



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 to act upon complaints of such behaviour promptly, fairly, judiciously and with due regard to confidentiality for all parties concerned.
- 1.01 This policy recognizes that education about human rights and the development of work and learning cultures that value diversity and inclusion and foster respect are key to the prevention of Discrimination and Harassment.
- 1.02 This policy deals with Discrimination and Harassment on the Prohibited Grounds of Discrimination set out in 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' Compensation Act.*
- 1.04 Nothing in this policy is intended to prohibit discrimination based upon bona fide and reasonable occupational or educational requirements.

DEFINITIONS

- 2.00 **Discrimination:** adverse differential treatment of a person or group of persons on the basis of a Prohibited Ground of Discrimination, as set out in the *British Columbia Human Rights Code*, that has the effect or purpose of unreasonably interfering with that person's or group's employment or educational status or performance or of creating a hostile or intimidating work or educational environment. Discrimination includes **adverse effect or systemic discrimination** which consists of entrenched and institutionalized practices, systems, and structures that operate to limit a group's or an individual's rights to opportunities or to exclude a group or an individual from participation on the basis of any Prohibited Ground of Discrimination.
- 2.01 **Prohibited Grounds of Discrimination** are race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex (including gender identity), sexual orientation, age or conviction for a criminal offence that is unrelated to the employment or intended employment.

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 or implies job or academically related consequences for the person harassed; **or**
- 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.

3.03 **Personal Harassment :** behaviour directed towards members of the University Community that would be characterized by a reasonable person as:

- a. abusive and demeaning; **and**
- b. threatening or intimidating; **and**
- c. either interfering with the targeted person's participation in a University-Related Activity **or** creating an intimidating, humiliating or hostile environment.

In addition, Personal Harassment must either abuse the power one person holds over another or misuse authority or constitute a pattern of mistreatment.

Personal Harassment is not:

- a. interpersonal conflict or disagreement;
- b. the use of appropriate evaluation or discipline; or
- c. action where the harm by any objective standard is fleeting.

- 4.00 **Consultation:** a discussion with the Director by any member of the university community about issues of concern related to this policy. All Members of the University Community have access to the Director for Consultation about concerns related to Discrimination or Harassment. This consultation will be held in confidence unless the Director is obliged to act under section 34.00 of this policy or section 7.00 of the procedures. A Consultation becomes a complaint when the complainant indicates they wish to make a complaint, or when the Director takes some action as required under sections of this policy or associated procedures as indicated above and a file is created.
- 5.00 **Informal Complaint:** a complaint that is addressed by the Director with a focus on finding a resolution to the complaint. An Informal Complaint does not result in a determination of whether or not this policy has been violated. A written complaint is not always required. Some forms of resolution may not require identification of the complainant to the respondent.
- 5.01 Resolution of an Informal Complaint may include, but is not limited to:
- a. recording of concerns by the Director in a complaint file to be retained in EQHR confidential files according to Section 78.00 of the procedures;
 - b. a complainant communicating to a respondent that behaviour is unwanted;
 - c. mediation (does not always require face to face meetings) or facilitated conversation; or
 - d. education for the respondent, the complainant or an entire unit.
- 6.00 **Formal Complaint:** a complaint that must be submitted in writing and will be provided to the respondent. A Formal Complaint requires a full and thorough investigation which results in a determination of whether or not this policy has been violated. If an investigation or a hearing finds that Discrimination or Harassment has occurred, the Director may make recommendations and disciplinary processes may be initiated.
- 7.00 **Environmental Assessment:** an independent third party review of the work and/or learning environment in a particular department or unit with goals consistent with the purpose of this policy.
- 8.00 **Member of the University Community:** all university employees and registered students of the university, post doctoral fellows and all persons, employed under contracts with university faculty members as the employer, who provide research or administrative services directly supporting faculty members' research activities. It also includes:
- a. separately incorporated organizations operating on campus who voluntarily agree to submit to the processes under this policy;
 - b. organizations and individuals whose contracts require them to comply with university policies;

