
Type:	C - Institutional	Last Approved:	March 28, 2013
Executive Responsibility:	President & Vice-Chancellor	Next Review:	April, 2013
Administrative Responsibility:	Director, Human Rights and Respectful Workplace	Policy:	21.05

STATEMENT:

1. DEFINITIONS & EXAMPLES

a. Personal Harassment is:

- i. Behaviour that generally involves a course of conduct directed towards a specific person or persons which serves no legitimate educational or work related purpose; and,
- ii. is known, or ought reasonably to be known, to have the effect of creating an intimidating, humiliating, offensive or hostile educational or work environment.

A single incident, when sufficiently serious, may be considered personal harassment.

The performance of assigned job responsibilities, including evaluation or supervision, exercised in a fair and reasonable manner shall not constitute personal harassment.

b. Examples of Personal Harassment:

The following examples are provided to illustrate elements of a course of conduct that could be considered personal harassment:

- i. yelling, name calling, or swearing;
- ii. threats or implied threats;
- iii. demeaning comments or jokes regarding a person's character, body, or other personal aspects;
- iv. spreading malicious rumors, gossip or innuendo;
- v. undermining or deliberately impeding another person's work or success, including unreasonably changing work guidelines, withholding of necessary information or establishing impossible deadlines;
- vi. excluding or isolating a person;
- vii. persistent unwarranted criticism;
- viii. inappropriate intrusion on a person's privacy;
- ix. deliberate tampering with a person's belongings or work equipment;

- x. unwelcome physical proximity and actual touching , such as grabbing or finger jabbing; and
- xi. retaliation for coming forward with a complaint.

Any determination of personal harassment based on these behaviours would involve an assessment of the effect of these behaviours, the reasonableness of that effect, and whether it was known or should have been known that it was unwelcome.

- c. For the purposes of this process, the “Appropriate” Vice-President is:
 - i. The Vice-President with line authority for the respondent when these procedures refer to the Administrator with responsibility for resolving a complaint.
 - ii. The Vice-President who does not have line responsibility for the respondent when these procedures refer to the Administrator who will determine appeals of decisions made by the Director, Human Rights and Respectful Workplace Director, Human Rights and Respectful Workplace.

2. HARASSMENT PREVENTION

The Director, Human Rights and Respectful Workplace, the Manager, Labour Relations, and the Executive Director of Student Services are responsible for developing and implementing an educational program that addresses the prevention of harassment, and which outlines appropriate measures which should be taken when it occurs. They are also responsible for collaborating with administrative and union leaders in endeavouring to maintain an environment free of personal harassment.

Members of the University community involved in a dispute that is proving difficult to manage or resolve are encouraged to seek assistance from their immediate supervisor and/or Dean, Director, or Regional Campus Principal. Persons may also utilize the services of the Director, Human Rights and Respectful Workplace to assist with the resolution of any disputes.

3. LIMITS OF CONFIDENTIALITY

This section shall apply to all persons under these Procedures, that is, to the Director, Human Rights and Respectful Workplace and University Administrators, as well as to the parties, their witnesses, and representatives with some exceptions as set out below.

The requirement to maintain confidentiality extends to all details regarding consultations, the complaint and its resolution, the identity of the parties, and all print material generated through the Procedures for Resolving Complaints.

When the complaint includes behaviours that also fall under [Policy 41.10, Prevention of Violence in the Workplace](#), release of information may also be necessary when required under an enactment (e.g. Workers Compensation Act or Work Safe BC Regulations).

If the circumstances surrounding a complaint have a serious negative impact on the work group, program, or class of which the parties to the complaint are members, then disclosure of some information may be appropriate. Such disclosure shall be made following consultation with the Director, Human Rights and Respectful Workplace.

When a complaint becomes public due to circumstances outside the control of the University, the University may respond to queries regarding this procedure and how the individual complaint is being handled. Information regarding details of the complaint may be disclosed, with the permission of the parties or as may be required, in accordance with the Freedom of Information/Protection of Privacy Act.

