

Procedure No.	Officer Responsible	
<b>B.511.1</b>	<b>President</b>	
Procedure Name		
<b>Discrimination, Bullying and Harassment</b>		
Policy This Procedure is Under		Date of Next Policy Review
<b>B.511 Discrimination, Bullying and Harassment Policy</b>		<b>2019</b>
Date Issued	Date Revised	Related Policies, Reference
<b>July 18, 2018</b>		<b>B.401 Sexual Violence and Misconduct</b> <b>B.701 Student Code of Conduct</b> <b>B.506 Standards of Conduct</b> <b>B.512 Human Rights, Diversity, Inclusion and Equity</b> <b>E.407 Violence in the Workplace</b> <b>Respectful Learning and Working Environment Statement</b> <b>Occupational Health and Safety Regulation</b>

## 1 PURPOSE

### 1.1 UNIVERSITY COMMITMENT

Among Capilano University's values are diversity, the individuality of learners, open engagement with ideas and respectful engagement with each other, personal accountability for integrity and success, and transparency and an ethic of fairness. The University is committed to providing a respectful learning and working environment that allows for full and free participation of all members of the University community. Discrimination, bullying and/or harassment undermine these objectives and violate the fundamental rights, personal dignity and integrity of individuals or groups of individuals. Discrimination, bullying and/or harassment are serious offences and are not tolerated by the University, and may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal or expulsion. The University abides by the B.C. *Human Rights Code* and the B.C. *Workers Compensation Act*.

The Discrimination, Bullying and Harassment Policy (the "policy") is intended to prevent discrimination, bullying and/or harassment and to provide procedures for reporting, investigating and resolving incidents and complaints where this behaviour occurs, including discrimination-based harassment, sexual harassment, and workplace bullying and harassment.

- 1.2 The procedure set out in this document is designed to support the University's values and its commitment to providing a respectful learning and working environment that allows for full and free participation of all members of the University community.
- 1.3 This procedure outlines the options available to members of the University community who believe they have been the subject of discrimination, bullying and/or harassment, as defined in the policy.
- 1.4 This procedure outlines the process the University will follow when a member chooses to file an informal or formal complaint of discrimination, bullying and/or harassment.

## **2 DEFINITIONS**

The definitions in the Discrimination, Bullying and Harassment Policy apply to this procedure.

## **3 GENERAL**

- 3.1 Wherever appropriate and possible, a serious attempt at resolving situations involving discrimination, bullying and/or harassment informally should be made by all parties without filing a written complaint under the policy. Such early resolutions as described in Section 4 of this procedure assist in creating and sustaining a respectful learning and working environment.
- 3.2 Any individual interviewed by the investigator may be accompanied by a support person for the purposes of advice and/or comfort during the interview. The support person will not be permitted to speak on behalf of the individual being interviewed. If the support person is a lawyer, the individual must inform the investigator that they will be accompanied by a lawyer in a timely manner.
- 3.3 All time periods specified in this procedure for the filing of a response, reply, or other document by a complainant or a respondent must be followed, and may be extended by the Associate Vice President, Student Success (or designate) or Associate Vice President, Human Resources (or designate), only where enforcement of the time period would be unreasonable or would cause undue hardship.
- 3.4 At any time, members of the University community have access to support from resources listed in Section 15 of this procedure (not an exhaustive list).

## **4 EARLY RESOLUTION**

- 4.1 An individual who believes they have a complaint of discrimination, bullying and/or harassment is encouraged, if they feel comfortable and safe to do so, to discuss the matter with the accused directly and to ask the accused to stop the offensive behaviour. 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.

- 4.2 Where the individual is a student, they may contact the Office of Student Affairs to address the situation.
- 4.3 Where the individual is a member of the University community who is not a student (e.g. an employee), they may seek support, counselling, and/or facilitation from the resources listed in Section 15. Employees can report the situation to their supervisor or manager. The supervisor or manager should address the inappropriate conduct promptly, professionally, and work with the Conflict Resolution Advisor and/or Human Resources if necessary to implement corrective or remedial measures. If the supervisor or manager is the accused, the individual should inform the next manager in line, department head, union representative, HR Advisor or the Conflict Resolution Advisor.
- 4.4 The individual may seek facilitation and support from a resource listed in Section 15 (e.g. the Conflict Resolution Advisor), and the resource may discuss the complaint with the accused in an effort to reach a mutually acceptable resolution without recourse to mediation or formal procedures. This approach focuses on resolving the issue as opposed to finding fault, and is encouraged as such early resolutions assist in creating and sustaining a respectful learning and working environment.
- 4.5 If no mutually acceptable resolution is reached, an individual may file a complaint as described in Section 5.

