



## **Discrimination and Harassment Prevention and Response Policy**

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### **Associated Procedures:**

- Appendix A – Unit Roles and Responsibilities
  - Appendix B – Voluntary Process Procedures
  - Appendix C – Procedures for Filing a Report
  - Appendix D – Procedures for Investigating a Report
  - Appendix E – Procedures for Responding to Reports of Systemic Discrimination
  - Appendix F – Statement on Confidentiality and Privacy
  - Appendix G – Awareness and Education Framework
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## **Contents**

DEFINITIONS.....	3
FOUNDATIONAL STATEMENTS .....	7
1. Purpose .....	7
2. Principles of the Policy.....	7
EXPECTATIONS AND COMMITMENTS.....	9
3. Commitment to Those Covered by the Policy and its Procedures .....	9
4. Commitment to Awareness, Education, and Training .....	10
SCOPE.....	10
5. Prohibited Conduct .....	10
6. Jurisdiction of the Policy .....	10
7. Considerations When Accepting Reports and Initiating Investigations and Reviews .....	11
8. Employees of the University Covered by a Collective Agreement .....	12
9. Impact of Concurrent Human Rights, Criminal, Civil, or Other Proceedings .....	12
DISCLOSURES .....	12
10. Choosing to Disclose .....	12

<b>POLICY PROCESSES.....</b>	<b>12</b>
11. Process Options.....	12
12. Consultation With EQHR .....	13
13. Records of Disclosures .....	14
14. Personal Discrimination .....	14
15. Systemic Discrimination.....	14
16. Personal Harassment .....	14
17. Discriminatory Harassment.....	15
18. Microaggressions .....	15
19. Timing of Disclosures and Reports to EQHR .....	15
20. University-Initiated Processes.....	16
21. Interim Measures.....	16
22. Anonymous Allegations and Third-Party Statements.....	16
23. Retaliation.....	17
24. Response Coordination Team .....	17
<b>POLICY RELATED RESPONSIBILITIES .....</b>	<b>18</b>
25. Responsibilities of University Community Members.....	18
26. Responsibilities of Individuals With Supervisory Responsibilities .....	18
27. Responsibilities of Administrative Authorities.....	19
28. Confidentiality and Privacy .....	20
<b>GENERAL .....</b>	<b>21</b>
29. Annual Report .....	21
30. Review of Policy .....	21
31. Retention and Disposal of Records .....	21
32. Authorities and Officers.....	21
<b>RELEVANT LEGISLATION.....</b>	<b>22</b>
<b>RELATED POLICIES AND DOCUMENTS .....</b>	<b>22</b>

## DEFINITIONS

For the purposes of the Discrimination and Harassment Prevention and Response Policy, the following definitions apply:

**“Administrative Authority”** means the senior individual identified at the outset of an investigation to have administrative responsibility for the Respondent, or decision-making authority. Administrative authorities may include but are not limited to: Vice-Presidents, Associate Vice-Presidents, Deans, Chairs, Executive Directors, Directors, or other senior positions at the University. Where the appropriate Administrative Authority is in question, the relevant Vice President will identify the Administrative Authority.

**“Anonymous Allegation”** means an individual’s allegation communicated to Equity and Human Rights (EQHR) regarding their experience of Discrimination and/or Harassment while they remain anonymous. An Anonymous Allegation is not a Report and does not necessarily initiate a process under the Policy (see sections 11-18 for process options).

**“Complainant”** means a Person Who Has Experienced Harm who makes a Report to EQHR alleging Personal Discrimination, Systemic Discrimination, Personal Harassment, and/or Discriminatory Harassment.

**“Consultation”** means a discussion between EQHR and any member of the University Community about issues related to the Policy.

**“Disclosure”** means telling someone about their experience of Discrimination and/or Harassment. A Disclosure is not a Report and does not necessarily initiate a process under the Policy (see sections 11-18 for process options).

**“Discrimination”** includes Microaggressions, Personal Discrimination, and Systemic Discrimination.

**“Environmental Assessment”** means a process, initiated by the University, designed to assess the working and/or learning environment of a unit or department following the receipt of a pattern of concerns or allegations related to the Policy.

**“Equity and Human Rights” or “EQHR”** is the unit at the University with institutional accountability for receiving and responding to Consultations, requests for Voluntary Process, and Reports, including conducting and overseeing investigations. EQHR has responsibility for providing education, information, and referrals related to the Policy.

**“Harassment”** includes Personal Harassment and Discriminatory Harassment.

**“Discriminatory Harassment”** is Personal Harassment that includes a direct or indirect reference to any Protected Characteristic.

**“Hostile Working or Learning Environment”** means a University environment in which Microaggressions, Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment are normalized and/or tolerated and/or where an Individual With Supervisory Responsibilities has failed to acknowledge and respond. Such environments are the result of multiple and/or persistent incidents or,

in some circumstances, a single serious incident that has been unaddressed. Hostile Working or Learning Environments have the effect or purpose of negatively impacting participation in a University working or learning environment.

**“Individual With Supervisory Responsibilities”** means those with workplace supervisory responsibilities in both academic and non-academic units, as well as instructors, academic supervisors, and other individuals authorized by the University to supervise a University Activity.

**“Interim Measures”** means any temporary restrictions or conditions on an individual’s ability to enter upon or to carry out activities upon University premises, or their ability to exercise University privileges under University policy or collective agreements (see Response to At-Risk Behaviour Policy).

**“Intersectional”** means the ways in which an individual’s experiences are shaped by the interaction of different social positions (for example, sex, sexual identity, gender identity or expression, Indigeneity, racial or ethnic background, ability, faith, socioeconomic status, caste, migration status, and age). These interactions are rooted in interconnecting systems and structures of power that produce both privilege and oppression determined by colonialism, racism, antisemitism, islamophobia, homophobia, ableism, patriarchy, transphobia, queer antagonism, trans antagonism, bi antagonism, and/or any other form of discrimination.

**“Microaggressions”** are actions or words that indirectly, subtly, or unintentionally communicate hostile, derogatory, or negative messages or attitudes based on any Protected Characteristic. Microaggressions are often the result of unconscious bias and highlight perceptions of difference.

**“Person Alleged to Have Caused Harm”** means an individual who is the subject of a Disclosure. If a Report is filed about this individual with EQHR, the Person Alleged to Have Caused Harm will be referred to as the Respondent.