- 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:** a Member of the University Community to whom the university's WorkSafeBC coverage applies.
- 10.00 **University-Related Activity:** any type of activity that is directly related to or rises out of the operations of the university at any location. All activities on the university's campuses are university-related unless they are within the exclusive control of either separately incorporated organizations or an organization/group external to the university that does not fall within the definition of Members of the University Community.
- 11.00 **Line Authority:** the President or Vice-President responsible for the particular Member of the University Community who is the subject of a complaint under this policy. For students, the applicable Line Authority will usually be the Vice-President Academic and Provost.
- 12.00 **Office:** the Equity and Human Rights Office (EQHR) or whichever Office is designated by the Board of Governors to oversee the implementation of this policy.
- 13.00 **Director:** the Director, Equity and Human Rights and includes the Director's designate.
- 14.00 **Adjudicator:** the Adjudicator is selected from the roster of adjudicators and conducts the hearing provided for under sections 64.00 – 71.00 of the procedures.
- 15.00 **President:** the President of the university and includes the President's designate.
- 16.00 **Procedures:** the [Discrimination and Harassment Complaint Procedures](#).

JURISDICTION

- 17.00 Under this policy, a complaint of Discrimination or Harassment may only be made by a Member of the University Community against another Member of the University Community, except for circumstances described in 17.01, 17.02 and 17.04. Such a complaint must pertain to University-Related Activities.
- 17.01 The Director may accept complaints from persons seeking to become Members of the University Community in circumstances directly affecting their application to become a member, from former Members of the University Community in circumstances directly affecting their dismissal or withdrawal from the University, visitors to campus or alumni where to do so would advance the goals of the policy.
- 17.02 The university may make a complaint as per section 31.00.

17.03 When the complainant and/or the respondent are members of a separately incorporated organization, the Director has the discretion to decide that the complaint will not be addressed by this policy.

17.04 Complaints of Workplace Bullying and Harassment may be made only by Eligible WorkSafeBC claimants (as defined in Section 9.00) and may be made about the behavior of Members of the University Community or about the behavior of others who are not Members of the University Community.

POLICY

18.00 Discrimination and Harassment are prohibited at the University of Victoria. Members of the University Community have the right to work, study and participate in activities at the university in an environment free of Discrimination and Harassment. Eligible WorkSafeBC claimants also have a right to an environment free of workplace bullying or harassment as it is defined by regulations pursuant to the British Columbia Workers' Compensation Act.*

19.00 The university recognizes academic freedom as a fundamental value, and this policy shall not be interpreted or applied to impose on the legitimate academic freedom of any Member of the University Community.

19.01 In exercising academic freedom, Members of the University Community must act in a responsible and reasonable manner and respect the rights of other Members of the University Community.

20.00 The university will take steps to prevent where possible, or otherwise minimize Discrimination and Harassment and to deal expeditiously with behaviour that violates this policy.

Responsibilities of Members of the University Community

21.00 Members of the University Community are expected to model respectful behaviour and refuse to engage in or condone behavior contrary to this policy.

22.00 Members of the University Community must comply with the provisions of this policy, including the confidentiality obligations.

23.00 Members of the University Community must participate in any procedures taken under this policy and the procedures.

24.00 Failure to comply with the provisions of this policy or any resolution agreed upon or imposed as a result of the procedures or refusal to participate in the procedures may result in disciplinary action by the university.

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 determine that the interests of the university would be best served by conduct of an Informal Complaint or a Formal Complaint.
- 31.01 The procedures 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.
- 31.02 Where the respondent or witnesses are members of a union or an employee association, a decision to invoke this policy and any procedures that follow must be in accordance with the applicable collective agreement or the Framework Agreement.
- 31.03 This policy is not to be applied in any manner that detracts from the rights and duties of those with supervisory authority to manage and, if necessary, to discipline faculty, staff and students in accordance with collective agreements, the Framework Agreement or university policies and procedures.

