

	Policy No.	Replaces		Policy
	<b>E. 501</b>	<b>ARM 1018, 1047</b>		<b>Executive</b>
	Policy Name			
<b>HARASSMENT POLICY</b>				
Approved by	Responsibility			Category
<b>Executive, CFA, COPE 378, CSU</b>	<b>VP, Finance &amp; Administration</b>			<b>Human Resources</b>
Date Issued	Date Revised	Revision	Related Policies, Reference	
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## 1. PURPOSE

### 1.1 UNIVERSITY COMMITMENT

Capilano University is committed to providing a working and learning environment that is free from discrimination-based harassment, including sexual harassment. For the purpose of this policy, members of the University community include students, staff, faculty, and administrators. Capilano University abides by the Human Rights Code of British Columbia and the Canadian Human Rights Act.

### 1.2 COMMUNITY RESPONSIBILITY

All members of the University community have a responsibility to ensure awareness of, and adherence to this policy. Any person who is made aware of harassment as defined under Section 3 of this policy is strongly encouraged to consult with the Conflict Resolution Advisor. It is the responsibility of the Conflict Resolution Advisor to provide the University community with information on the issue of harassment and to lead the effort to educate the university community on the Harassment Policy.

### 1.3 ACADEMIC DISCUSSION

This policy is not intended to infringe upon the ability of instructors and students to engage in academic discussion of harassment, sexism and sexuality.

### 1.4 CONSEQUENCES

Actions contravening this policy may constitute grounds for a disciplinary response, remediation, or preventive action.

## 2. RESOURCES

There are many local resources that members of the University community may access when they encounter harassment. These include:

For employees:

- Conflict Resolution Advisor
- Manager or Supervisor

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- Human Resources Department
- Employee and Family Assistance Program
- Faculty and Staff union representatives

For students:

- Conflict Resolution Advisor
- Capilano Students' Union
- Counselling Department

In emergencies:

- Campus Security (local 1763 or 604.984.1763)
- Dial 911

### **3. DEFINITIONS**

#### **3.1 DISCRIMINATION-BASED HARASSMENT**

Discrimination-based harassment is a form of discrimination that adversely affects the recipient on one or more of the prohibited grounds under the B.C. Human Rights Code.

Discrimination-based harassment as defined above is behaviour or the effect of behaviour, whether direct or indirect, which meets one of the following conditions:

- 3.1.1 Is abusive or demeaning.
- 3.1.2 Would be viewed by a reasonable person experiencing the behaviour or effect of the behaviour, as an interference with her/his participation in a University-related activity.
- 3.1.3 Creates a poisoned environment.

As of this date, the grounds protected against discrimination by the B.C. Human Rights Code are: age, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation and, in the case of employment, unrelated criminal conviction.

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### 3.2 SEXUAL HARASSMENT

Sexual harassment is comment, conduct or representations of a sexual nature, including sexual advances, requests for sexual favours, suggestive comments or gestures, or physical contact when any one of the following occurs:

- 3.2.1 The conduct is engaged in, or the comment is made by, a person who knows, or ought reasonably to know, that the conduct or comment is unwanted or unwelcome.
- 3.2.2 The conduct or comment has the effect of creating an intimidating, hostile or offensive environment, and may include the expression of sexist attitudes, language and behaviour.
- 3.2.3 The conduct or comment exploits the fiduciary relationship between students and employees of the University.
- 3.2.4 The conduct or comment is accompanied by a reward, or the express or implied promise of a reward, for compliance.
- 3.2.5 The conduct or comment is accompanied by reprisal, or an express or implied threat of reprisal, for refusal to comply.
- 3.2.6 The conduct or comment is accompanied by the actual denial of opportunity, or the express or implied threat of the denial of opportunity, for failure to comply.

### 3.3 "HARASSMENT"

The word "harassment" where it appears in this policy refers only to discrimination-based harassment and sexual harassment as defined in [3.1](#) and [3.2](#) above unless otherwise defined.