**“Person Who Has Experienced Harm”** means an individual who has experienced Discrimination and/or Harassment. If this individual files a Report with EQHR, the Person Who Has Experienced Harm will be referred to as the Complainant.

**“Personal Discrimination”** is the intended or unintended harmful (differential and/or prejudicial) treatment by an individual towards another based on any Protected Characteristic. Personal Discrimination has the effect or purpose of negatively impacting that individual’s participation in a University Activity.

**“Personal Harassment”** is any conduct or comment by an individual towards another that they knew or reasonably ought to have known would cause the targeted individual to be humiliated and/or intimidated. Personal Harassment has the effect or purpose of negatively impacting the targeted individual’s participation in a University Activity. Personal Harassment excludes any reasonable action taken by an Individual With Supervisory Responsibilities relating to workplace or educational evaluation, management, and direction.

**“Protected Characteristics”** are Indigenous identity, race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, and age. In the case of employment, additional Protected Characteristics are political belief and conviction for a criminal or summary conviction offence that is unrelated to the employment or to

the intended employment of that individual. In the case of tenancy, such as University residences, Protected Characteristics also include source of income.<sup>1</sup>

**“Policy”** means the Discrimination and Harassment Prevention and Response Policy.

**“Respondent”** means a Person Alleged to Have Caused Harm about whom a Report is filed with EQHR alleging they have violated the Policy.

**“Report”** means a report form alleging Personal Discrimination, Systemic Discrimination, Personal Harassment, and/or Discriminatory Harassment that has been completed and filed with EQHR with the intention of initiating an investigation or review.

**“Retaliation”** means any adverse action or threatened action taken or made through any means, including through social or other electronic media, against someone because they:

- (a) seek support or may seek support under the Policy;
- (b) make or may make a Disclosure or a Report to EQHR;
- (c) request or may request a Voluntary Process;
- (d) participate or may participate in an investigation or process under the Policy; or
- (e) have otherwise engaged with the Policy.

**“Student”** means:

- (a) an individual who is registered, enrolled, or participating in any course or program (credit or non-credit) offered by the University;
- (b) an undergraduate who has been enrolled at the University for one or more of the last three terms and is eligible to continue in a program of study;
- (c) a graduate student who is enrolled at the University in the current term and is eligible to continue in a program of study;
- (d) a graduate student who is on an approved or personal leave and is eligible to enroll at the University when the leave ends; or
- (e) a visiting, exchange, or audit student who has been formally admitted to the University for the purposes of taking courses or to take part in an approved research term.

**“Systemic Discrimination”** refers to policies or practices that are part of the structures of the University that contribute to the exclusion of, or less favourable outcomes for, an individual or group based on any Protected Characteristic. Systemic Discrimination can be the intentional or unintentional result of the way a policy or practice is carried out or designed. Systemic Discrimination does not occur where the

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<sup>1</sup> This list of Protected Characteristics is based on the personal characteristics that are protected by the British Columbia Human Rights Code.

policy or practice can be demonstrated to be reasonable and legitimate in the circumstances or is permitted by law.

**“Third Party”** means, for the purposes of making a Third-Party Statement under the Policy, an individual other than the Person Who Has Experienced Harm and other than the Person Alleged to Have Caused Harm. A Third Party can be a witness, a friend, a colleague, a person to whom the Discrimination and/or Harassment was disclosed, or any other individual.

**“Third-Party Statement”** means a statement by a Third Party which shares information with EQHR on behalf of, and with the consent of, the Person Who Has Experienced Harm (see section 22).

**“Those Impacted by Discrimination and Harassment”** includes the Person Who Has Experienced Harm, witnesses, those who have received Disclosures, and the Person Alleged to Have Caused Harm.

**“Trauma-Informed”** means acknowledging the pervasiveness and differential impacts of trauma and the importance of providing support in a way that centres care, transparency, and empowerment to avoid further traumatization.

**“University”** means the University of Victoria.

**“University Activity”** means any activity that is directly connected to the operations of the University at any location, or any activity where a University Community member is formally representing the University. A University Activity includes but is not limited to:

- (a) in-person and online courses;
- (b) athletic events;
- (c) artistic performances;
- (d) placements (including co-op and practica);
- (e) meetings to further University business;
- (f) academic or professional conferences; and
- (g) academic or research field work.

**“University Community Members”** means:

- (a) Students and continuing studies students;
- (b) faculty, librarians, and staff members;
- (c) anyone holding a University appointment;
- (d) post-doctoral fellows;

- (e) all individuals employed under contracts with University faculty members as the employer and who provide research or administrative services directly supporting faculty members' research activities (including grant-funded employees);
- (f) visiting researchers;
- (g) anyone contractually required by the University to abide by University policies;
- (h) anyone volunteering with a University program or activity;
- (i) members of the Board of Governors and Senate; or
- (j) anyone who ordinarily resides in University Residence or Housing.

**"Voluntary Process"** means a process facilitated by EQHR and agreed to by the Person Who Has Experienced Harm, the Person Alleged to Have Caused Harm, and the University. A Voluntary Process does not seek to determine whether the Policy has been violated.

## FOUNDATIONAL STATEMENTS

### 1. Purpose

- 1.1 The purpose of the Discrimination and Harassment Prevention and Response Policy is to set out the University's expectations and framework to prevent and respond to Discrimination and Harassment.
- 1.2 Discrimination and Harassment are unacceptable and are prohibited conduct at the University.
- 1.3 Through the implementation of the Policy, the University works to instill and cultivate institutional, collective, and individual responsibility to create an environment and culture in which equity, diversity, and inclusion are foundational principles and practices at the University.
- 1.4 The Policy does not address sexualized violence (including sexual harassment). The University's Sexualized Violence Prevention and Response Policy ([GV0245](#)) describes how Disclosures and Reports of sexualized violence (including sexual harassment) will be dealt with. University Community Members may seek information from EQHR if they are unclear which policy applies to a given situation.
- 1.5 The Policy does not address interpersonal conflict, academic debate, or other behaviours when they do not meet the definitions of Discrimination and/or Harassment.
- 1.6 The Policy works to uphold the University's responsibilities under the British Columbia Human Rights Code, the British Columbia Declaration on the Rights of Indigenous Peoples Act, and the British Columbia Workers Compensation Act as they pertain to Discrimination and Harassment.