- 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 Act prevail.
- 36.00 Any decision to contest any direction or order of the Information and Privacy Commissioner, court or administrative tribunal rests with the appropriate administrative authority of the university.
- 37.00 All information provided under this policy and the procedures to the Office, the Director, the designate of the Director or the Adjudicator appointed under this Policy is submitted in confidence, and all records created under this Policy and the procedures will be held in confidence, to the extent allowed by or required by:
- a. this policy and the Procedures;
 - b. the law and, in particular, by the *BC Workers Compensation Act*, and the *Freedom of Information and Protection of Privacy Act*, and
 - c. judicial and quasi-judicial proceedings, including, but not limited to, arbitration proceedings, proceedings before the BC Human Rights Tribunal and WorkSafe BC investigations.
- 38.00 All Members of the University Community, including those in positions of authority and those involved in either an Informal Complaint or a Formal Complaint, have an obligation to respect the confidentiality of information obtained under the procedures, subject to sections 33.00 – 37.00.

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 this policy.
- 45.00 No person shall discharge, suspend, expel, intimidate, coerce, or otherwise retaliate against a person because that person, whether as a witness, party or in any other role, participates, in good faith, in the procedures. Any such reprisal shall be considered Harassment under this policy, and persons who believe they have been subject to reprisal, should immediately seek the assistance of the Office.
- 46.00 Any complaint that is found to be malicious, vexatious and submitted in bad faith may be considered Harassment under this policy.
- 47.00 A complainant has the right to withdraw a complaint at any time. The university may have a responsibility to proceed.

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

DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURES

Procedural Authority: President
Procedural Officer: Director, Equity and
Human Rights

Effective Date: July, 2015
Supersedes: January, 2008
Last Editorial Change: December 2009

Parent Policy: [Discrimination and Harassment Policy GV0205](#)

Definitions

1.00 The definitions in the Discrimination and Harassment Policy (“the Policy”) apply to these procedures.

General

2.00 Nothing in the Policy or these procedures bars the parties from claiming their rights under other procedures whether available at law or under a collective agreement or any other agreement.

3.00 Where a collective agreement or other agreement applies:

a. complainants and respondents should consult with their union or other representative group prior to and during a Formal Complaint to ensure that the implementation of these procedures complies with the relevant collective agreement.

b. if the relevant agreement gives the complainant a choice of submitting the complaint under that agreement or under the Policy and these procedures, then an election to proceed under the agreement will normally prevent the complainant from proceeding under the Policy and these procedures unless, in the Director’s discretion:

i. special circumstances exist; or

ii. the complainant has a separate ground to proceed under these procedures independent of rights under the agreement.

4.00 All time periods specified in these procedures for the filing of a response, reply, or other document by a complainant or a respondent are mandatory requirements that may be extended by the Director or the Adjudicator only where enforcement of the time period would be unreasonable or cause undue hardship.

5.00 In appropriate circumstances, the Director may assign her or his responsibilities to a designate, who shall have all the powers and responsibilities of the Director.

6.00 Complaints of Discrimination and Harassment against any employee of the Office of Equity and Human Rights shall be made to the University Secretary.