Subsequent to the resolution of a complaint, disclosure of information may be deemed appropriate. The Vice-President responsible for resolving the complaint or the investigator may recommend to the President that the facts of the complaint be disclosed.

When a report to the University Board and/or action by the Board is required, the confidentiality of the complainant should be maintained unless there are compelling reasons for the disclosure of information.

4. PROCEDURES FOR RESOLVING COMPLAINTS

These procedures are not meant to be restrictive and are presented as recommended guidelines, which are likely to be effective in most instances.

a. Direct Approach

Any employee who believes she or he has been subjected to personal harassment is encouraged to make a direct request of the individual(s) concerned that the behaviour cease. It is recognized that power imbalance, intimidation, and other factors may make this approach inappropriate or unwise and that an individual may need assistance in resolving their specific concern.

b. Request assistance From Supervisor and/or Dean, Director, or Regional Campus Principal

Employees are encouraged to request assistance in resolving their concern from an immediate supervisor and/or the Dean, Director, or Regional Campus Principal to whom they report.

c. Consultation with the Director, Human Rights and Respectful Workplace:

Any person who is unsure of how they should respond, whether or not they should make a formal complaint, or if the conduct or behavior constitutes personal harassment under the terms of these guidelines should request a confidential consultation with the Director, Human Rights and Respectful Workplace. This consultation should take place promptly after the incidents giving rise to the complaint so as to facilitate a timely resolution.

The Director, Human Rights and Respectful Workplace will review the concern, assist the person to identify appropriate ways of responding to the situation, review these procedures, provide information on any alternative complaint procedures available, and advise that the complainant must be prepared to be identified to the respondent by name if any informal or formal resolution of the complaint is to be undertaken.

Consultation with the Director, Human Rights and Respectful Workplace does not commit the individual to filing a formal complaint. The University, however, retains the right to pursue an investigation, with or without the consent of the complainant where appropriate.

d. Seeking Informal Resolution:

Informal resolution will be pursued when both parties agree. The Director, Human Rights and Respectful Workplace will endeavour to resolve the complaint through education, and/or consensual dispute resolution processes.

Any resolution of the complaint at this stage must be agreeable to both parties.

e. Filing a Formal Complaint:

Complaints should be filed in writing with the Director, Human Rights and Respectful Workplace, normally within twenty (20) working days of the most recent incident of personal harassment or of failure to resolve the issue through the informal resolution process. The Director, Human Rights and Respectful Workplace will provide the respondent with a copy of the written complaint.

In exceptional circumstances, a complaint that does not meet the timeline may be accepted for consideration under this policy when, in the opinion of the Director, Human Rights and Respectful Workplace:

- circumstances warrant an extension of this deadline;
- the delay was incurred in good faith; and
- no substantial prejudice will result to any person affected by this delay.

The Director, Human Rights and Respectful Workplace may decide not to proceed with a complaint when he or she determines:

- there is no reasonable basis to justify the complaint proceeding;
- the time limits have expired;
- the complaint could more appropriately be dealt with under another venue;
- it is frivolous (lacking in seriousness; inclined to levity; silly);
- it is vexatious (serves only to annoy and does not contain any basis for action);
- it is malicious (intending or intended to do harm).

When the Director, Human Rights and Respectful Workplace decides to not accept a complaint or to extend the timeline for accepting a complaint, this decision and the reasons for it will be communicated to both the complainant and the

respondent in writing. These decisions may be appealed by written submission to the appropriate Vice-President no later than ten (10) working days after receipt. The Vice-President's decision will be final.

f. Investigation of Complaint:

When a formal complaint is accepted, the Director, Human Rights and Respectful Workplace will investigate as expeditiously as possible in a sensitive, respectful, and confidential manner. When complaints include allegations of violence or threats of violence towards an employee, the investigation will be conducted by the Director, Human Rights and Respectful Workplace and/or the Administrative Coordinator, Health and Safety Services. It is recognized that there may be circumstances where, in the interest of fairness to all parties, the investigation may be protracted. An employee who is a complainant may be accompanied by a union shop steward at any interviews relating to the investigation. If the respondent is employed as a BCGEU or CUPE member, he or she must be accompanied by a union shop steward at all such interviews. A VIUFA respondent shall, in advance of any meetings, be extended an opportunity to be accompanied by a shop steward.