### 2. Principles of the Policy

The following principles are intended to assist in the interpretation of the Policy.

- 2.1 The Policy applies to all University Community Members regardless of an individual's position within the University's structures, hierarchies, and power relations.
- 2.2 Excellence in teaching, learning, research, scholarship, service, and operations at the University can only be achieved when all University working, living, and learning environments are free from Discrimination and Harassment.
- 2.3 To maximize effectiveness, the approaches used in the Policy to address Discrimination and Harassment must be linked to the University's broader anti-oppression and equity, diversity, and inclusion initiatives on campus.
- 2.4 The Policy is based on the premise that ending all forms of Discrimination and Harassment requires all University Community Members to actively participate in creating change and dismantling systems of oppression. This means all University Community Members have responsibilities under the Policy.
- 2.5 Efforts to address Discrimination and Harassment should be grounded in an Intersectional understanding that each individual's experience, and the relationship between those who are subject to the Policy, will be affected by those factors that confer both privilege and oppression including but not limited to their sex; gender identity or expression; sexual identity; family status; Indigenous, racial, or ethnic background; language; ability; faith; age; migration status; socioeconomic status; academic standing; as well as their position within University structures, hierarchies, and power relations.
- 2.6 Acts of Discrimination and Harassment are rooted in conscious and/or unconscious bias, prejudice, and stereotypes. Receiving feedback is foundational to learning and growth related to Discrimination and Harassment. These attitudes, beliefs, and behaviours need to be actively addressed and unlearned.
- 2.7 In most cases, Discrimination and Harassment are an abuse of power. The University recognizes that the purpose of human rights laws and related institutional policies is to assist members of groups that have been historically disadvantaged and disempowered in our society.
- 2.8 Whether or not concerning conduct meets the threshold for the definitions of Discrimination and Harassment in the Policy, conduct that is disrespectful or harmful can nevertheless negatively affect participation in the University's living, learning, and/or working environments.
- 2.9 University Community Members will engage with the University and the Policy from their unique situation or position. Because of hierarchies and power dynamics at the University, individuals may have increased responsibilities. Understanding how power is held is key to preventing and responding to Discrimination and Harassment.
- 2.10 The University will learn and adjust, to the extent that it is possible to do so, by proactively addressing issues of Discrimination and Harassment and potential barriers to equity. The University will also learn from Consultations and Reports that are brought forward under the procedures of the Policy.

## EXPECTATIONS AND COMMITMENTS

3. Commitment to Those Covered by the Policy and its Procedures
  - 3.1 The University recognizes the serious impacts of Discrimination and Harassment and is committed to providing Trauma-Informed support to all University Community Members, regardless of who they are or where and when the Discrimination and/or Harassment occurred.
  - 3.2 The University is committed to making reasonable changes to systems or processes in response to accepted Reports of Systemic Discrimination. The University is committed to proactively addressing systemic barriers as well as learning from Disclosures and Reports that are brought forward under the procedures of the Policy.
  - 3.3 The University will work through Policy processes to repair harm caused by Discrimination and Harassment, where possible. The University commits to taking on this work using an Intersectional and Trauma-Informed approach that acknowledges that any participant in a process under the Policy may have past or present experience with Discrimination and Harassment.
  - 3.4 The immediate and longer-term needs of Those Impacted by Discrimination and Harassment are unique. The University recognizes that Those Impacted by Discrimination and Harassment may not find all the support and repair they need by engaging with the Policy and its associated procedures. The University commits to:
    - (a) recognizing the specific barriers and power relationships that impact individuals' decisions to make a Disclosure while identifying strategies that mitigate and consider such barriers and power inequities;
    - (b) providing available University supports based on the unique needs of the University Community Member;
    - (c) offering relevant and supportive referrals to University and non-University services; and
    - (d) providing information on process options in an accessible manner.
  - 3.5 For Indigenous University Community Members, the University is committed to upholding the Indigenous Standards of Practice.<sup>2</sup>
  - 3.6 A Person Who Has Experienced Harm has the right to determine if and when they choose to make a Disclosure about their experience and will not be required or pressured to make a Report to the University. If the University is required to take action without a Report (see section 20), the University will make reasonable efforts to inform the Person Who Has Experienced Harm.
  - 3.7 The University is committed to providing access to information and support for Those Impacted by Discrimination and Harassment. They may seek information and/or support, as appropriate

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<sup>2</sup> The Indigenous Standards of Practice is currently in development.

from EQHR, Faculty Relations, Human Resources, Student Affairs, Occupational Health, Safety and Environment, and/or Campus Security (see Appendix A – Unit Roles and Responsibilities). Support may also be available from alternative sources such as the Office of the Ombudsperson or union representatives.

- 3.8 EQHR, in coordination with other offices, will seek to support the on-campus safety and wellbeing of Those Impacted by Discrimination and Harassment. This may include developing safety plans, referrals to services and supports, assistance in obtaining academic or non-academic supports, and helping such individuals to navigate any subsequent process in which the individual chooses to participate.
- 3.9 All University investigations, reviews, and adjudicative processes under the Policy and its associated procedures will respect the rights of the Complainant, the Respondent, and Third Parties, and will follow principles of fairness and natural justice, including the right to be heard and to be judged fairly and impartially.
- 3.10 The University is committed to hold accountable those that are found, through an investigation, to have violated the Policy.

#### 4. Commitment to Awareness, Education, and Training

- 4.1 The University is committed to addressing and preventing Discrimination and Harassment by implementing and actively promoting awareness, education, and training programs in multiple formats and tailored to multiple audiences (see Appendix G – Awareness and Education Framework).
- 4.2 The overall goal of the University's education and training for Discrimination and Harassment prevention is to support groups and individuals in creating and maintaining inclusive living, learning, and/or working environments based on respect at the University.
- 4.3 The University acknowledges that effective education on Discrimination and Harassment not only provides individuals with opportunities to expand their understandings of Discrimination and Harassment, but also enables them to prevent behaviours that may cause harm to others.
- 4.4 The University may identify required awareness, education, and training programs for all or specific University Community Members.

### SCOPE

#### 5. Prohibited Conduct

- 5.1 All Discrimination, Harassment, and Retaliation is prohibited under the Policy.

#### 6. Jurisdiction of the Policy

- 6.1 The Policy and its associated procedures apply to all University Community Members.