## 4. ROLES AND RESPONSIBILITIES

### 4.1 CONFLICT RESOLUTION ADVISOR

The University shall appoint a Conflict Resolution Advisor:

- 4.1.1. To serve as the first official University contact in allegations of harassment.

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- 4.1.2 To provide a confidential advisory/information service to the parties involved in harassment allegations.
- 4.1.3 To make appropriate recommendations to the President’s Advisory Committee on Harassment.
- 4.1.4 To provide the University community with information on the issue of harassment and to lead the effort to educate the University community on the Harassment Policy.

4.2 **PRESIDENT’S ADVISORY COMMITTEE ON HARASSMENT**

A President’s Advisory Committee on Harassment comprised of representatives from the Capilano Faculty Association (“CFA”), Canadian Office and Professional Employees 378 (“COPE 378”), Capilano Students’ Union (“CSU”) and Capilano University administration shall:

- 4.2.1 Review, from time to time, the effectiveness of the harassment policy and procedures.
- 4.2.2 Make appropriate recommendations to the President.
- 4.2.3 Be available to the President for consultation regarding the selection of the Conflict Resolution Advisor, and the development of a list of mediators.

5. **ACCESS TO OTHER PROCEDURES**

5.1 **GENERAL**

Notwithstanding this policy and its corresponding procedures, the complainant shall, at his/her option, continue to have access to any applicable grievance and problem resolution procedures approved by the Board of Governors, or included in collective agreements, as appropriate; but a complainant may not concurrently pursue a particular harassment complaint through these harassment procedures if he/she pursues any other problem resolution procedure whether at common law, under statute or under any other University policy or collective agreement to which the University is a party. This provision does not preclude anyone from seeking advice under this Policy or from pursuing alternate procedures after the procedures under this policy have been exhausted.

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## 5.2 COLLECTIVE AGREEMENTS

Both the faculty and staff collective agreements contain harassment provisions. Members of the faculty and staff unions may choose to proceed under the provisions of their collective agreements rather than under this Policy.

## 6. PROCEDURES FOR ALLEGATIONS INVOLVING UNIVERSITY COMMUNITY MEMBERS

### 6.1 COMPLAINTS

A member of the University community who believes that she/he has a complaint of harassment is encouraged to seek the confidential advice of the Conflict Resolution Advisor.

### 6.2 CONSULTATION WITH CONFLICT RESOLUTION ADVISOR

6.2.1 The Conflict Resolution Advisor will assist all parties involved in allegations of harassment, in determining the basis, if any, for a complaint of harassment; in formulating the complaint and/or response; and by explaining the options available through University policy or collective agreements, including the entitlement of CFA and COPE 378 members to proceed under the harassment provisions of their collective agreements and to representation by their union under this policy. With the agreement of the complainant, the Advisor may discuss the complaint with the respondent in an effort to reach a mutually acceptable resolution without recourse to formal procedures.

6.2.2 Following consultation with the Conflict Resolution Advisor the complainant has the following options:

- To proceed with informal resolution initiatives through the Conflict Resolution Advisor.
- To proceed to mediation under this policy.
- To proceed to formal administrative action under this policy.
- Not to take further action under this policy.

If the complainant decides to take no further action, the Advisor will not proceed and the matter will be closed.

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6.2.3 If the matter becomes the subject of any other problem resolution procedure, including the subject of a charge laid pursuant to the Criminal Code of Canada, the Advisor shall not take any further action until the other process has been concluded and further action is requested by the complainant.

### 6.3 MEDIATION

If a complainant wishes to proceed to mediation, the following shall occur:

6.3.1 The complainant must provide the Advisor with a written complaint giving details of the alleged harassment as defined in the Definitions section of this Policy, including dates, times, places, names of individuals involved in the incident(s), names of any witnesses and any other relevant information.

6.3.2 Within five working days from the date of receipt of the written complaint, the Advisor shall inform the respondent of the allegation(s) and shall provide the respondent with a copy of the written complaint.