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 regarding serious risk, the Director has a duty to disclose that information without delay to the appropriate authority. Where time permits, the Director may obtain legal advice prior to making this disclosure.
- 9.00 After a complaint has been filed, all parties involved in allegations of Discrimination or Harassment have the right to request advice and guidance from the Director about the application of the Policy or other options available through any university policy, collective agreement, other employment agreements, or external agencies, but the extent of the confidentiality of this consultation will be determined by the *Freedom of Information and Protection of Privacy Act*.
- 10.00 At any time, confidentiality may be waived if the parties to a complaint have waived the requirements of confidentiality expressly or by acts that could reasonably be interpreted by the Director as a waiver of the right to confidentiality. In this case, the Director shall obtain legal advice before disclosing any information about the complaint.
- 11.00 Parties' rights to confidentiality under the Policy and these procedures and under the *Freedom of Information and Protection of Privacy Act* will change according to the stage of the procedures that the parties are involved in.
- 11.01 There are some stages of the procedures (e.g. formal investigations) where otherwise confidential information must be shared with other parties to the complaint or others involved in the complaint process.
- 11.02 There may be circumstances (e.g. grievance arbitration) where otherwise confidential information must be shared with parties outside the complaint process.
- 11.03 At all stages of the complaint process where rights to confidentiality may change, the Director will inform the parties of the implications for confidentiality before proceeding to that stage of the process.

Consultation and Participation

- 12.00 All Members of the University Community have the right to Consultation with the Director.
- 13.00 All parties to a complaint, including witnesses, have access to advice and guidance from the Director. The Director's role is to remain unbiased and to advocate for an environment free from Discrimination and Harassment but not to advocate for any party to a complaint.
- 14.00 Any employee of the university who participates in these procedures may normally do so during their regular working hours at a time that minimizes disruption to operations.
- 15.00 All parties to a complaint may be accompanied, consistent with the relevant collective agreement, by a union steward, a friend or an advocate, including a lawyer or legal advisor, through all stages of the procedures.
- 15.01 Where there is not solicitor/client privilege, individuals will be asked to sign a "confidentiality agreement" reflecting section 33.00 of the Policy.
- 16.00 The complainant may withdraw the complaint at any time. The university may have a legal responsibility to take steps to address the situation notwithstanding withdrawal of the complaint.

Director's Discretion

- 17.00 When a complaint is made to the Office, the Director shall gather preliminary information to review the complaint and may decide not to proceed with either informal or formal resolution of the complaint where the Director determines the complaint:
- a. is not within the jurisdiction of the Policy; or
 - b. is trivial, frivolous, vexatious, or made in bad faith; or
 - c. has been delayed to such an extent as to be seen as vexatious; or
 - d. is being or has been fairly and adequately addressed by a grievance under a collective agreement, the BC Human Rights Tribunal or some other legal process. Under these circumstances the Director may decide to put the complaint in abeyance pending the outcome of another process; or
 - e. is primarily an issue of interpersonal conflict or
 - f. is an issue of workplace bullying or harassment that would more reasonably be addressed by a manager or supervisor; or
 - g. involves either visitors or members of a separately incorporated organization except in cases where the complaint is made by an Eligible WorkSafeBC claimant.
- 18.00 Once a complaint has begun, the Director has the discretion at any time to refuse to proceed with either informal or formal resolution of the complaint where in the opinion of the Director section 17.00(b) or (d) applies.

- 19.00 If the Director decides not to proceed with a complaint under section 17.00 or 18.00, the complainant and, if appropriate, the respondent shall be notified in writing of this decision and the reasons for the decision within 10 working days from the date of the refusal.
- 20.00 Unless the Director's decision is based upon section 17.00 f, within 10 working days after the Director's written decision not to proceed with a complaint, a complainant may request a review of the Director's decision.
- 20.01 The review will be conducted by an individual member selected on the basis of availability from the roster of adjudicators.
- 20.02 The review is limited to determining whether the Director's decision was reasonable and is not an inquiry into the correctness of the decision not to proceed.
- 20.03 The review shall be based upon written submissions only and no oral hearing shall be held. The review must consider the complaint, the Director's reasons and any written submissions made by the parties.
- 20.04 The review will normally be completed within 20 working days of receiving the request of review.
- 20.05 There is no appeal from this decision. The complainant and the Director will be notified of the decision in writing.
- 21.00 Where the Director's refusal to proceed with a complaint is based upon section 17.00 f, the Director will refer the complaint to the appropriate manager or supervisor.