## **5 FILING A FORMAL WRITTEN COMPLAINT**

- 5.1 A complaint of discrimination, bullying and/or harassment can be made under the policy by any member of the University community. A member of the University community who believes that they have a complaint of discrimination, bullying and/or harassment has the following options available, depending on the status of the respondent:
  - 5.1.1 If the respondent is a student, the individual may file a formal written complaint to the Associate Vice President, Student Success;
  - 5.1.2 If the respondent is any other member of the University community, the individual may file a formal written complaint to the Associate Vice President, Human Resources.
  - 5.1.3 A complaint filed under Section 5.1.1 or Section 5.1.2 must:
    - a) contain the names of the complainant and the respondent;
    - b) be in written form;
    - c) contain details of the discrimination, bullying and/or harassment incident(s) complained of (including dates, locations, and names of individuals involved or witnesses), and include copies of any relevant document;
    - d) contain the remedy requested; and
    - e) be dated and signed by the complainant.

- 5.1.4 Eligible WorkSafeBC claimants (members of the University community to whom the University's WorkSafeBC coverage applies) who believe they have been the subject of workplace bullying and/or harassment may also contact the WorkSafeBC Prevention Information Line or submit a complaint to WorkSafeBC on their website. This avenue should be used if the University has not taken reasonable steps to address the incident, or if the issue has not been resolved after reporting the incident. Complaints submitted to WorkSafeBC must be made within one (1) year from the date of the incident and do not need to be made against another member of the University community.
- 5.2 A complaint under the policy must be filed within six (6) months of the last alleged instance of discrimination, bullying and/or harassment. The complainant must have been a member of the University community at the time of the alleged instance.
- 5.3 A complainant has the right to withdraw a complaint at any time. The university may have a legal responsibility to take steps to address the situation notwithstanding withdrawal of the complaint.

## **6 RESPONDING TO A FORMAL WRITTEN COMPLAINT**

- 6.1 Where the University receives a complaint under Section 5 of this procedure, the University will exercise care to protect and respect the rights of both the complainant and the respondent.
- 6.2 The University will seek to achieve procedural fairness in dealing with all complaints. The respondent will be given reasonable notice in writing of the details contained in the complaint and be provided an opportunity to respond.

### **6.3 INITIAL ASSESSMENT**

- 6.3.1 The purpose of the initial assessment is to determine whether the incident(s) falls within the University's jurisdiction to investigate under the policy. The Associate Vice President, Student Success (or designate) will conduct an initial assessment where the respondent is a student. The Associate Vice President, Human Resources (or designate) will conduct an initial assessment where the respondent is any other member of the University community. The assessor may decide to interview the complainant to reach a determination. A complaint may be rejected on the grounds that it is frivolous, vexatious or malicious, lies outside the jurisdiction of the policy, or is beyond the time limits for filing a complaint.
- 6.3.2 The initial assessment will normally be completed within ten (10) working days of the receipt of the complaint.
- 6.3.3 If it is determined that the complaint falls within the scope of the policy, the complainant has the following options:
  - a) To proceed with mediation under the policy and Section 7.1 of this procedure;
  - b) To proceed with formal administrative action and investigation under the policy and Section 9 of this procedure; or

- c) To not take further action under the policy and procedure.

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

6.3.4 If an individual, in good faith, makes a complaint but is not able to satisfy the Balance of Probabilities, the complaint may be dismissed.

6.3.5 If the assessor determines that the complaint does not fall within the scope of the policy, they will:

- a) immediately advise the complainant in writing of the determination; and
- b) refer the complainant, as appropriate, to other University policies that may address the matter, or to other services within or outside the University that may provide assistance, including but not limited to Counselling and Learning Support, the Employee and Family Assistance Plan, or the Conflict Resolution Advisor.

6.3.6 A record of the complaint will be kept and may be re-opened upon the introduction of new information or evidence within six (6) months of the determination.