The Director, Human Rights and Respectful Workplace shall prepare a report that outlines the results of the investigation. The report will outline the facts as agreed upon by the parties, any areas in which there is disagreement or lack of clarity, and the facts as reported by any witnesses. In the report only initials will identify persons quoted and/or interviewed. Copies of the report shall be provided to the complainant, the respondent, and to the Administrator with responsibility for resolving the complaint.

g. Resolution of Complaint:

Complaints shall normally be resolved by the Vice-President with line authority for the respondent or, when the respondent is a student, by the Executive Director of Student Services. For parties not covered by the above, complaints shall normally be resolved by the President of the University.

The Vice-President will review the report prepared by the Director, Human Rights and Respectful Workplace and will make a determination as to whether personal harassment has occurred. If there is a finding of personal harassment, the Vice-President shall give directions respecting the remedial and/or disciplinary action required to resolve the complaint. Remedial action may include a direction to cease the harassment, apology, and/or a requirement to participate in an educational program regarding personal harassment. Disciplinary action may include reprimand, suspension or termination.

When the respondent is an employee, the Vice-President may consult with the Manager, Human Resources and the respondent's Dean, Director, or Regional Campus Principal prior to finalizing any recommendations for remedial or disciplinary action. Any recommended course of action should be thoroughly considered in terms of fairness and reasonableness as well as institutional consistency.

Where, in the opinion of the Vice-President, personal harassment has had a negative impact on a particular work or educational group environment, the Vice-President may consider remedial action designed to restore the work or educational environment.

h. Informing Parties of Decision:

The Vice-President responsible for resolving the complaint will inform the respondent of his or her decision regarding the matter in person, when possible, and confirm in writing any remedial action or changes that may be required to prevent future complaints of a similar nature and any disciplinary action to be imposed. Union representation at this meeting shall be as outlined above regarding investigative interviews.

The Vice-President responsible for resolving the complaint will convey the final disposition of the complaint to the complainant. This will include an outline of measures being taken to remedy the situation for the complainant and measures undertaken to restore the work or educational environment, if any.

i. Retaliation

Any retaliation against or harassment of a complainant that results, directly or indirectly, from the lodging or processing of a complaint will in itself be considered a violation of this policy and will be subject to remedial and/or disciplinary action.

j. Vexatious, Frivolous, or Malicious Complaints

A complaint will not be considered vexatious, frivolous, or malicious merely because it is found to be unsubstantiated following investigation. When the Administrator charged with resolving the complaint in section 4(f) determines that an employee or student has made a vexatious, frivolous, or malicious complaint that Administrator is also charged with determining whether any disciplinary actions will be taken against the complainant. In the case of an employee the Vice-President may consult with the appropriate Administrators as outlined in 4(f) above. The range of discipline may include, but is not limited to, reprimand, suspension, or dismissal.

k. Right to Grieve or Appeal:

Any disciplinary action taken as a result of personal harassment may be subject to grievance under the relevant collective agreement or appealed to the President. An appeal to the President is not allowed when an employee elects to proceed under the grievance procedure. Appeals to the President should occur within fifteen (15) working days of the decision being communicated to the respondent and be in writing. Any decision by the President respecting an appeal under this procedure will be final.

5. CONFLICT OF INTEREST

Should the nature of the complaint place any of the Administrators responsible for acting under these procedures in a conflict of interest, a member of the Executive who has no involvement in the situation will be responsible for identifying an alternate Administrator.

When the respondent is a Dean, Director, Regional Campus Principal, or a Senior Administrator the complaint will normally be referred to an external investigator who shall fulfill all of the responsibilities of the Director, Human Rights and Respectful Workplace. The external investigator will be selected from an institutional list of investigators approved by all unions and the institution. The report shall include an opinion on whether harassment occurred and may include recommendations for resolving the complaint. This report will be submitted to the President (or the University Board of Governors should the complaint involve the President) for resolution and the right of appeal would be to the University Board of Governors.

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