Interim Measures

- 22.00 Interim measures pending the outcome of a complaint may be required to ensure that all parties to these procedures, including witnesses, are treated fairly. Interim measures may also be instituted for reasons of safety. Examples of possible interim measures include but are not limited to:
- a. arranging for academic work to be supervised and evaluated by a disinterested party;
 - b. temporarily reassigning one of the parties until the complaint is resolved; or
 - c. having work performance supervised and assessed by an alternative supervisor.
- 23.00 If, in the opinion of the Director, a particular situation warrants interim measures, the Director will make the request to the appropriate university administrator and consult where appropriate with employee representatives, providing any details necessary to enable decision-making on suitable arrangements.
- 23.01 The administrator and any others involved in the arrangements will treat in confidence all information provided by the Director.
- 24.00 If the request is denied, the Director may refer the matter to legal counsel.

Complaints

- 25.00 Consultation becomes a complaint when the complainant signs a brief statement indicating that they are filing an Informal Complaint and the Director opens a complaint file or when a Formal Complaint is received in writing. If a complainant wishes the Director to take action on a situation a complaint must be lodged.
- 26.00 These procedures provide for Informal Complaints and Formal Complaints and a hearing. Usually informal resolution is attempted first but it is also possible to proceed directly to a Formal Complaint. A hearing can only occur after a formal investigation is completed.
- 27.00 At any time and providing all parties agree, a Formal Complaint may revert to an Informal Complaint. If informal resolution is unsuccessful, the Formal Complaint may resume.
- 28.00 The Policy provides three options to address situations where the Office does not receive a complaint:
- a. the President or any Vice-President may invoke this Policy;
 - b. the Director may request an Environmental Assessment; or
 - c. Where information of workplace bullying and harassment as defined in the B.C. Workers' Compensation Act regulations is received there may be a legal obligation for the university to act on the information and take whatever steps are necessary to prevent and address the situation.

Environmental Assessments

- 29.00 An Environmental Assessment is an independent third party review of the situation in a specific unit. It is a proactive, preventative and participatory process that identifies and addresses important issues in the work, learning or living environment of a particular department or unit. The purpose of the Environmental Assessment is to identify the specific strengths and challenges faced by a particular area and to make recommendations with the goal of improving the environment.
- 29.01 Only the Director may initiate an Environmental Assessment through a recommendation to the applicable Line Authority. The Line Authority has the discretion to decide whether to proceed or not. An Environmental Assessment may be requested when:
- a. there is a pattern of complaints and/or requests for confidential consultation from a specific area. These may be situations where the people coming forward are not willing or able to initiate a complaint or where individual situations have been resolved but issues continue to come to the attention of the Director;
 - b. it appears that the environment of the unit has been significantly impacted upon by allegations of Discrimination or Harassment; or

- 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.
- 37.00 Should there be no willing witness, the Director will consider, with legal advice, the likelihood of being able to proceed with the process and will take this factor into account in making a recommendation to the Vice-President.
- 38.00 The Director will meet with the alleged respondent to inform her or him of the allegations that are being considered and seek a response. The identity of the witnesses will not be revealed to the respondent at this stage. The alleged respondent will be informed of their right to be accompanied to this meeting and any proceedings under these procedures/the Policy by:
- a. a representative of their union;
 - b. a lawyer or legal advisor; or
 - c. a friend or advocate.
- 39.00 If the alleged respondent wishes to respond to the allegations in writing, this submission must be received by the Director within 15 working days of the meeting referred to in section 38.00. This time line may be amended by the Director if the Director has reason to believe that the respondent will not be able to prepare an adequate response within this time frame.
- 40.00 Within 5 working days of completing 34.00 through 39.00 above the Director will inform the witnesses and the respondent in writing of the decision to recommend or not to recommend the commencement of informal or formal complaint procedures to the Vice-President with authority over the respondent.
- 41.00 The Director will provide the appropriate Vice-President or, in the case of conflict of interest, the President, with a summary of the evidence from the witnesses and the respondent together with a recommendation to proceed or not to proceed under Section 31.00 of the Policy.
- 41.01 The summary will not include the names of the respondent or any possible witnesses. It will include reasons for the recommendation and any other information necessary to assist the Vice-President in deciding whether or not to follow the recommendation.
 - 41.02 Any recommendation to the Vice-President shall include advice regarding the support and protection of witnesses, if circumstances indicate the need for such measures.
- 42.00 The Vice-President will decide whether or not to accept the recommendation of the Director as soon as possible, but no later than 20 working days from receipt of the recommendation, and will inform the Director, the respondent and the witnesses of this decision in writing.

