director, Human Resources.
  - b) A Complaint against another student should be reported to the Dean of Student Success.

- c) A Student who is not comfortable bringing a report to the Director or the Dean may also report to an instructor or another employee. That Employee will forward the Complaint to the Director or to the Dean, as appropriate.
  - 3.3 A Complaint should be made in writing and must contain sufficient detail to allow the College to assess the Complaint and conduct an investigation, if required. The Complaint should include the following specific information (may use *Complaint Form* found under Resources on the CMTN website):
    - a) the name of the Complainant
    - b) the name of the Respondent, if known
    - c) the date of the conduct or incident(s)
    - d) a detailed description of the conduct or incident(s).
  - 3.4 A Complaint should be made as soon as possible but must be made no later than 12 months after the last incident alleged in the Complaint.
- 4.00 INITIAL REVIEW OF COMPLAINT
- 4.1 After receiving the Complaint, the Director or Dean will review the Complaint in confidence and provide the Complainant with information and advice regarding:
    - a) whether the behaviour in question may constitute Bullying, Harassment, or Discrimination under the Policy
    - b) the procedures and options available to the Complainant
    - c) steps which the Complainant may wish to take to resolve the situation him/her/ themselves.
  - 4.2 The Director/Dean will determine whether the Complaint includes all the required information and may ask the Complainant for further details.
  - 4.3 If the Director/Dean determines, after consultation, that the Complaint does not fall within the scope of the *Bullying, Harassment and Discrimination Policy*, was filed beyond the time limit set out in the Policy, or is frivolous, vexatious, or brought in bad faith, then the Director will advise the Complainant of this determination and the Complaint will be considered resolved.
  - 4.4 If the Complaint falls within a different policy, the Director/Dean will guide the Complainant to applicable policy.
  - 4.5 If the Complainant wishes to proceed with a valid Complaint, the Director/Dean will inform them that the Respondent must see the written complaint and be given an opportunity to respond in writing.
  - 4.6 The Complainant has the right to see the Respondent's written reply.
  - 4.7 The College's ability to act upon an anonymous Complaint is very limited. The College will consider anonymous Complaints for the purpose of determining whether there is evidence of a significant risk to the health or safety of Employees and Students and whether an investigation is required and possible.

5.00 INTERIM MEASURES

- 5.1 The College may deem it necessary to take interim measures to mitigate risk or to mitigate the impact of the Respondent's alleged conduct while a Complaint is being considered, resolved, investigated, or determined. Such measures will be precautionary and are non-disciplinary.
- 5.2 Interim measures may include, but are not limited to:
- a) the exclusion of individuals from all or any part of the College campus
  - b) limiting proximity or contact to specific individuals
  - c) limiting participation in College activities
  - d) limiting the use of the College's information and communications technology
  - e) requiring a person to meet regularly with designated College administrators
  - f) assigning evaluation of coursework or examinations to another instructional employee
  - g) any other interim measure as may be determined by the College.

6.00 COLLEGE INVESTIGATION

- 6.1 The College will initiate an investigation appropriate to the circumstances upon receipt of a Complaint of Bullying, Harassment, or Discrimination that falls within the scope of the Policy.
- 6.2 The Complaint may be investigated internally, or the College may engage an external investigator in circumstances deemed appropriate by the College.
- 6.3 The College may unilaterally proceed with an investigation even where a Complainant elects not to proceed with a Complaint, or where the parties have reached a resolution through a Joint Problem-Solving Process. See 14:00, JOINT PROBLEM-SOLVING PROCESS (INFORMAL).
- 6.4 The College may also initiate an investigation where it is concerned about a potential situation of Bullying, Harassment, or Discrimination.

7.00 INVESTIGATION PROCESS

- 7.1 Investigations will adhere to the principles of natural justice and procedural fairness and will:
- a) be undertaken promptly and diligently
  - b) be fair and impartial
  - c) be sensitive to the interests of all parties involved
  - d) maintain confidentiality to the extent reasonably possible.
- 7.2 The Director/Dean will provide notice to both the Complainant and Respondent that an investigation is to be conducted.
- 7.3 The Respondent will be given sufficient information to understand the nature of the Complaint and will be given a fair opportunity to respond to the Complaint.
- 7.4 The College will determine if it is appropriate to investigate the Complaint internally or to engage an external investigator.

