

Procedure Number:	8001p
Procedure Title:	Respectful Workplace
Approved by:	President
Approval date:	August 24, 2020
Effective date:	August 24, 2020
Review date:	June 30, 2020
Next review date:	June 2023

Procedures are supposed to explain the **HOW** – what are the mechanisms to implement the associated policy. They usually outline processes that University users must follow in situations that the policy is addressing.

## 1. Purpose

1.1. These procedures are designed to support the Respectful Workplace Policy.

## 2. Definitions

2.1. Bullying and Harassment means:

- any inappropriate conduct or comment by a person towards an Employee that the person knew or ought reasonably to have known would cause that Employee to be humiliated or intimidated, or
- any other form of unwelcome verbal or physical behaviour which, by a reasonable standard, would be expected to cause insecurity, discomfort, offence or humiliation to an Employee or group of Employees, and has the purpose or effect of interfering with an Employee's work performance or creating an intimidating, hostile or offensive work environment.

2.1.1. However, Bullying and Harassment excludes any reasonable action taken by a University administrator or supervisor relating to the management and direction of Employees or the place of employment.

2.1.2. Examples of Bullying and Harassment include, but are not limited, to the following:

- words, gestures, actions or practical jokes, the natural consequence of which is to humiliate, ridicule, insult or degrade;
- spreading malicious rumours;
- threats or intimidation;
- vandalizing personal belongings;
- physical assault or violence; and/or
- persistent rudeness, bullying, taunting, patronizing behaviour, or other conduct that adversely affects working conditions or work performance.

2.1.3. It is NOT Bullying and Harassment to

- comply with professional, managerial or supervisory responsibilities to evaluate and report on the performance, conduct or competence of Employees,
- express reasonable opinions freely and courteously, or
- respectfully engage in honest differences of opinion.

### 3. Policy Statements

3.1. The University is committed to providing a working environment where all Employees are treated with dignity and respect, and that is free from Discrimination, Bullying and Harassment.

3.2. Discrimination, Bullying and Harassment are strictly prohibited under this Policy.

3.3. A breach of this Policy by a member of the University Community represents serious misconduct and may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal or expulsion.

3.4. Contractors and their employees and agents, visitors to the University, and other third parties are expected to treat Employees in a respectful manner, consistent with this Policy. The University does not have jurisdiction to take disciplinary action against a person who is not a member of the University Community or who is not currently affiliated with the University. However, under certain circumstances the University may be able to take other action, such as revoking a person's access to University property or a University event.

3.5. The University recognizes its responsibility to increase awareness of Discrimination, Bullying and Harassment, to prevent their occurrence in the workplace, to provide procedures to handle Complaints, and to remedy situations where Discrimination or Bullying and Harassment has been found to have occurred.

3.6. The University is committed to addressing Discrimination, Bullying and Harassment by

- implementing and actively promoting awareness and training programs to educate the University Community regarding Discrimination, Bullying and Harassment and the issues addressed in this Policy;
- promoting conditions that seek to eliminate the potential for incidents of Discrimination or Bullying and Harassment to occur in the workplace;
- reducing barriers to filing Complaints regarding Discrimination or Bullying and Harassment; and
- responding to Complaints in a procedurally fair, efficient and consistent manner.

3.7. The University strongly encourages all members of the University Community to become knowledgeable about Discrimination, Bullying and Harassment and their rights and obligations under this Policy.

3.8. The University reserves the right to initiate an investigation into alleged Discrimination or Bullying and Harassment, on its own initiative without the filing of a Complaint.

3.9. The University reserves the right to implement interim measures as it considers appropriate, pending the completion of an investigation into alleged Discrimination or Bullying and Harassment. Such measures may include, but are not limited to: directing the Complainant, Respondent, witnesses or other parties to cease and desist from engaging in a particular type of behaviour; restricting access to a University campus or specific areas of a University campus; alteration of the learning or work schedule of an individual; imposing a no-contact directive; and/or temporary, non-disciplinary leave of an individual.

3.10. An Employee may have the right to pursue another process in connection with alleged Discrimination or Bullying and Harassment, such as reporting the matter to the police, initiating a civil action, or filing a complaint under the BC *Human Rights Code*. If another process is pursued, the University may elect to continue with the process under this Policy, or to suspend the process under this Policy pending the outcome of the other process.

## 4. Procedures

### 4.1. Prevention and Response

4.1.1. The University will establish and maintain a program to prevent Discrimination, Bullying and Harassment, that will include but not be limited to the following elements:

- risk assessment and management;
- providing appropriate education and training to the University Community regarding this Policy;
- establishing procedures for reporting, investigating and documenting incidents of Discrimination or Bullying and Harassment in a prompt and sensitive manner, and in accordance with WorkSafeBC regulations and policies where applicable; and
- ensuring that appropriate corrective actions are taken in response to incidents of Discrimination or Bullying and Harassment.

### 4.2. Reporting Alleged Violation of this Policy

4.2.1. The University encourages prompt reporting of all alleged violations of this Policy, regardless of whether the person reporting the alleged violation is a victim or observer of such conduct.

