



<b>Title</b>	<b>Discrimination, Bullying and Harassment Policy</b>
<b>Policy Area</b>	Operations – Human Resources
<b>Policy Number</b>	E.2.1
<b>See also</b> <i>(related policies and documents)</i>	<a href="#">Sexual Violence and Misconduct Policy</a> <a href="#">Violent and Threatening Behaviour Policy</a> <a href="#">Student Non-Academic Conduct Policy</a> <a href="#">Code of Ethical Practices Policy</a> <a href="#">Use of Information Technology Resources Policy</a> <a href="#">Social Media Policy</a> <a href="#">Collective Agreements</a>

<b>Effective Date of Policy:</b>	June 29, 2016
<b>Approval Date:</b>	June 28, 2016
<b>Applies to:</b>	Employees, Students, Members of the Board of Governors
<b>Approving Body:</b>	Board of Governors
<b>Supersedes:</b>	OUC Harassment & Discrimination Policy, January 27, 2005, Okanagan College Harassment & Discrimination Policy, Non-Bargaining Unit Employees, June 28, 2005; Discrimination, Bullying and Harassment Policy, November 26, 2013; Discrimination, Bullying and Harassment, November 29, 2014
<b>Authority:</b>	<a href="#">College and Institute Act</a> <a href="#">Workers Compensation Act</a> <a href="#">Sexual Violence and Misconduct Policy Act</a>

The following is responsible for the administration of this policy:

<b>Primary Office</b>	<b>Contact</b>
Student Services	Vice President, Students

---

## Policy Statement

- 1.1 Okanagan College is committed to ensuring a working and learning environment that is free of discrimination, harassment and bullying, and supports a collegial environment that is characterized by mutual respect, safety, civility and free inquiry. This policy includes definitions and standards for appropriate conduct and provides an effective and fair procedure for receiving, assessing, investigating and acting on a complaint of discrimination, harassment and bullying.
- 1.2 The procedures in this policy will be followed when responding to complaints under the [Sexual Violence and Misconduct Policy](#).

## Policy Details

### **2. Application**

- 2.1 This policy applies to students, employees and Members of the Board of Governors of the College in a College-related activity.
- 2.2 If a bargaining unit employee is either the Complainant or the Respondent and if the terms of his/her collective agreement apply to the circumstances, the collective agreement provisions will prevail as appropriate, unless agreed otherwise by all parties.

### **3. General Principles**

- 1.3 The fact that a Complaint is being pursued under this policy (or under this policy through the [Sexual Violence and Misconduct Policy](#)) does not preclude the Complainant from pursuing a process outside of the College, including filing a complaint with the B.C. Human Rights Tribunal, filing a claim under Worksafe BC, civil claim or criminal complaint.
- 3.1 If a Complaint is being pursued outside of the College, the College may elect to continue with the College process or may elect to suspend the College process until the outcome of the process outside of the College is determined. The College will cooperate with any criminal investigation.
- 3.2 All Complaints must be made in good faith. A Complaint which is frivolous, vexatious, or malicious, or made in bad faith may result in disciplinary or other corrective measures being taken against the person who made the Complaint.
- 3.3 There will be no retaliation against a Complainant for making a Complaint in good faith, regardless of the outcome. An individual retaliating may be subject to discipline or corrective action.

#### **4. Confidentiality**

- 4.1 The College is committed to the protection against any unauthorized disclosure of personal information of the parties to a Complaint. The College will protect personal information except to the extent that:
- a) the sharing of personal information is necessary for the protection of health or safety;
  - b) the sharing of personal information is required or authorized by law; or
  - c) the person the information is about has consented to the release of the personal information.
- 4.2 Personal information, whether oral and written, which is collected, received, or compiled from a Complaint and through the course of a resolution process will be treated as confidential by the College in accordance with privacy legislation. The College will require that the Complainant, the Respondent and any witnesses keep confidential any information that they receive during the resolution process. Unauthorized disclosure of personal information may cause substantial harm to the parties to a Complaint, including creating unfairness in the resolution process and could deter others who have experienced inappropriate conduct from making a complaint.