## **7 INFORMAL RESOLUTION (MEDIATION)**

7.1 Informal resolution is the process in which the complainant and the respondent work with the Conflict Resolution Advisor or designate (the “mediator”) to come to a mutually acceptable resolution. 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 a complainant wishes to proceed to mediation, the following shall occur:

- a) The respondent will be provided a copy of the complaint (or written particulars of the allegation contained in the complaint) and a copy of the policy. Both the complainant and the respondent must consent to participating in the mediation procedure.
- b) Within ten (10) working days of both parties consenting to mediation, the mediator will coordinate a meeting between the mediator and the parties involved. The parties to any such mediation will include the complainant and respondent and may include a support person if applicable as per Section 3.4 of this procedure.
- c) Within a period of thirty (30) working days from the date of both parties consenting to mediation under Section 7.1, the mediation process shall be concluded.
- d) The outcome of the mediation will result in one of the following:
  - i. No resolution is reached and the complainant decides to withdraw the allegation and take no further action.

- ii. A resolution is achieved as a result of mediation, and written copy of the resolution is signed by the complainant and the respondent. A copy of the written complaint and the resolution shall be maintained by the Office of Student Affairs or Human Resources in a confidential file for a period of ten (10) 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. Breach of the written resolution will be addressed under B.701 Student Code of Conduct Policy and related procedures, or B.506 Standards of Conduct and related policies and procedures for employees.
- iii. No resolution is reached and the complainant requests that the matter proceed to the Formal Complaint and investigation under Section 9 of this procedure.

## **8 INTERIM MEASURES**

- 8.1 The University may impose or facilitate interim measures as may be appropriate for the safety of the individuals involved and the University community.
- 8.2 The authority to impose interim measures rests with the Associate Vice President, Student Success and/or the Associate Vice President, Human Resources.
- 8.3 Interim sanctions will be communicated to the respondent in a timely matter after the determination has been made by the Associate Vice President, Student Success or the Associate Vice President, Human Resources.
- 8.4 In accordance with the *University Act*, University policies and applicable collective agreements, interim measures may include, but are not limited to:
  - altering the academic schedule of any student involved in the complaint;
  - imposing academic or workplace accommodations;
  - restricting a respondent's contact with a complainant;
  - restricting a respondent's access to some University facilities;
  - imposing a temporary, non-disciplinary leave of a respondent;
  - imposing an involuntary withdrawal; and
  - any other interim measures as may be determined by the University.
- 8.5 Interim measures will remain in effect at the discretion of the Associate Vice President, Student Success and/or the Associate Vice President, Human Resources.
- 8.6 When the incident involves law enforcement or other internal or external investigations, interim measures may remain in effect until all relevant investigations are concluded.

8.7 Interim measures may be appealed to the President at any point during which the measure(s) remains in place. Appeals can only be made on the ground of proportionality of the measure to the incident. The President may choose to uphold, modify or remove the interim measures. The decision of the President is not appealable.

## **9 PROCEDURES FOR FORMAL ADMINISTRATIVE ACTION**

9.1 The complainant may proceed to formal administrative action in the following circumstances, and within the time limits indicated, by notifying the Associate Vice President, Student Success or Associate Vice President, Human Resources in writing:

- Within ten working days of the rejection of utilizing the mediation process (Section 7).
- Within ten working days of completion of an unsuccessful mediation process (Section 7.4 c).

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

9.2.1 The Office of Student Affairs or Human Resources will appoint an investigator. The appointed investigator may be a University investigator (internal) or an external investigator, depending on the circumstances. The University will make every reasonable effort to ensure that any investigator appointed to conduct an investigation under the policy will have training in the area of discrimination, bullying and/or harassment investigations and will have the capacity to conduct the investigation in an unbiased and fair manner.

9.2.2 The Associate Vice President, Student Success (or designate) or Associate Vice President, Human Resources (or designate) shall forward a copy of the written complaint to the appointed investigator within five (5) working days of the appointment.

9.2.3 Within five (5) working days of the appointment of the investigator, both the complainant and the respondent will be notified and provided a copy of the written complaint. The respondent is invited to respond to the complaint within ten (10) working days. After receiving a copy of the respondent's response, the complainant shall be invited to deliver a written reply to the response within five (5) working days.

9.2.4 Upon appointment, the investigator will conduct an investigation of the allegations giving rise to the complaint. This process shall involve reviewing any available documentation and interviews with the complainant and with the respondent and, if required, with any witnesses. In conducting the investigation, the investigator will be fair and impartial, and will have regard for University policies, including the policy and this procedure, and any relevant law.