### 4.3. Informal Resolution

4.3.1. An Employee who believes they have been subject to Bullying and Harassment or Discrimination is encouraged to attempt to resolve the matter informally, by bringing the matter to the attention of the person who has engaged in the conduct, advising them that the conduct is unwelcome and contrary to this Policy, and asking that the conduct cease immediately. The Employee should keep a written record of the steps taken to alleviate the problem.

4.3.2. The Employee may ask their supervisor to assist in attempting to resolve the matter informally.

4.3.3. If the matter cannot be resolved informally, or if the Employee does not wish to pursue informal resolution, the Employee may file a Complaint in accordance with the procedure outlined below.

#### 4.4. Filing a Complaint

4.4.1. An Employee who believes they have been subject to Bullying and Harassment or Discrimination, or has otherwise been affected by a violation of this Policy, may file a Complaint under this Policy by submitting the Complaint in writing to the Director, Human Resources. Click on the below link to access complaint form:

<https://www.ucanwest.ca/fs/resource-manager/view/5f3213c5-2bea-4517-aba5-7a48ca53c16a>

4.4.2. The Complaint should set out the relevant details regarding the alleged Bullying and Harassment or Discrimination, or other alleged violation of this Policy. The Complaint should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included with the Complaint.

4.4.3. A Complainant has the right to withdraw a Complaint at any stage of the process. However, the University may continue to act on the issue identified in the Complaint to comply with its obligations under law or this Policy.

#### 4.5. Time Limit for Filing Complaints

4.5.1. A Complaint should be filed within 12 months of the alleged incident(s). If the Complaint involves a series of related incidents, the Complaint should be filed within 12 months of the most recent incident.

4.5.2. The University has the discretion to accept a Complaint for filing after the expiry of the time limit described above, if the University determines that the delay in filing was reasonable and justified, and that no person would be prejudiced by the late filing.

#### 4.6. Initial Review

4.6.1. Upon receipt of a Complaint, the Director, Human Resources will conduct an initial review to determine whether the allegations in the Complaint fall within the scope of this Policy. This review will occur within 14 calendar days of receiving a Complaint, unless exceptional circumstances exist that prevent the Director, Human Resources from meeting this timeline, in which case they will contact the Employee making the Complaint as soon as possible to inform them of the revised timeline.

4.6.2. If the Director, Human Resources determines that the Complaint falls within the scope of this Policy, the Director will do one of the following:

- appoint an Investigator to investigate the Complaint; or
- refer the matter to the alternative resolution process described below.

4.6.3. If the Director, Human Resources determines that the allegations in the Complaint do not fall within the scope of this Policy, the Director, Human Resources will advise the Employee making the Complaint of this decision along with reasons. If the Director, Human Resources believes that the Complaint discloses other kinds of misconduct or information that University may need to act on

under another University policy or process, they may refer the Complaint or the relevant portions of the Complaint to the appropriate University authority. When appropriate, the Director will consult with the Employee making the Complaint before referring it elsewhere.

#### 4.7. Alternative Resolution

4.7.1. If the Director, Human Resources believes that an alternative resolution process may be appropriate in the circumstances, the Director, Human Resources will discuss this option with the Complainant. If the Complainant agrees that an alternative resolution process may be appropriate, the Director, Human Resources will contact the Respondent to advise them that a Complaint has been made, and will discuss this option with the Respondent. If the Respondent agrees to participate in an alternative resolution process and the Director, Human Resources is satisfied that an alternative resolution process is appropriate, then the Director, Human Resources will explore the options available and, with the agreement of both parties, will refer the matter to that process for resolution.

4.7.2. Participation in an alternative resolution process is voluntary.

#### 4.8. Investigation

4.8.1. If an alternative resolution process is not pursued or does not resolve the matter, the Director, Human Resources will appoint an internal or external Investigator to investigate the Complaint.

4.8.2. The Investigator will advise participants in the investigation process of the option to have a support person present for interviews.

4.8.3. Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within 60 calendar days of the Investigator's receipt of the Complaint. If during the course of the investigation the Investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the Director, Human Resources as soon as possible to inform them of the revised timeline.

4.8.4. Investigations are not adversarial processes, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.

4.8.5. In all investigations, the Respondent will be informed of the allegations made against them, and will be given a full opportunity to respond.

4.8.6. The Investigator will conduct the investigation in a procedurally fair manner, using a process determined by the Investigator. The investigation process may include, but is not limited to, the following:

- requesting a written response to the Complaint from the Respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications;
- meeting with or requesting further information from the Complainant;
- meeting with or requesting further information from the Respondent;

- meeting with or requesting further information from any other individuals who may have information relevant to the investigation, including any witnesses identified by the Complainant or the Respondent;
- inviting the Complainant and the Respondent to submit questions they believe should be asked of the other party or any witness, provided that the decision as to whether such questions will actually be asked of the other party or a witness is entirely within the discretion of the Investigator; and
- obtaining any other evidence that may be relevant to the investigation.