- 6.2 All University Community Members may request information and referrals to support under the Policy, regardless of when or where the Discrimination and Harassment occurred and who was involved.
- 6.3 EQHR may accept requests for Voluntary Processes where the allegations of Personal Discrimination, Microaggressions, Personal Harassment, and/or Discriminatory Harassment are against a University Community Member and allegations are related to a University Activity or have an impact on the University's learning, living, or working environments. A Report is not required to request a Voluntary Process.

## 7. Considerations When Accepting Reports and Initiating Investigations and Reviews

- 7.1 EQHR may accept Reports of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment where the allegations are against a University Community Member.
- 7.2 The University will not accept Reports against an individual who is not a University Community Member. However, when allegations are brought forward against a visitor (e.g. visiting alumni, non-University employed contractors, or members of the general public), the University has the ability to look into the matter and, where appropriate, to revoke visitors' access to University property. EQHR can also assist University Community Members in reporting to another reporting body (e.g. police or employer).
- 7.3 The factors considered in the University's decisions to accept a Report or initiate an investigation or review include but are not limited to:
  - (a) ability to impose outcomes. The University can only impose disciplinary and/or corrective action on a University Community Member's ability to exercise University privileges, participate in University Activities, and access University property.
  - (b) ability to change the policy or practice. The University can only amend policies and practices where the University is the decision-maker or holds ultimate responsibility for design and implementation.
  - (c) ability to investigate. The University is only able to make decisions and judgements on activities arising out of University Activities. This includes contacting and supporting investigation participants, assessing contextual factors, and achieving timely process.
- 7.4 The University's jurisdiction to investigate Reports of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment is set out in section D6 of Appendix D – Procedures for Investigating a Report.
- 7.5 The University's jurisdiction to conduct a review of Reports of Systemic Discrimination is set out in section E7 of Appendix E – Procedures for Responding to Reports of Systemic Discrimination.
- 7.6 Discrimination and Harassment can be ongoing and extend beyond University Activities. The limits to the University's jurisdiction described above and in the associated procedures should not discourage a Person Who Has Experienced Harm from exploring available options under the Policy through a Consultation with EQHR.

## 8. Employees of the University Covered by a Collective Agreement

- 8.1 The Policy and its associated procedures are designed to complement and not conflict with the University's collective agreements. Where there is a conflict between the Policy or its procedures and a University collective agreement, the terms of the collective agreement will be followed. University Community Members may seek information from EQHR if they are unclear which policy or provision applies to a given situation.

## 9. Impact of Concurrent Human Rights, Criminal, Civil, or Other Proceedings

- 9.1 The Policy and its associated procedures are separate from any human rights, criminal, or civil proceedings. The University is responsible for determining whether a University Community Member has violated the Policy when a Report has been filed. The University is not responsible for determining violations of human rights, criminal, or civil law.
- 9.2 A process under the Policy or its associated procedures may occur simultaneously with, prior to, or following any human rights, criminal, civil, or other proceeding. The University may suspend an investigation into a Report while the allegations, or aspects thereof, are also being investigated by the police or other statutory investigative authorities.
- 9.3 If a process under the Policy or its associated procedures is suspended as per section 9.2, the University will continue to provide support and impose Interim Measures where appropriate as described in the Policy and its associated procedures.

## DISCLOSURES

### 10. Choosing to Disclose

- 10.1 A Disclosure is not a Report and will not necessarily initiate a process under the Policy.
- 10.2 University Community Members may make a Disclosure to any other University Community Member. Individuals may disclose for a variety of reasons, including when seeking support or information about the Policy.
- 10.3 A University employee who receives a Disclosure may need to share it with others to properly perform their employment duties. In such cases, the University employee should first seek consent from the Person Who Has Experienced Harm. An employee may have additional legal requirements to share a Disclosure (see section 28).

## POLICY PROCESSES

### 11. Process Options

- 11.1 A Person Who Has Experienced Harm who believes there has been a violation of the Policy has various process options available to them under the Policy.
- 11.2 Available process options will vary based on the form of Discrimination and/or Harassment experienced. The available options are laid out in sections 14-18 with more details in the

associated procedures. For more information about which process options are available in any given circumstance, a Person Who Has Experienced Harm should seek information through a Consultation with EQHR.

- 11.3 There are generally three main process options after making a Disclosure to EQHR:
  - (a) requesting no further action beyond keeping a record (see section 13);
  - (b) requesting a Voluntary Process (see Appendix B –Voluntary Process Procedures); or
  - (c) completing and filing a Report (see Appendix C –Procedures for Filing a Report).
- 11.4 At any time after a process has been initiated, a Person Who Has Experienced Harm or a Person Alleged to Have Caused Harm may request a different process option and/or request to EQHR that a process be paused.
- 11.5 EQHR will accept Anonymous Allegations or Third-Party Statements. However, the University’s ability to act on or investigate Anonymous Allegations or Third-Party Statements will be limited if the information it receives is incomplete and the University is unable to follow up with the Person Who Has Experienced Harm (see section 22).
- 11.6 University Community Members who have experienced unwelcome comments or conduct are encouraged, although not obliged, to make it known that the behaviour is unwelcome. In situations where it is believed that addressing the comment or conduct directly could lead to an escalation or to safety risks, this approach is not recommended. In the latter circumstance, University Community Members may:
  - (a) inform an Individual With Supervisory Responsibilities and ask for support; and/or
  - (b) seek a Consultation from EQHR.

## 12. Consultation With EQHR

- 12.1 University Community Members who have concerns related to Discrimination and/or Harassment have access to EQHR to learn more about the process options under the Policy. This Consultation will be held in confidence unless EQHR is obliged to act under section 28 of the Policy. At a Consultation, confidentiality and limits on confidentiality will be explained.
- 12.2 A Consultation does not necessarily lead to a process being initiated, but it is a required step for those who do want to initiate a process under the Policy and associated procedures.
- 12.3 Consultations, in some cases, are a way for EQHR to assist individuals in identifying a relevant process that may be outside of the Policy; however, EQHR does not provide legal advice. These additional relevant processes might include:
  - (a) a grievance through their union;
  - (b) a report of a crime directly to the police;

- (c) a human rights complaint to the BC Human Rights Tribunal;
- (d) a claim or complaint to WorkSafeBC; and/or
- (e) a civil suit.