- 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 want to file a complaint, the university may have a legal duty to inquire further and take whatever steps necessary, including conducting an investigation, to address the situation.
- 47.00 Where a university employee reports observations of workplace bullying and harassment directed towards another university employee, the direct supervisor or the Office of Equity and Human Rights (or any other potential reportees, see section 48.00) will inquire further and take whatever steps necessary, including undertaking an investigation to address the situation.
- 48.00 Workplace bullying and harassment may also be reported to the employee's union or employee association, a human resources consultant, or a manager, Campus Security Services or Occupational Health, Safety and Environment. Faculty and Librarians may report to their Chair, Director or Dean, the University Librarian, the lead researcher in a laboratory, the principal investigator for grant funded research or to the office of the Vice-President Academic and Provost.

Procedures for Informal Complaints

- 49.00 Individuals who believe they have been subjected to behavior prohibited by this policy may submit an Informal Complaint to the Director. This may be done either orally or in writing although the complainant must sign a brief statement indicating they are filing an Informal Complaint.
- 50.00 On receipt of the Informal Complaint, the Director shall initially attempt to resolve the complaint informally through any means the Director deems appropriate in the circumstances, including mediation, negotiation and conciliation.
- 51.00 The Director will normally have up to 2 months in which to resolve the complaint informally. This time period may be extended by the Director if there are unusual circumstances.
- 52.00 Individuals whose complaint is not resolved to the complainant's satisfaction under an Informal Complaint may request in writing to proceed to the Formal Complaint and investigation process.

Procedures for Formal Complaints

- 53.00 Complainants who believe they have been Discriminated against or Harassed and wish to proceed with a Formal Complaint must submit their complaint to the Director in writing.
- 53.01 Once a finalized written complaint is received by the Director, it will take approximately 12 weeks until the investigation report is submitted to the applicable Line Authority.
- 54.00 All complainants who lodge a Formal Complaint must be prepared to be identified to the respondent. All witnesses to a Formal Complaint will also be identified to the respondent and the complainant.
- 55.00 At any time during a Formal Complaint, either party may allege that there is a reasonable apprehension that the Director is biased.
- 55.01 Participation of the Director in an Informal Complaint does not, of itself, constitute grounds for finding a reasonable apprehension of bias.
- 55.02 The allegation and reasons must be submitted in writing to the Associate Vice-President Faculty Relations and Academic Administration who will make a determination. This determination is final and binding.
- 55.03 In the event that a reasonable apprehension of bias is found to exist, the Associate Vice-President Faculty Relations and Academic Administration will appoint a designate to act in the Director's place.
- 56.00 If the Director decides to proceed with a Formal Complaint, the Director will forward a copy of the complaint to the respondent within 3 working days of that decision and invite a response. The respondent will have 10 working days from receipt of the complaint to submit a written response to the Director.
- 57.00 Within 3 working days of receipt of the written response, the Director will forward a copy to the complainant. The complainant will have 5 working days from receipt of the response to submit a written reply to the Director, which will be forwarded to the respondent within 3 working days.
- 58.00 All written communications between the parties and the Director under sections 53.00 - 57.00 will be delivered personally, or by courier, or by confidential facsimile, or by registered mail. Email may be used with the agreement of all parties.
- 59.00 Once any submissions under section 53.00, 56.00 and 57.00 are completed, the Director will proceed to a full investigation of the complaint. Within 30 working days of receipt of the written complaint, response and reply, if any, the Director will review the complaint and undertake all investigations considered necessary in order to prepare a written investigation report ("the Investigation Report") which contains a summary of the facts, the evidence considered, the conclusion reached, and the findings with respect to Discrimination and Harassment. The Investigation Report will be provided to the complainant and the respondent.