6.3.3 Within ten working days of the action in 6.3.2, the Advisor shall, if the respondent agrees, select a mediator from a list of potential mediators and shall receive agreement of the choice of mediator from both the complainant and the respondent. The mediator chosen must be unbiased and independent of both parties. The list of mediators shall be established by the President following consultation with the President's Advisory Committee on Harassment and the Conflict Resolution Advisor.

6.3.4 Within a period of thirty working days from the date of appointment of the mediator under 6.3.3, the mediation process shall be concluded. The options for resolution shall be of a voluntary or informal nature and shall not include the power of formal administrative action such as discipline. If resolution is achieved as a result of mediation, a written copy of the resolution shall be signed by the complainant and the respondent. A copy of the written complaint, the mediator's report and the resolution shall be maintained by the Advisor in a confidential file for a period of six years from the date of mediation and shall be destroyed thereafter. The record of the resolution shall not be used in any subsequent formal or disciplinary procedures.

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#### 6.4 FORMAL ADMINISTRATIVE ACTION

6.4.1 The complainant or the respondent may proceed to formal administrative action in the following circumstances, and within the time limits indicated, by notifying the Advisor in writing:

- Within ten working days of the rejection of utilizing the mediation process.
- Within ten working days of completion of an unsuccessful mediation process.

6.4.2 If formal administrative action is invoked the following shall occur:

- a. The Advisor shall forward a copy of the written complaint to the President who will forward it to a senior administrator designated by the President.
- b. Within five working days of the receipt of the written complaint by the designated senior administrator the senior administrator shall inform both parties, in writing, of the receipt of the complaint, provide a copy of the written complaint if it has not already been made available pursuant to the mediation procedure, and invite a written response from the respondent within ten working days. The complainant shall be invited to deliver a written reply to the response within five working days after a copy of the response has been received by the complainant.
- c. The senior administrator shall select an experienced fact-finder from a list of potential fact-finders provided by the President's Advisory Committee on Harassment. The fact-finder will review the complaint. This process shall involve interviews with the complainant and with the respondent and, if required, with any witnesses. The fact finder shall report to the senior administrator concerned. This process shall be completed within 15 working days of receipt of the final documents under 6.4.2.b. or at the expiry of the time limit for response or reply, whichever is the greater.
- d. The complainant and the respondent may each be accompanied by a person of their choice when interviewed by the person conducting the review under 6.4.2.c.
- e. Within ten working days of the conclusion of the review under 6.4.2.c. the senior administrator will submit a report on the allegation to the senior administrator responsible for human resources. Such report may include

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conclusions as to whether harassment has occurred. Copies of that report will be provided to the complainant and the respondent. Within ten working days of receipt of the report the senior administrator responsible for human resources will submit a recommendation to the President. Such recommendation may range from complete exoneration of the respondent to disciplinary action in accordance with established policies and procedures and may include proposals for remedial or preventive action.

- f. Within 20 working days of receipt of the recommendation of the senior administrator responsible for Human Resources the President will make a decision and shall advise the parties in writing with copies to the Conflict Resolution Advisor and senior administrator designated under 6.4.2.a.
- g. In cases where a senior administrator is accused of harassment the President will act as the senior administrator as contemplated in 6.4.2.a.
- h. In cases where the President is accused of harassment, the senior administrator responsible for Human Resources will fulfill all the duties of the President in the Formal Administrative Action procedures of this Policy.
- i. Reasonable efforts will be made to protect the complainant from any subsequent harassment, discrimination, or reprisal which might arise as a result of the complaint.

## 6.5 RECORDS

The Conflict Resolution Advisor shall maintain his/her records, including the President's final decision, under this procedure in the strictest confidence.

## 6.6 OTHER POLICIES AND AGREEMENTS

The application of the Harassment Policy and Procedures may be modified in specific instances, as is reasonably necessary, by the terms of existing University employment policies and collective agreements.

## 6.7 AMENDMENTS

No changes will be made to the Harassment Policy and procedures without consultation with the University administration, CFA, COPE 378 and the CSU.