### 13. Records of Disclosures

- 13.1 If a Disclosure is made during a Consultation, it will be kept on record for the purposes of:
  - (a) identifying patterns in allegations, such as repeated behaviours by a Person Alleged to Have Caused Harm; and
  - (b) collecting demographic data and tracking trends related to Discrimination and Harassment for annual reporting (see section 29).
- 13.2 When an individual requests no further action beyond keeping a record, the record is kept confidential to EQHR in accordance with section 28.
- 13.3 When information is shared by EQHR for the purposes of annual reporting, data will be shared in a way that does not identify the individual but allows for institutional and/or unit level learning and adjustment.

### 14. Personal Discrimination

- 14.1 An individual who believes they have experienced Personal Discrimination has the following options available to them after making a Disclosure to EQHR:
  - (a) requesting no further action beyond keeping a record (see section 13);
  - (b) requesting a Voluntary Process (see Appendix B - Voluntary Process Procedures); or
  - (c) completing and filing a Report (see Appendix C –Procedures for Filing a Report).

### 15. Systemic Discrimination

- 15.1 An individual who believes they have experienced Systemic Discrimination has the following options available to them after making a Disclosure to EQHR:
  - (a) requesting no further action beyond keeping a record (see section 13); or
  - (b) completing and filing a Report (see Appendix C –Procedures for Filing a Report).

### 16. Personal Harassment

- 16.1 An individual who believes they have experienced Personal Harassment has the following options available to them after making a Disclosure to EQHR:
  - (a) requesting no further action beyond keeping a record (see section 13);

- (b) requesting a Voluntary Process (see Appendix B –Voluntary Process Procedures); or
- (c) completing and filing a Report (see Appendix C –Procedures for Filing a Report).

## 17. Discriminatory Harassment

- 17.1 An individual who believes they have experienced Discriminatory Harassment has the following options available to them after making a Disclosure to EQHR:
  - (a) requesting no further action beyond keeping a record (see section 13);
  - (b) requesting a Voluntary Process (see Appendix B –Voluntary Process Procedures); or
  - (c) completing and filing a Report (see Appendix C –Procedures for Filing a Report).

## 18. Microaggressions

- 18.1 An individual who believes they have experienced Microaggressions has the following options available to them as after making a Disclosure to EQHR:
  - (a) requesting no further action beyond keeping a record (see section 13);
  - (b) requesting a Voluntary Process (see Appendix B –Voluntary Process Procedures); or
  - (c) In most cases, because of the often subtle nature of Microaggression, a Report is not a process option unless repeated incidents cumulatively meet the definition of Personal Discrimination and/or Discriminatory Harassment.
- 18.2 The response to Microaggressions will most often focus on education and accountability.
- 18.3 Microaggressions are included within the Policy because the University acknowledges their negative impact on the retention, advancement, and success of University Community Members.
- 18.4 An environment in which Microaggressions are persistent, accepted and/or tolerated, and/or where an Individual With Supervisory Responsibilities has failed to acknowledge and respond can constitute a Hostile Working or Learning Environment (see section 20.4).

## 19. Timing of Disclosures and Reports to EQHR

- 19.1 The University recognizes that a Person Who Has Experienced Harm may not be ready to make a Disclosure or Report immediately after an incident occurs.
- 19.2 There is no time limit to an individual making a Disclosure or filing a Report concerning their experiences or accessing information and support under the Policy.
- 19.3 Where there is a significant lapse of time, or the policy or practice is no longer in place, the University's ability to address a Report may be limited due to evidentiary and procedural challenges. This may affect the University's decision to investigate or conduct a review. Any

delay, or a decision not to investigate or conduct a review, in and of itself will not be considered an indication that the incident did not occur.

## 20. University-Initiated Processes

- 20.1 The University may, through a Response Coordination Team (see section 24), initiate an investigation under the Policy or other relevant procedures (e.g. University policy or collective agreement). The Response Coordination Team will include, at a minimum, EQHR and the Administrative Authority of the Respondent. In such cases, the Person Who Has Experienced Harm may choose whether or not to participate in the investigation.
- 20.2 To initiate an investigation as per section 20.1, there must be no Person Who Has Experienced Harm willing or able to file a Report, and one of the following conditions must be satisfied:
  - (a) there is a significant risk to the health or safety of one or more University Community Members;
  - (b) an investigation is in the best interests of the University; or
  - (c) an investigation is required by law or by other University policies or collective agreement.
- 20.3 In determining 20.2, the University will take into consideration whether there is a pattern of allegations as recorded by EQHR.
- 20.4 The University may initiate an Environmental Assessment when EQHR has a reasonable concern that a unit or department is a Hostile Working or Learning Environment.

## 21. Interim Measures

- 21.1 The University may impose Interim Measures where the University believes it must act to protect University Community Members' health or safety or University property.
- 21.2 University Community Members may request Interim Measures for safety reasons.
- 21.3 The University may impose Interim Measures to maintain the integrity of an investigation.
- 21.4 Interim Measures will be imposed, by the Administrative Authority, in accordance with any applicable collective agreement or University policy, such as Response to At-Risk Behaviour ([SS9125](#)).
- 21.5 Processes for and examples of Interim Measures are outlined in Appendix C – Procedures for Filing a Report.

## 22. Anonymous Allegations and Third-Party Statements

- 22.1 EQHR will accept Anonymous Allegations or Third-Party Statements for the purposes of:
  - (a) determining whether there is evidence of a safety concern for the University and/or any University Community Member;

- (b) identifying whether it is appropriate for the University to take action; and
  - (c) pattern identification, data collection, and annual reporting.
- 22.2 The University's ability to act on or investigate Anonymous Allegations or Third-Party Statements is limited if the information it receives is incomplete and University is unable to follow up with the Person Who Has Experienced Harm.
- 22.3 EQHR will consider the Anonymous Allegations or Third-Party Statements and determine whether any steps can and should be taken. EQHR may choose to engage a Response Coordination Team (see section 24) to make that determination.
- 22.4 Where sufficient information exists, the University may decide to take action, including to proceed with an investigation. In such cases, the Person Who Has Experienced Harm has the right to choose not to participate in the investigation.
- 22.5 If the University does not investigate, a record of the Anonymous Allegation or Third-Party Statement will be retained by EQHR under restricted access.