#### **5. Definitions**

- 5.1 **Bullying and Harassment** includes any inappropriate conduct or comment by a person who knew or reasonably ought to have known would cause a person to be humiliated or intimidated; or any other form of unwelcome verbal or physical behaviour which by a reasonable person standard would be expected to cause insecurity, discomfort, offence or humiliation to an employee or a 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.

Bullying and Harassment excludes any reasonable action taken by the employer or a supervisor relating to the management and direction of employees or the place of employment. Not all inappropriate, offensive or disrespectful conduct is Bullying and Harassment. The behavior must be humiliating or intimidating to be considered Bullying and Harassment.

Bullying and Harassment applies to students and is conduct or comment(s) that have the purpose or effect of interfering with a student's performance or creating an intimidating, hostile or offensive learning environment. Bullying and Harassment excludes any reasonable action taken by an instructor relating to management of the classroom and assignment of course work.

- 5.2 **College Community** means students, employees and members of the Board of Governors of the College.
- 5.3 **College related activity** includes an activity conducted under the authority of the College at any location. The conduct in question must have a real and substantial connection to the College, College activities or College-related functions, whether or not the conduct occurred on College property.
- 5.4 **Complaint** or a report ("Complaint") is a statement of facts including a record of the dates, times, nature of any incidents and names of witnesses. The Complaint must

contain sufficient detail to allow the College to assess the Complaint and conduct an investigation if required. A Complaint can be filed by a Complainant or anyone who witnesses inappropriate conduct as defined under this policy or under the [Sexual Violence and Misconduct Policy](#). A Complaint must be made as soon as possible, but should be made no later than 6 months after the last incident alleged in the Complaint.

A Complaint of Sexual Misconduct under the [Sexual Violence and Misconduct Policy](#) can be filed at any time.

Please see the *Complaint Form* attached to the policy.

5.5 **Complainant** is a person who believes that he/she has experienced inappropriate conduct as described in this policy and who seeks relief under this policy or the [Sexual Violence and Misconduct Policy](#).

In the event a Complainant is unwilling to proceed or unwilling to continue in the process, the College may decide to continue with an investigation or resolution processes without the participation of the Complainant.

5.6 **Discrimination** means discrimination based on a person's sex, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sexual orientation, age, or criminal conviction unrelated to the person's employment or program of study.

5.7 **Employee** means any person employed by the College and members of the Board of Governors.

5.8 **Response** is the written statement of the Respondent in reply to a Complaint.

5.9 **Respondent** is a person against whom an allegation has been made under this policy or under the [Sexual Violence and Misconduct Policy](#).

5.10 **Sexual Harassment** means a course of unwanted remarks, behaviours, or communications of a sexually oriented nature and/or a course of unwanted remarks, behaviours or communications based on gender – where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that these are unwanted. It includes, but is not limited to:

- a) sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);
- b) the inappropriate display of sexually suggestive pictures, posters, objects or graffiti;
- c) non-consensual posting of sexually explicit pictures or video with the intent to distress the person in the picture or video, aggressive comments and slurs on any form of social media;
- d) physical contact of a sexual nature; and
- e) sexual conduct that interferes with an individual's dignity or privacy such as voyeurism and exhibitionism.

5.11 **Sexual Misconduct** – see [Sexual Violence and Misconduct Policy](#) for definitions and other related information.

5.12 **Student** means any person enrolled as a student at the College.