- 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.
- 62.00 If an Investigation Report or a hearing report finds that a complaint was clearly made in bad faith, the Director will inform the applicable Line Authority of that finding.
- 62.01 At the discretion of the applicable Line Authority, any individual found to have submitted a bad faith complaint may face disciplinary measures.

Hearings

- 63.00 Once a hearing is requested, it will take approximately 9 weeks till the hearing panel report is submitted to the Line Authority or the President.
- 64.00 Any hearing requested pursuant to section 60.00 shall be:
- a. before a single Adjudicator selected from the roster of adjudicators;
 - b. a new hearing of all the evidence pertaining to the complaint; and
 - c. held as expeditiously as possible.
- 65.00 When a hearing is requested pursuant to section 60.00, the Director will present the complainant and respondent with the roster of adjudicators and they will select a single Adjudicator from the roster.
- 65.01 If the complainant and respondent cannot agree on a single Adjudicator within five working days, each will select one representative from the roster. The two selected will appoint an Adjudicator who will conduct the hearing.
- 66.00 As per section 15.00, the parties to the complaint may have a friend or an advocate, including a lawyer, legal advisor or union steward with them through the hearing procedures.
- 67.00 If the complainant refuses to participate in a hearing, the Adjudicator may decide that the complaint will be dismissed.
- 68.00 The Director will provide the Adjudicator with a copy of the written Formal Complaint, the respondent's response, the complainant's reply, and the Investigation Report.

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.

Implementation of the Hearing Report

72.00 The hearing report and recommendations will be delivered to the Director. Within 5 working days of receipt, the Director will forward the hearing report and recommendations to the applicable Line Authority and to the complainant and the respondent.

73.00 Where remedial, preventive or disciplinary action is recommended in the hearing report, the applicable Line Authority will consult with appropriate administrative officers (e.g., Human Resources, responsible line managers, academic Chairs, Directors, Student Affairs, EQHR, etc.) before deciding to implement a recommendation or taking other remedial, preventative or disciplinary action.

74.00 Where a collective agreement, the Framework Agreement or a contract governs disciplinary action against a party who is the subject of a recommendation for discipline in the hearing report, the applicable Line Authority in accordance with the terms of the agreement or contract may initiate such action.

75.00 Where no collective agreement, Framework Agreement or contract governs disciplinary proceedings against a party who is the subject of a recommendation for discipline in the hearing report, then the applicable Line Authority may recommend disciplinary action to the President, and:

- a. a copy of the recommendation to the President will be given to the parties;
- b. the parties may make written submissions to the President within 5 working days of receipt of the copy of the recommendation to the President;
- c. after receiving the recommendation and any submissions, the President will make a final decision on disciplinary action within 30 working days of receipt of the last submission; and
- d. the President will notify the Director and the parties of his or her decision in writing.

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 hearings or tribunals; and
- b. experience in the area of human rights and Harassment.

Records

78.00 Records of complaints made under the Discrimination and Harassment Policy (GV0205) will be kept according to the University of Victoria Directory of Records, series title SA195 Harassment.

Revisions to Procedures

79.00 These procedures will be comprehensively reviewed and revised at the same time as a review of the Policy is conducted.

80.00 Interim revisions may be suggested by the Director to the Procedural Authority who will approve, modify or deny suggested changes to the procedures.