### 23. Retaliation

- 23.1 Retaliation is prohibited conduct and will be taken seriously. Retaliation will be addressed by the University as a separate matter under applicable University policies, processes, or collective agreements, by the supervisor with oversight for the University Community Member alleged to have engaged in Retaliation.
- 23.2 Allegations of Retaliation can be made before, during, or after a process under the Policy. Allegations of Retaliation should be brought forward to EQHR, who will inform the appropriate Individual With Supervisory Responsibilities for consideration under applicable University policies, processes, or collective agreements.

### 24. Response Coordination Team

- 24.1 The University may form a Response Coordination Team (RCT) to:
- (a) determine the level of risk;
  - (b) coordinate support and services;
  - (c) consider recommendations for Interim Measures;
  - (d) consider alternative or additional policies or processes;
  - (e) provide advice to EQHR on whether a Voluntary Process is appropriate; and
  - (f) provide advice to EQHR under sections 20 and 22.

The RCT will include appropriate individuals based on the nature of the concern or Report.

## POLICY RELATED RESPONSIBILITIES

### 25. Responsibilities of University Community Members

- 25.1 It is the responsibility of all University Community Members to strive to create an environment free of Discrimination and Harassment in their areas of responsibility and in their interactions with others. To do this, they are responsible for building their awareness and understanding of what constitutes Discrimination and Harassment and the rights and responsibilities within the Policy.
- 25.2 University Community Members are expected to model respectful behaviour, uphold the Policy principles, and refuse to engage in or condone behaviour contrary to the Policy.
- 25.3 University Community Members are encouraged, when contacted by EQHR, to participate in processes under the Policy. The University acknowledges that some University Community Members may not participate in processes under the Policy for health and/or safety reasons.
- 25.4 University Community Members are encouraged to act in a non-judgemental, empathetic, and supportive manner if they receive a Disclosure related to the Policy. University Community Members shall act in accordance with the confidentiality provisions set out in section 28. Anyone who receives a Disclosure should seek advice from an Individual With Supervisory Responsibilities or EQHR and/or refer the Person Who Has Experienced Harm to EQHR for coordinated information and referrals to support.
- 25.5 University employees who receive a Disclosure should inform the Person Who Has Experienced Harm of the Policy and of the option to seek further information from EQHR.

### 26. Responsibilities of Individuals With Supervisory Responsibilities

- 26.1 Individuals With Supervisory Responsibilities have the primary responsibility to maintain working and learning environments free from Discrimination and Harassment by initiating positive measures and taking prompt remedial action should Discrimination and/or Harassment occur. This includes, but is not limited to:
  - (a) advancing the purpose and principles of the Policy;
  - (b) educating themselves on the definitions, process options, and responsibilities under the Policy;
  - (c) informing employees under their supervision of the Policy and encouraging them to participate in available education on Discrimination and Harassment;
  - (d) for deans and associate deans, informing Students within their faculty of the Policy and encouraging them to participate in available education on Discrimination and Harassment;
  - (e) acquiring the skills to receive Disclosures of Discrimination and Harassment and make appropriate referrals. This should include accessing training offered under Appendix G – Awareness and Education Framework;

- (f) responding to Disclosures and/or incidents of Discrimination and Harassment that occur in the unit, classroom, or other working or learning environment under their supervision in a timely and confidential manner and keeping appropriate documentation of action taken; and
  - (g) taking the initiative to seek appropriate advice and guidance, as appropriate from EQHR, Faculty Relations, or Human Resources, to carry out their responsibilities with respect to preventing and responding to Discrimination and Harassment.
- 26.2 It is not the responsibility of Individuals With Supervisory Responsibilities to determine whether there has been a breach of the Policy without the support of a unit that has responsibility related to the Policy (for a list of units, see Appendix A – Unit Roles and Responsibilities).
- 26.3 Individuals With Supervisory Responsibilities related to a working environment have additional obligations under the Workers Compensation Act. They are responsible for taking reasonable steps to address allegations or incidents related to workplace conduct, Discrimination, and Harassment brought forward involving employees under their supervision.
- 26.4 Individuals With Supervisory Responsibilities are expected to participate in any procedures initiated under the Policy and procedures. A decision to not participate may lead to EQHR informing their direct supervisor.

## 27. Responsibilities of Administrative Authorities

- 27.1 Administrative Authorities have the primary responsibility for initiating positive proactive measures and taking prompt remedial action in response to Reports, including making changes needed to maintain working and learning environments free from Discrimination and Harassment. This includes, but is not limited to:
- (a) implementing the recommendations when required by the outcome of a Report;
  - (b) where a violation of the Policy or other breach of a duty is found, engaging in appropriate remediation or discipline processes;
  - (c) where no violation of the Policy is found, assess the findings of facts in the investigation report to determine whether there are any requirements for further action and/or whether the findings of fact should be assessed through another policy or process;
  - (d) assess the findings of facts made by the investigator, with the support of EQHR where requested, and determine whether there are appropriate opportunities for unit or group-level learning and change. This could include, but is not limited to:
    - i. education for a unit or subgroup of a unit;
    - ii. changes to policy or practice; and/or
    - iii. working with EQHR to make recommendations to a unit.

## 28. Confidentiality and Privacy

- 28.1 Section 28 is expanded on in Appendix F - Statement on Confidentiality and Privacy.
- 28.2 Confidentiality is an important part of fostering an environment where individuals feel safe disclosing incidents of Discrimination and Harassment and seeking support. All University Community Members who receive a Disclosure are expected to respect the privacy of those involved and seek consent prior to sharing related information.
- 28.3 All University employees, including board members and volunteers, must comply with British Columbia's [Freedom of Information and Protection of Privacy Act \(FIPPA\)](#). FIPPA regulates the collection, use, disclosure, storage, and retention of personal information. FIPPA does not apply to University Community Members, such as Students, who are not board members, volunteers, or employees of the University.
- 28.4 All University Community Members must comply with the University's commitments to keep personal information received by the University confidential subject to limitations outlined in Appendix F –Statement on Confidentiality and Privacy.
- 28.5 The information and records created and received to administer the Policy are subject to the access to information and protection of privacy provisions of FIPPA, and the University's Protection of Privacy Policy ([GV0235](#)) and Records Management Policy ([IM7700](#)). The information and records will be treated as highly confidential, in compliance with FIPPA, with applicable University policies, and with the applicable collective agreement.
- 28.6 FIPPA restricts the circumstances in which University employees, including board members and volunteers, use and disclose personal information collected pursuant to the Policy. FIPPA authorizes University employees, including board members and volunteers, to disclose personal information for the following purposes, among others:
  - (a) for the purpose of implementing the Discrimination and Harassment Prevention and Response Policy;
  - (b) where there are compelling circumstances affecting anyone's health or safety; and
  - (c) disclosure is otherwise required by law.