## Procedures

### **6. Procedures**

- 6.1 Employees are required to report any unsafe or harmful conditions in the workplace affecting employee safety. Discrimination, Bullying and Harassment is serious conduct that impacts employee health and safety. Accordingly, any employee that experiences, observes or knows of conduct that places employees at risk and contravenes this Policy must report that conduct. While students are not required to make reports, they are strongly encouraged to do so.
- 6.2 All Complaints, submissions, responses and decisions made under the terms of this policy and the [Sexual Violence and Misconduct Policy](#) should be made in writing where possible.
- 6.3 Complaints or reports under section 6.1 should be directed as follows:
  - a) for students - a counsellor in Student Services, the Director, Student Services, Program Dean or Regional Dean; or
  - b) for employees - a supervisor, Human Resources Advisor, Program Dean, Regional Dean or Director.
- 6.4 The individual who receives a Complaint that involves students as Complainant and Respondent, shall forward the Complaint to the Director, Student Services.
- 6.5 The individual who receives a Complaint that involves an employee, shall forward the Complaint to the Director, Human Resources, except as noted in section 6.6.
- 6.6 If a Complaint involves the Director, Human Resources, the Complaint shall be forwarded to the Director, Student Services.
- 6.7 If a Complaint involves the President or a member of the Board of Governors, the Complaint shall be forwarded to the Board Chair, or the Board Vice-Chair if the Complaint involves the Board Chair. The Board Chair or Board Vice-Chair will determine the appropriate procedures (follow the procedures in this policy to the extent possible) and will retain an external investigator as necessary.
- 6.8 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 Respondent who chooses not to participate in an investigation under this policy may still be subject to discipline or other corrective measures based on the evidence available during an investigation.
- 6.9 Allegations which do not conform to the definition of a Complaint in this policy, or a Complaint that is outside the jurisdiction of this policy or beyond the 6 month reporting deadline may be dismissed by the Director, Human Resources or the Director, Student Services, after consultation with the appropriate Vice President.
- 6.10 Any reference to a position in the policy includes any person that may be appointed as a designate to that position.

## **Resolution Processes**

### **7. Informing the Respondent Directly**

- 7.1 If a Complainant believes he/she has been subjected to inappropriate conduct as defined in this policy or the *Sexual Violence and Misconduct Policy*, the Complainant is encouraged to make the disapproval and/or discomfort known to the person responsible for the behaviour and tell the person to stop.
- 7.2 If the Complainant does not feel comfortable with attempting to resolve the situation with the person directly, or if such resolution attempt was not successful then no later than 6 months after the last alleged incident the Complainant should notify one of the individuals listed in s.6 and may submit a Complaint in accordance with this policy.

### **8. Joint Problem Solving Process**

- 8.1 A joint problem solving process is an informal process and refers to options other than an investigation process. It is a problem solving approach with a goal of achieving a resolution satisfactory to the Complainant, Respondent and the College.
- 8.2 If the Complaint falls within the jurisdiction of this policy or the *Sexual Violence and Misconduct Policy*, the Director, Human Resources or the Director, Student Services will discuss the allegation/situation with the Complainant and, with the Complainant's consent, may also discuss it with the Respondent with a view to reaching a resolution. Options under the joint problem solving process include, but are not limited to, facilitated discussion or mediation.
- 8.3 If the joint problem solving process does not result in a resolution of the issues, the Complaint may proceed under the investigation process.
- 8.4 If a resolution is achieved, the parties will sign a statement of the terms of the resolution. No resolution may impose obligations on the College without the College's consent.
- 8.5 The Director, Human Resources or Director, Student Services may refer the Complaint to the investigation process at any time.

### **9. Investigation Process**

- 9.1 If the Complaint falls within this policy or the *Sexual Violence and Misconduct Policy* and it has not been resolved through the joint problem solving process, or it is determined by the Director, Human Resources or Director, Student Services that the investigative process is more suitable, then it will be investigated diligently and promptly. The investigation will be fair and impartial.
- 9.2 The Director, Human Resources or Director, Student Services shall provide the Respondent with a copy of the Complaint and ask that a Response be provided within a specified timeline. This timeline may be extended by the Director, Human Resources or Director, Student Services based on a reasonable request from the Respondent.
- 9.3 A College investigator or an outside consultant appointed by the Director, Human Resources or Director, Student Services, depending on the circumstances of the

case, will conduct the investigation. The investigator will interview the Complainant, the Respondent and any other individual as necessary, and produce a report of the investigator's findings.

