



Title	Harassment & Discrimination Policy-Non-Bargaining Unit Employees and Students
Policy Area	Operations – Human Resources
Policy Number <i>(to be assigned by Information Services)</i>	E.2.1
See also <i>(related policies)</i>	Responsible and Appropriate Use of IT Resources Policy Violent and Threatening Behaviour Policy Student Non-Academic Conduct Policy

Effective Date of Policy:	July 1, 2005
Approval Date:	June 28, 2005
Applies to:	Board Members, Employees and Students
Approving Body:	Board of Governors
Supersedes/New:	OUC Harassment & Discrimination Policy, January 27, 2005
Authority	<i>College and Institute Act</i>

The following are responsible for the administration of this policy,

Primary Office	Contact
Human Resources	Human Rights Advisor

Policy Statement

1. Introduction

- 1.1 Okanagan College (“OC”) is committed to a working and learning environment which is free of Harassment as defined in this Policy. In order to meet OC’s commitment, this Policy identifies the groups of persons to whom the Policy applies, defines behaviours which constitute Harassment, establishes a process for dealing with complaints, and provides for mechanisms to investigate and resolve complaints either by informal or formal means.

Policy Details

2. Application

- 2.1 This Policy applies to individuals who are members of one of the following groups:
- a) Board members and employees of OC who are not covered by a Collective Agreement;
 - b) Students of OC; and
 - c) Other groups or individuals as appropriate.

3. General Principles

- 3.1 All persons covered by this Policy have a responsibility to maintain a working and learning environment at OC, which is free from Harassment.
- 3.2 All formal complaints, submissions, responses, comments and decisions made under the terms of this Policy will be made in writing.
- 3.3 The Reasonable Person Standard will be used to interpret, administer and apply this Policy.
- 3.4 The decision of a Complainant or a Respondent not to participate in a proceeding under this Policy is not a bar to the continuation of the proceeding. A Complainant or a Respondent who chooses not to participate in an investigation under this Policy may be the subject of adverse findings of fact and disciplinary or other corrective measures based on the evidence available.
- 3.5 All Complaints must be made in good faith. A Complaint which is frivolous, vexatious, or malicious, or outside the jurisdiction established by this Policy shall be dismissed by the Regional Dean¹ and may result in disciplinary or other corrective measures being taken against the person who made the Complaint.
- 3.6 There will be no retaliation against a Complainant for making a Complaint in good faith, regardless of outcome. An individual retaliating may be subject to discipline or corrective action.

4. Confidentiality

- 4.1 Subject to any limits imposed either by law or this Policy, information, whether oral and written, which is created, gathered, received, or compiled through the course of an investigation shall be treated as confidential by the Complainant and the Respondent, their witnesses and any others operating under this Policy.

¹ Any reference to Regional Dean includes any person that may be appointed as a designate to the Regional Dean.

- 4.2 The Regional Dean may provide information concerning a Complaint to appropriate persons on a need-to-know basis.
- 4.3 Any person breaching the confidentiality requirements established under this Policy may be subject to discipline or other corrective measures.

5. Definitions

- 5.1 *Harassment* is conduct, which serves no legitimate work-related or educational purpose.
 - a. Discrimination is conduct by a person towards another person that:
 - i. includes a direct or indirect conduct related to a prohibited ground of discrimination established under the *Human Rights Code* as may be amended; and
 - ii. would be viewed by a reasonable person experiencing the conduct as an interference with his/her participation in an OC related activity.
 - b. Sexual Harassment is conduct of a sexual nature towards another person by a person:
 - i. who knows or ought reasonably to know that the conduct is unwanted or unwelcome to the other person; and which conduct either
 - ii. interferes with the other person's participation in an OC related activity; or
 - iii. leads to or implies that the other person will experience job related or academic consequences based on his/her response to the conduct.
 - c. Personal Harassment is a repeated pattern of behaviour over a period of time that is directed by a person towards another person that:
 - i. serves no legitimate work related or educational purpose;
 - ii. would be considered by a reasonable person experiencing the conduct to create an abusive, demeaning or hostile work or learning environment; and
 - iii. does not include normal exercise of supervisory authority.
- 5.2 *Advisor* is the Human Rights Advisor.
- 5.3 *Complainant* is a person who believes that he/she has experienced Harassment and who seeks relief under this Policy. In the absence of an individual who is willing to be a complainant, OC may, on the recommendation of the Regional Dean, act as a Complainant. The Complainant should keep a record of the date, times, nature of any incidents and witnesses.
- 5.4 *Complaint* is a statement of facts that may constitute Harassment as alleged by a Complainant against a Respondent. A Complaint must be made to the Regional Dean as soon as possible, but no later than 12 months after the last incident of Harassment alleged in the Complaint.