In these instances, the minimum amount of information needed to meet legal or other obligations should be shared with others, and reasonable efforts should be made to involve the Person Who Has Experienced Harm in decision-making and to mitigate any associated risks. Any University officer or employee, including board members and volunteers, who is unsure about their responsibility to share a Disclosure should seek advice from the EQHR.

- 28.7 In some circumstances, University Community Members, other than officers or employees, who receive a Disclosure are required to share the Disclosure with others. These circumstances include:
  - (a) where there are compelling circumstances affecting anyone's health or safety; and

- (b) disclosure is otherwise required by another University policy or collective agreement, or by law.

In these instances, the minimum amount of information needed to meet legal or other obligations should be shared with others, and reasonable efforts should be made to involve the Person Who Has Experienced Harm in decision-making and to mitigate any associated risks. Any University Community Member who is unsure about their responsibility to share a Disclosure should seek advice from the EQHR.

## GENERAL

### 29. Annual Report

- 29.1 While maintaining confidentiality where required by the Policy, EQHR shall submit an annual report to the President of the University. This report will be publicly available online and will contain:
- (a) available statistics on Disclosures and Reports to EQHR (including available demographic details);
  - (b) observed trends related to Discrimination and Harassment at the University; and
  - (c) recommendations based on trends.

### 30. Review of Policy

- 30.1 The University will continue to monitor best practices and research related to Discrimination and Harassment, and will review and update the Policy and its associated procedures whenever it is reasonable to do so.
- 30.2 In any event, the University will review the Policy in accordance with the Policy on University Policies and Procedures ([GV0100](#)).

### 31. Retention and Disposal of Records

- 31.1 Information and records must be retained and disposed of in accordance with the records retention schedule in the Directory of Records.

### 32. Authorities and Officers

- 32.1 The following is a list of authorities and officers for the Policy:
- (a) Approving Authority: Board of Governors
  - (b) Designated Executive Officer: President
  - (c) Procedural Authority: President

(d) Procedural Officer: University Secretary

## RELEVANT LEGISLATION

[Declaration on the Rights of Indigenous Peoples Act, SBC 2019, c 44](#)

[Freedom of Information and Protection of Privacy Act, RSBC 1996, c 165](#)

[Human Rights Code, RSBC 1996, c 210](#)

[Workers Compensation Act, RSBC 2019, c 1](#)

[Human Rights Code, RSBC 1996, c 210](#)

## RELATED POLICIES AND DOCUMENTS

[Acceptable Use of Electronic Information Resources \(IM7200\)](#)

[Employment Accommodation Policy \(HR6115\)](#)

[Policy on Human Rights, Equity and Fairness \(GV0200\)](#)

[Prevention of Violence in the Workplace \(SS9120\)](#)

[Protection of Privacy Policy \(GV0235\)](#)

[Records Management Policy \(IM7700\)](#)

[Resolution of Non-Academic Misconduct Allegations \(AC1300\)](#)

[Response to At-Risk Behaviour \(SS9125\)](#)

[Employee Collective Agreements](#)

[Residence Community Living Standards](#)

[Residence Contracts](#)

[Family Housing Agreement](#)



University  
of Victoria

## **Discrimination and Harassment Prevention and Response Policy**

### **Procedural Framework**

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**Appendix A – Unit Roles and Responsibilities**

**Appendix B – Voluntary Process Procedures**

**Appendix C – Procedures for Filing a Report**

**Appendix D – Procedures for Investigating a Report**

**Appendix E – Procedures for Responding to Reports of Systemic Discrimination**

**Appendix F – Statement on Confidentiality and Privacy**

**Appendix G – Awareness and Education Framework**

## **APPENDIX A UNIT ROLES AND RESPONSIBILITIES**

**Procedural Authority:** President

**Effective Date:** Sept 2024

**Procedural Officer:** University Secretary

**Supersedes:** n/a

**Parent Policy:** Discrimination and Harassment

**Last Editorial Change:**

Prevention and Response Policy (GV0205)

### **A1. Purpose**

- A1.1 These procedures set out the roles and responsibilities of units that have primary accountabilities for implementing aspects of the University's Discrimination and Harassment Prevention and Response Policy ("the Policy").
- A1.2 Individuals may have additional responsibilities as University Community Members, Individuals With Supervisory Responsibilities, or Administrative Authorities (see Policy sections 25.00-28.00).

### **A2. Definitions**

- A2.1 The definitions contained within the Policy apply to these procedures.

### **A3. Roles and Responsibilities**

#### **Equity and Human Rights (EQHR)**

- A3.1 The Equity and Human Rights Office (EQHR) is responsible for:
- (a) offering Consultations to University Community Members;
  - (b) offering advice and guidance to Individuals With Supervisory Responsibilities to carry out their responsibilities under the Policy;
  - (c) offering guidance to Those Impacted by Discrimination and Harassment;
  - (d) maintaining procedurally-fair processes under the Policy;
  - (e) protecting the confidentiality of information received, while balancing the legal requirement to act upon and investigate allegations of violations of the Policy;
  - (f) advancing the purpose and principles of the Policy;
  - (g) facilitating Voluntary Processes;
  - (h) processing Reports fairly and efficiently;
  - (i) appointing impartial investigators to investigate Discrimination or Harassment;
  - (j) developing and providing investigators with investigation mandates and terms of reference;
  - (k) supporting Administrative Authorities to implement recommendations when required;
  - (l) maintaining records as required by the Policy and its associated procedures; and
  - (m) promoting and providing education on the prevention of and response to Discrimination and Harassment.

## Human Resources

- A3.2 Human Resources, in conjunction with EQHR, is responsible for providing information, training, and instruction under the Policy to employees (excluding those covered under the Faculty and Librarian Collective Agreement).
- A3.3 Human Resources is responsible for addressing grievances involving employees in accordance with the Policy and applicable collective agreements.
- A3.4 Human Resources supports the implementation of Interim Measures for employees.
- A3.5 Human Resources provides guidance to Individuals With Supervisory Responsibilities on discipline or corrective action.