- 9.4 For employees, a copy of the investigator's report will be submitted to the Director, Human Resources and to the appropriate Vice President. The Vice President will decide whether to dismiss or uphold all or part of the Complaint.
- 9.5 In the event that a direct report to a Vice President is a party in a Complaint, a copy of the investigation report shall be submitted to an alternative Vice President. Where a Vice President is a party in a Complaint, a copy of the investigator's report shall be submitted to the President.
- 9.6 For an employee, after consultation with the employee's supervisor the appropriate Vice President will impose or recommend corrective action or formal disciplinary action up to and including dismissal of the Respondent.
- 9.7 If the Complainant and Respondent are students, a copy of the investigator's report will be submitted to the Director, Student Services, and to the Vice President, Students. The Vice President will decide whether to dismiss or uphold all or part of a Complaint.
- 9.8 After consultation with the student's Program Dean as appropriate, the Vice President will impose or recommend corrective action or formal disciplinary action up to and including suspension/expulsion of the Respondent.
- 9.9 Depending on the nature of the disciplinary action, the President or the Board of Governors may have the final decision, subject to any appeals.

## **10. Support during Investigations**

- 10.1 An employee who is either a Complainant or Respondent may access counseling, at their discretion, through the College's *Employee and Family Assistance Program* and will be provided with information on how to do so by the College's Pension & Benefits Coordinator.
- 10.2 At any investigatory or disciplinary meeting, employees who are bargaining unit members shall have the right to have a representative of his/her union in attendance.
- 10.3 At any investigatory or disciplinary meeting, exempt employees may choose to have a colleague in attendance. The colleague shall not be any person who may be placed in a conflict of interest.
- 10.4 A person who has experienced inappropriate conduct under this policy or the *Sexual Violence and Misconduct Policy* should refer to the College webpage for internal and external resources.

[http://www.okanagan.bc.ca/Campus\\_and\\_Community/Safety\\_\\_\\_Security.html](http://www.okanagan.bc.ca/Campus_and_Community/Safety___Security.html)

A Complaint does not have to be filed to obtain these supports.

**11. Investigation Reports**

- 11.1 The investigation report is confidential and will not be released by the College except as required by law.
- 11.2 The Complainant and Respondent will receive a written decision. The Complainant has the right to know the outcome of an investigation, but not the details of the disciplinary action, if any, against the Respondent.

**12. Powers of the President**

- 12.1 Nothing in this policy interferes with the authority of the President under the *College and Institute Act*.

**13. Record Keeping**

- 13.1 The Director, Human Resources or Director, Student Services is responsible for maintaining records.
- 13.2 A copy of the corrective or disciplinary action will be placed on the employee's personnel file or student's file with the Registrar's Office.

**14. Appeals**

- 14.1 An employee may appeal his/her discipline using the procedures that apply to any disciplinary decision involving a member of that group of persons to which that employee belongs.
- 14.2 A student may appeal his/her suspension/expulsion as provided under the *College and Institute Act*.

**15. General**

- 15.1 This policy will be reviewed annually.

**Complaint Form**

**Discrimination, Bullying and Harassment (including Sexual Misconduct)**

<p><b>Contact Information Of Complainant</b></p> <p>Name:</p> <p>Phone Number:</p> <p>Email:</p> <p>OC Student/Employee ID:</p>
<p><b>Name Of Respondent(s)</b></p> <p>Name:</p> <p>Contact Information (if known):</p>

**Personal statement**

Please describe, in as much detail as possible, the bullying and harassment or discrimination incident(s), including:

- the names of the parties involved;
- any witnesses to the incident(s);
- the location, date, and time of the incident(s);
- details about the incident(s) (behaviour and/or words used);
- any additional details that would help with an investigation.

Attach any supporting documents, such as emails, handwritten notes, screenshots of online activity or photographs.

<p>(Please attach additional pages as required)</p>
---

<b>Signature</b>	<b>Date</b>
------------------	-------------