- 7.5 The investigator will review materials, documents, and other evidence that the investigator determines to be relevant.
- 7.6 The investigator will normally interview the Complainant, the Respondent, and such other persons who may have information relevant to the Complaint.
- 7.7 The Investigator will conduct such interviews as quickly as possible, but will give reasonable consideration to the schedules of the individuals involved, and will provide such persons with a reasonable amount of time to prepare for their interviews. See also TIME LIMITS.
- 7.8 All individuals interviewed during the investigation process may have an appropriate support person present at the interview, such as a union representative or an impartial family member or friend, but the individual must provide their own evidence. The support person must not be in a position of apparent or actual conflict of interest and must agree to keep confidential the information disclosed during the interview.
- 7.9 The Investigator will ensure that both the Complainant and the Respondent are aware of the positions of the other individuals and of any allegations made against them by the other individuals, and are given a reasonable opportunity to respond.
- 7.10 An individual who files a formal report may choose not to participate in an investigation or proceeding under this Policy. This will not prevent the investigation or proceedings from going ahead, but lack of participation may limit the College's ability to reach a finding and issue discipline and/or corrective action.
- 7.11 An individual named in the Complaint to have engaged in actions that violate the *Bullying, Harassment, and Discrimination Policy* (the Respondent) may choose not to participate in an investigation under this Policy.
  - a) The Investigator is required to give the Respondent notice that if they refuse to participate, the College may be forced to make a finding without the Respondent's participation.
  - b) An Investigator can give the Respondent notice that the College will take a negative inference from the Respondent's failure to participate and/or answer a question during the investigation.
- 7.12 Any individual impacted by Bullying, Harassment, or Discrimination who is represented by a union or association, has the right to seek the assistance of that union or association.
- 7.13 The investigation and complaint resolution process is often complex and time consuming. The College will act diligently with the goal of reaching a resolution as soon as possible, with the understanding that some investigations and Complaint resolution processes will take longer to conclude.

#### 8.00 INVESTIGATOR'S REPORT

- 8.1 After the investigation is concluded, the Investigator will submit to the Director or Dean a final, written report that includes:
  - a) a description of the incident(s) or conduct
  - b) a summary of the Investigator's process, analysis, and findings
  - c) the Investigator's opinion as to whether, on a balance of probabilities, there has been a violation of the Policy.

- 8.2 The Director/Dean will review the report and make recommendations to the Vice-President responsible for the area where the Respondent works or studies.
- 8.3 That Vice-President will review the report and recommendations and will determine what actions, sanctions, or corrective measures, if any, should be implemented.
- 8.4 The College's decision on whether the Policy has been violated will be communicated to the Complainant and Respondent after the College has reviewed and considered the Investigator's report.
- 8.5 The Complainant is not entitled to know the details of the disciplinary action, if any, taken as a result of the investigation.
- 8.6 The investigation report is confidential and will not normally be released by the College except as required by law.

#### 9.00 FALSE AND MALICIOUS COMPLAINTS

- 9.1 Where the Complaint is found by the Investigator to be false and malicious, the President & CEO (or the Chair of the Board of Governors) may impose a sanction on the Complainant.

#### 10.00 TIME LIMITS

- 10.1 A Complaint should be made as soon as possible, but must be made no later than 12 months after the last incident alleged in the Complaint.
- 10.2 All Bullying, Harassment, and Discrimination Complaints will be dealt with expeditiously:
  - a) Formal Mediation – will start within 30 days of receipt of a written Complaint
  - b) Formal Investigation –will start within 30 days of receipt of a written request
  - c) Formal Decision – will be given two weeks following mediation or investigation.

#### 11.00 APPEALS

- 11.1 The Complainant or the Respondent may appeal the Investigator's decision to the Chair of the Board of Governors.
- 11.2 Such an appeal must be commenced in writing within two weeks of receipt of the decision and must contain full particulars of the grounds for the appeal.
- 11.3 The Chair of the Board of Governors will provide a copy of the appeal particulars to the other party, and will invite a written response, to be received within two weeks. A copy of the response will be provided to the appellant, who will have five calendar days in which to reply.
- 11.4 After reviewing the written submissions, the Chair of the Board of Governors may, at her/his/their discretion, ask the parties to present oral submissions. If that occurs, both parties will have the opportunity to be present when such submissions are being made.