4.8.7. At the completion of the investigation, the Investigator will submit a written Report to the Director, Human Resources. The Report will normally include the following information:

- a summary of the evidence considered;
- any assessment of credibility that is required to render a determination; and
- the Investigator's findings of fact, and a determination as to whether, on a balance of probabilities, this Policy has been violated.

#### 4.9. Investigation Outcome

4.9.1. If the Investigator's Report determines that Discrimination or Bullying and Harassment has occurred, or that this Policy has otherwise been violated, the following will occur:

- the Director, Human Resources will provide a copy of the Investigator's Report to the Responsible Administrator;
- the Responsible Administrator will determine what disciplinary or other measures are appropriate based on the findings in the Report;
- if suspension of a Student or Employee is a potential outcome, the matter will be referred to the President for decision;
- the Complainant and the Respondent will be notified of the outcome; and
- the Respondent will be notified of the option to appeal, as described below.

4.9.2. In addition to disciplinary outcomes, the University may require workshops and/or mediation for the parties or other members of the University Community in the environment affected by the Complaint or investigation.

4.9.3. If the Investigator's Report determines that that this Policy has not been violated, the Director, Human Resources will dismiss the Complaint and so notify the Complainant and the Respondent. The Complainant will be notified of the option to appeal, as described below.

4.9.4. Whether or not the Investigator's Report determines that Discrimination or Bullying and Harassment has occurred, or that this Policy has otherwise been violated, if the Director, Human Resources believes that the Investigator's Report discloses other kinds of misconduct or information that the University may need to act on under another University policy or process, the Director, Human Resources may refer the Investigator's Report, or the relevant portions of the Report, to the appropriate University authority. When appropriate, the Director, Human Resources will consult with the person making the Complaint before referring it elsewhere.

## 5. Confidentiality

5.1. Confidentiality of all persons and information involved in a Complaint and its investigation is expected.

5.2. To protect the integrity, fairness, and effectiveness of investigations and to ensure compliance with the BC *Personal Information Protection Act* (“PIPA”), all participants in an investigation must act in accordance with the requirements set out below.

5.3. Individuals, including the Complainant and the Respondent, who have obtained personal information about an identifiable individual through their participation in an investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

- any participants in an investigation from disclosing information about themselves, or information that they have obtained outside the investigation; or
- University representatives from disclosing investigation-related information as authorized under this Policy.

5.4. The University will not disclose any personal information related to an investigation except to the extent such disclosure is:

- expressly authorized by the affected individual;
- to a University representative, if necessary for the performance of that individual’s duties;
- to a Complainant, Respondent, witness, or other participant in the investigation, if necessary for the conduct of the investigation;
- authorized by this Policy; or
- authorized or required under law.

5.5. Information may also be shared where

- an individual is at imminent risk of self-harm;
- an individual is at imminent risk of harming another; or
- there are reasonable grounds to believe that others in the University Community or wider community may be at risk of harm.

5.6. To maintain the integrity of the investigation process, the University must ensure that both Complainants and Respondents know the investigation findings.

5.7. Under the PIPA, the University is only authorized to disclose disciplinary actions it has taken against a Respondent if the disclosure is authorized by the University for compelling health or safety reasons. The University will normally inform a Complainant of any relevant restrictions that have been imposed upon the Respondent’s movements or activities.

## 6. Retaliatory Action, Breaches of Confidentiality, and Frivolous or Vexatious Complaints

6.1. Retaliatory Action of any kind is prohibited. This includes Retaliatory Action against a person who files a Complaint, against witnesses, or against any other persons involved in the process.

6.2. Where a member of the University Community is found to have engaged in Retaliatory Action, or to have breached the confidentiality requirements in this Policy, the University may take appropriate disciplinary action.

6.3. Where an investigation determines that a Complaint was frivolous, vexatious or vindictive in nature, the University may take appropriate disciplinary action.

## **7. Appeal**

7.1. A Complainant or Respondent may appeal the decision of the Responsible Administrator to the person to whom the Responsible Administrator reports. A University employee or student who has been suspended by the President has a right of appeal to the University's Board of Governors.

7.2. The appeal must be submitted in writing within ten (10) business days of the decision being received by the Complainant/Respondent, and must provide specific grounds for the appeal, describing how this Policy was incorrectly applied and/or due process was not followed.

7.3. The appeal will deal with appropriateness of process or disciplinary decisions, and will not reconsider the original Complaint. However, the person or body deciding the appeal has the discretion to consider new evidence that could not reasonably have been available at the time of the investigation.

7.4. The appeal may be upheld or dismissed, in whole or in part, and/or referred back to the Responsible Administrator for reconsideration.

7.5. The person or body deciding the appeal will give reasons for their decision in writing.

## **8. Review of this Policy**

8.1. The University will conduct regular reviews to evaluate the effectiveness of this Policy, with reviews occurring at least once every three (3) years, or as otherwise required by law.

## **9. Amendment to this Policy**

9.1. The University reserves the right to amend or update this Policy from time to time at its sole discretion.