9.2.5 The investigator will collect and compile all evidence into a report, which shall be submitted to the appropriate authority under Section 10. The report will make a determination on whether there has been a violation of the policy, weighing evidence on the Balance of Probabilities. The report will outline findings with evidence weighted based on reliability, probative value, and relevance to the issue at hand. The report will include findings, conclusions and recommendations.

## **10 DETERMINATION**

### **10.1 Where the Respondent is a Student**

- 10.1.1 The investigation report will be submitted to the Vice President, Academic and Provost (“VP, Academic”), and the Associate Vice President, Student Success (“AVP, SS”).
- 10.1.2 If the VP, Academic, in consultation with the AVP, SS, determines that the available evidence does not support disciplinary action or other sanctioning, the VP, Academic will inform the Office of Student Affairs of the outcome. The Office of Student Affairs will inform the complainant and the respondent of the investigation outcome in writing. This does not preclude the respondent from further investigation and sanctioning upon the introduction of new information or evidence.
- 10.1.3 If the VP, Academic, in consultation with the AVP, SS, determines disciplinary action or other sanctioning is justified, the VP, Academic will inform the Office of Student Affairs of the determinations and the sanctions being imposed. The respondent will be notified in writing of the specific sanctions being imposed and the appeal process. The possible sanctions are set out in Section 11 of this procedure.
- The Office of Student Affairs will inform the complainant of the investigation outcome in writing, but will not necessarily include the details of any disciplinary action taken against the respondent unless sharing that information is necessary for the protection of the complainant’s health and safety.
- 10.1.4 The University is committed to addressing complaints of discrimination, bullying and/or harassment in a reasonable time frame from the date of the incident(s) on which the complaint is based. The time frame may be extended if the delay was incurred in good faith or if the delay does not result in prejudice against any of the individuals involved.
- 10.1.5 The Office of Student Affairs is responsible for implementing and monitoring the completion of imposed sanctions, in accordance with University policies. Members of the University community, including faculty and staff, are required to participate in any sanctions that may arise from this procedure. Failure to comply with the provisions or any resolution agreed upon or imposed as a result of the policy and this procedure may result in disciplinary action by the University.
- 10.1.6 Where the VP, Academic determines that suspension or expulsion is justified, she/he will make recommendations to the President. The President will normally render a decision after reviewing the investigation report and recommendations. The President may also choose to meet with or solicit a written statement from the respondent for the purposes of evaluating the weight of the sanction. The President may choose to accept, reject, or modify the recommended sanctions.
- 10.1.7 In the event that a sanction is modified in such a way that it increases in severity, the President will provide a written statement of reasoning to the Office of Student Affairs to be placed in the case file.

### **10.2 Where the Respondent is a Member of the University Community (other than a Student)**

- 10.2.1 The investigation report will be submitted to the Vice President, Finance and Administration and the Associate Vice President, Human Resources (“AVP, HR”).



10.2.2 If the Vice President, Finance and Administration, in consultation with the AVP, HR, determines that the available evidence does not support disciplinary action or other sanctioning, the complainant and the respondent will be notified in writing. This does not preclude the respondent from further investigation and sanctioning upon the introduction of new information or evidence.

10.2.3 If the Vice President, Finance and Administration, in consultation with the AVP, HR, determines disciplinary action or other sanctioning is justified, the respondent will be notified in writing of the specific sanctions being imposed and the appeal process. The possible sanctions are set out in Section 11 of this procedure.

The AVP, HR (or designate) will inform the complainant of the investigation outcome in writing, but not necessarily the details of any disciplinary action taken against the respondent unless sharing that information is necessary for the protection of the complainant's health and safety

10.2.4 The University is committed to addressing complaints of discrimination, bullying and/or harassment in a reasonable time frame from the date of the incident(s) on which the complaint is based. The time frame may be extended if the delay was incurred in good faith or if the delay does not result in prejudice against any of the individuals involved, or where an investigation is required as a result of a WorkSafeBC claim for compensation relating to workplace bullying and/or harassment.

10.2.5 The imposition of sanctions shall be instituted in accordance with the relevant University policies and/or collective agreements. The AVP, HR (or designate) will be responsible for monitoring the completion of imposed sanctions. Members of the University community, including supervisors and managers, are required to participate in any sanctions that may arise from this procedure. Failure to comply with the provisions or any resolution agreed upon or imposed as a result of the policy or this procedure may result in disciplinary action by the University.