#### 12.00 CORRECTIVE MEASURES

- 12.1 If there is a finding that the Policy has been violated, the President &CEO (or the Chair of the Board of Governors) will act promptly to ensure that the Bullying, Harassment, or Discrimination ceases and to prevent future occurrences of similar activity.

12.2 Such actions may include:

- a) private or public reprimand
- b) suspension or expulsion from the College
- c) disciplinary action, up to and including dismissal
- d) education, remedial or preventative actions, or relocation
- e) imposing arrangements that minimize the risk of Bullying, Harassment, and Discrimination.

12.3 Any corrective measures will be documented and retained by the Director/Dean.

### 13.00 OTHER DISPUTE RESOLUTION MECHANISMS

13.1 Nothing in the *Bullying, Harassment and Discrimination Policy* precludes an individual from seeking a remedy available to them under any applicable law.

13.2 If a Complaint is being pursued outside of the College, the College may elect to continue with the College process, may apply applicable processes to have the outside process deferred or dismissed, or may elect to suspend the College process until the outcome of the process outside of the College is determined.

13.3 The College will cooperate with any criminal investigation.

### 14.00 JOINT PROBLEM-SOLVING PROCESS (INFORMAL)

14.1 At any time, the College may propose, or a party to a Complaint may request, the initiation of a Joint Problem-Solving Process. A Joint Problem-Solving Process is an informal process with a goal of achieving a resolution satisfactory to the Complainant, the Respondent, and the College.

14.2 Options under the Joint Problem-Solving Process include, but are not limited to, facilitated discussion or mediation. All parties and the College must consent to participate in a Joint Problem-Solving Process.

14.3 The College may still be obligated to investigate a Complaint even if the parties have consented to a Joint Problem-Solving Process, and/or reached a satisfactory resolution.

14.4 If a resolution is achieved, the parties will sign a statement setting out the terms of the resolution. No resolution may impose obligations on the College without the College's consent.

### 15.00 TRAINING

15.1 The College will ensure that all of its Employees receive appropriate training on the *Bullying, Harassment, and Discrimination Policy*, including recognizing, responding to, and reporting conduct or incident(s).

### 16.00 PRIVACY AND CONFIDENTIALITY

16.1 Personal information, whether oral or written, which is collected, received, or compiled from a Complaint and through the course of an investigation and resolution process will be treated as confidential by the College in accordance with privacy legislation.

- 16.2 All individuals involved in the Complaint resolution and investigation process must keep confidential all information received about the Complaint, except as expressly set out in the Policy, or as required by law.
- 16.3 Where reasonably necessary, the Director/Dean or Investigator may disclose such information to the appropriate individuals in order to:
  - a) protect health and safety
  - b) ensure a full and fair investigation into the Complaint
  - c) implement corrective measures
  - d) obtain legal advice
  - e) inform law enforcement of reasonably suspected criminal activity or serious risk of bodily harm to an individual in keeping with privacy legislation.
- 17.00 SUPPORT MEASURES
  - 17.1 Employees have access to counseling through the College's [Family and Employee Assistance Program](#).
  - 17.2 Students have access to counselling through Counselling Services. Call 1-844-451-9700 or chat online at [keepmesafe.org](http://keepmesafe.org).
  - 17.3 A person who has experienced inappropriate conduct under the Policy should refer to the College webpage for additional support resources.
- 18.00 POWERS OF THE PRESIDENT AND CEO
  - 18.1 Nothing in this policy interferes with the authority of the President and CEO under the *College and Institute Act*.
- 19.00 RELATED POLICIES, PROCEDURES, AND SUPPORTING DOCUMENTS
  - 19.1 [ADM-009, Student Non-Academic Conduct Policy](#)
  - 19.2 [EDU-007, Sexual Violence and Misconduct Policy](#)
  - 19.3 [HMR-003, Bullying, Harassment, and Discrimination Policy](#)
  - 19.4 [Complaint Form](#)
  - 19.5 [WorksafeBC – Bullying & Harassment](#)
  - 19.6 [Workers Compensation Act](#)
  - 19.7 [BC Human Rights Code](#)
  - 19.8 [Family and Employee Assistance Program \(fseap\)](#)
  - 19.9 [Student Counselling Services](#) (free and confidential)

20.00 HISTORY

<b>Created/Revised/ Reviewed</b>	<b>Date</b>	<b>Author's Name and Role</b>	<b>Approved By</b>
Created	Sept. 23, 2013		President's Council
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