- 5.5 *Respondent* is a person against whom an allegation of Harassment has been made under this Policy.
- 5.6 *Response* is the written statement of the Respondent in reply to a Complaint of Harassment.
- 5.7 *OC-related activity* is an activity conducted under the authority of OC at any location.
- 5.8 *Reasonable Person Standard* is the standard by which the conduct which is the subject of a Complaint will be assessed. This standard requires an assessment of whether or not a reasonable person in a similar position as the Complainant/ Respondent would conclude that Harassment had occurred as a result of another person's behaviour.

Procedures

6. Resolution Options

- 6.1 If an individual covered by this policy (see Section 2.1 above) believes they have been subjected to Harassment they are encouraged to make their disapproval and/or discomfort known to the person responsible for the action and ask them to stop.
- 6.2 If the Complainant does not feel comfortable with attempting to resolve the situation with the individual directly, or if such resolution attempt was not successful, then he/she may meet with the Regional Dean.
- 6.3 The Regional Dean and Complainant will discuss other resolution options under this policy, including the informal process and formal process.
- 6.4 The Regional Dean will involve the Advisor as appropriate to lead or conduct the resolution process.

7. Informal Process

- 7.1 The Regional Dean or Advisor will discuss the allegation/situation with Complainant and, with the Complainant's consent, may also discuss it with the Respondent with a view to reaching an informal resolution. This process can be used to resolve relatively straightforward complaints expeditiously.
- 7.2 During the informal process, the parties may choose to resolve the Complaint through mediation. A mediator, selected by the Regional Dean or Advisor, may be someone within OC or a person from outside OC.
- 7.3 Once the mediator receives notice of his/her appointment, he/she shall contact the Complainant and Respondent at the earliest reasonable opportunity to set out the procedures that will be used at the mediation.
- 7.4 The mediator shall provide the Regional Dean or Advisor with a summary report and the terms of any settlement reached, during the mediation. If a settlement has not been reached during the mediation, the mediator may recommend terms of settlement in their report. No settlement may impose obligations on OC without OC's consent.

- 7.5 The Regional Dean or Advisor may refer the Complaint to the formal investigation process established under this Policy.

8. Formal Process

- 8.1 The formal process can be used if the informal process fails to resolve the Complaint, or simply in lieu of the informal process.
- 8.2 The Advisor shall provide the Respondent with a copy of the Complaint and ask that a Response be provided. If the Respondent declines to meet with the Advisor or to provide a Response, the Advisor may continue the formal investigation.
- 8.3 An OC investigator or an outside consultant appointed by the Advisor, depending on the circumstances of the case, will conduct the investigation. The investigator will interview the Complainant and Respondent as soon as possible, interview any witnesses, document the situation and produce a report of the investigator's findings for the Advisor.
- 8.4 A copy of the investigator's report will be submitted to the Regional Dean and to the Vice President, Education or designate. The Vice President, Education or designate will decide whether to dismiss the Complaint or impose or recommend corrective action.
- 8.5 Depending on the nature of the corrective action, the President may have the final decision on the corrective action, otherwise, the Vice President, Education or designate will decide what corrective action to take and will inform the parties of the decision in writing. A copy of the corrective action will be placed on the employee's personnel file or student's file.
- 8.6 If a Respondent or Complainant is disciplined he/she may appeal that discipline using the procedures that apply to any disciplinary decision involving a member of the OC group of persons to which that person belongs.

9. Powers of the President

- 9.1 Nothing in this Policy interferes with the authority of the President under the *College and Institute Act*, RSBC 1996, c. 52 as amended.

10. Interpretation

- 10.1 Any questions or issues arising about the interpretation or application of this Policy must be referred to Vice President, Education or designate whose decision about the matter is final.