## 11 SANCTIONS

11.1 Where the respondent is a student and is determined to be responsible for violating the policy, sanctions may include, but are not limited to, the following:

- a. Letter of Reprimand – A formal letter indicating the respondent's breach of the policy and expected conduct moving forward. Normally, this is only used in the case of first-time, minor misconduct or in addition to other sanctions.
- b. Educational Activity – The respondent will engage in reflection and growth through participation in tasks such as assignments, projects, and/or workshops.
- c. Loss of Privileges or Use – A temporary or permanent ban on the respondent's ability to access/use certain areas on campus including classrooms and buildings. This also extends to the use of University sponsored technology such as email accounts.
- d. Removal from a Course or Program – Involuntary withdrawal from a course or program at the University. This differs from suspension in that the respondent may still be permitted to register for classes outside of the specified course or program.

- e. Suspension – A temporary leave from the University for a specified period of time, normally including a ban from entering campus unless otherwise stated. Behaviour that occurs during a suspension and falls under the scope of the policy is still actionable by the University. Suspensions may only be imposed by the President.
- f. Expulsion – Permanent de-registration and removal from the University, normally including a ban from entering campus for a specified period of time. Expulsions may only be imposed by the President.
- g. Other Sanctions As Required – The University reserves the right to impose sanctions other than those listed in this procedure.

11.2 Where the respondent is a member of the University community who is not a student and is determined to be responsible for violating the policy, sanctions may include, but are not limited to, the following:

- a. Letter of Reprimand – A formal letter indicating the respondent’s breach of the policy and expected conduct moving forward. Normally, this is only used in the case of first-time, minor misconduct or in addition to other sanctions.
- b. Educational Activity – The respondent will engage in reflection and growth through participation in training such as workshops.
- c. Loss of Privileges or Use – A temporary or permanent ban on the respondent’s ability to access/use certain areas on campus including classrooms and buildings.
- d. Suspension – A temporary leave from the University for a specified period of time, normally including a ban from entering campus unless otherwise stated. Behaviour that occurs during a suspension and falls under the scope of the policy is still actionable by the University. Suspensions may only be imposed by the President.
- e. Dismissal – Termination of employment at the University. Dismissals may only be imposed by the President.
- f. Other Sanctions As Required – The University reserves the right to impose sanctions other than those listed in this procedure.

## 12 APPEALS

12.1 The University considers discrimination, bullying and/or harassment to be a serious offence and members of the University community found to be in violation of the policy and this procedure may be subject to a range of corrective measures, up to and including expulsion or dismissal from the University.

12.2 Students may appeal a decision under this procedure through the B.109 Student Appeals policy.

12.3 Members of the University community who are not students may appeal any decision or discipline that is made or imposed under this procedure through the provisions of their collective agreements, their terms and conditions of employment, and/or other applicable University appeals policies and procedures. Members of the University community subject to collective agreements who elect to use the grievance provision in their collective agreement do not have the right to a further appeal under the provisions of this procedure.

12.4 The complainant and/or the respondent may also have recourse to processes outside of the University, such as filing a complaint with the B.C. Human Rights Tribunal.

### **13 RECORDS**

13.1 Investigative reports and records of proceedings are confidentially maintained by the Office of Student Affairs or Human Resources. All records relating to a complaint will be kept for a period of no less than ten (10) years following the completion of all actions pertaining to a particular incident. After this time, records may continue to be kept on file if deemed necessary by the AVP, SS or the AVP, HR or will otherwise be confidentially destroyed.

13.2 Records are not available to be copied or viewed by members of the University community unless required by the policy, this procedure, collective agreements or for the purposes of external legal proceedings.

### **14 COMPLAINTS AGAINST A SENIOR ADMINISTRATOR**

14.1 In cases where the respondent of a written complaint of discrimination, bullying and/or harassment is a senior administrator named in this procedure (the AVP, SS; AVP, HR; VP, Academic; or VP, Finance and Administration), the President (or designate) will fulfill the necessary duties originally prescribed to the respondent.

14.2 In cases where the respondent of a written complaint is the President, the Board Chair will designate an individual to fulfil the duties of the AVP, HR within the policy and this procedure.

### **15 RESOURCES**

There are many local resources that members of the University community may access when they encounter discrimination, bullying and/or harassment. These include:

For employees:

- Conflict Resolution Advisor
- Manager or Supervisor
- Human Resources Department
- Occupational Health and Safety Manager
- Employee and Family Assistance Program
- Faculty and Staff union representatives

- WorkSafeBC

For students:

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

In emergencies:

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