## Faculty Relations

- A3.6 Faculty Relations, in conjunction with EQHR, is responsible for providing academic leaders, faculty, and librarians with information, training, and instruction with respect to the Policy and its related procedures.
- A3.7 Faculty Relations may investigate complaints and/or grievances involving academic leaders, faculty, and librarians in accordance with the Policy and applicable collective agreements.
- A3.8 Faculty Relations supports the implementation of Interim Measures for academic leaders, faculty, and librarians.
- A3.9 Faculty Relations provides guidance to Individuals With Supervisory Responsibilities on discipline or corrective action.

## Office of Student Life

- A3.10 Office of Student Life, in conjunction with EQHR and other Student Affairs units, coordinates appropriate supports for Students who are participating in a process under the Policy.
- A3.11 Office of Student Life, in conjunction with EQHR, deans, and other Student Affairs units, is responsible for providing Students with appropriate information, with respect to the Policy and its related procedures.
- A3.12 Office of Student Life may receive concerns of Discrimination and Harassment while undertaking their responsibility for the Resolution of Non-Academic Misconduct Allegations Policy (AC1300). Office of Student Life will work with EQHR to identify the appropriate policy options to address these concerns.
- A3.13 Office of Student Life supports the implementation of Interim Measures for Students where appropriate.

## Occupational Health, Safety and Environment

- A3.14 Occupational Health, Safety and Environment has responsibility to support the Policy by:
  - (a) providing information and assisting with interpretation of relevant provisions in the British Columbia Workers' Compensation Act and Occupational Health and Safety Regulation;

- (b) referring concerns or complaints; and
- (c) responding to WorkSafeBC claims or complaints and related employer investigations, as required.

A3.15 Occupational Health, Safety and Environment will ensure that the Policy and associated procedures are posted on its website and promoted in health and safety orientation materials.

#### Campus Security

A3.16 Campus Security is responsible for addressing immediate safety concerns on campus and for providing 24-hour information and referrals to EQHR and other on-campus and off-campus services (e.g. police) as appropriate.

A3.17 Campus Security supports University Community Members in the development of individualized safety plans and, when appropriate, the implementation of Interim Measures under the Response to At-Risk Behaviour Policy (SS9125).

A3.18 Campus Security is ordinarily responsible for addressing concerns about on-campus conduct by individuals who are not University Community Members. In those circumstances, Campus Security will work in coordination with EQHR to uphold the Policy.

#### General Counsel

A3.19 General Counsel may provide legal advice and guidance:

- (a) to EQHR or other units with primary accountability, when requested, on complex matters related to interpretation of the Policy and associated procedures; and
- (b) when requested by a Response Coordination Team, when an incident(s) may involve significant risk, or legal, criminal, or policy jurisdictional issues.

## **APPENDIX B VOLUNTARY PROCESS PROCEDURES**

**Procedural Authority:** President

**Procedural Officer:** University Secretary

**Parent Policy:** Discrimination and Harassment

Prevention and Response Policy (GV0205)

**Effective Date:** Sept 2024

**Supersedes:** n/a

**Last Editorial Change:**

### **B1. Purpose**

- B1.1 These procedures set out the process for requesting and facilitating a Voluntary Process under the Discrimination and Harassment Prevention and Response Policy (“the Policy”).

### **B2. Definitions**

- B2.1 The definitions in the Policy apply to these procedures. In addition, the following definitions apply:

“**Participants**” means the Person Who Has Experienced Harm and the Person Alleged to Have Caused Harm, who all have agreed to participate in a Voluntary Process.

“**Director**” means the role in EQHR responsible for overseeing these procedures.

### **B3. Confidentiality**

- B3.1 Section 28 of the Policy and Appendix F –Statement on Confidentiality and Privacy apply to these procedures.

### **B4. Consultations With EQHR**

- B4.1 The Person Who Has Experienced Harm must participate in a Consultation with EQHR prior to requesting a Voluntary Process (see Policy section 12).
- B4.2 The Consultation will be held in confidence unless EQHR is required to act under section 28.5 of the Policy. At the Consultation, confidentiality and limits on confidentiality will be explained.
- B4.3 A Consultation does not necessarily lead to a Voluntary Process.

### **B5. Purpose of a Voluntary Process**

- B5.1 A Voluntary Process is a process facilitated by EQHR in response to Personal Discrimination, Microaggressions, Personal Harassment, and/or Discriminatory Harassment that fall under the jurisdiction of the Policy (see Policy section 6).
- B5.2 A Voluntary Process does not seek to determine whether the Policy has been violated. As such, a Voluntary Process will not result in a determination of whether the Policy has been violated.

B5.3 The intention of a Voluntary Process is to provide opportunities for informal processes and/or resolutions centering the Participants and their needs. To allow for personal accountability and honest flow of information, any personal information collected as part of a Voluntary Process will not be used in a subsequent University investigation, if one is initiated, unless the Participant consents to their personal information being used.

#### **B6. Requesting a Voluntary Process**

B6.1 A University Community Member who has had a Consultation may request EQHR facilitate a Voluntary Process. The Voluntary Process may be requested at any time after the Consultation.

B6.2 Engaging in a Voluntary Process is not a prerequisite to filing a Report.

B6.3 There is no time limit for a University Community Member to request a Voluntary Process. However, significant delay from the time of the incident(s) may impact the ability to facilitate a process.

B6.4 EQHR may elect to decline a request in circumstances where the Director has reasonable concern that:

- (a) the allegation(s), if substantiated, would not constitute a violation of the Policy;
- (b) the allegation(s) is outside the scope, including jurisdiction, and intent of the Policy;
- (c) the process cannot be facilitated due to the significant passage of time (e.g. the Person Who Has Experienced Harm and/or the Person Alleged to Have Caused Harm are no longer University Community Members);
- (d) the allegation(s) should be put on hold pending the resolution of another process (including but not limited to a grievance, a Human Rights Tribunal process, or a criminal investigation);
- (e) there is not a reasonable likelihood of a successful outcome from the process; or
- (f) the information available to EQHR suggests the matter should be addressed through an investigation or another University process.

B6.5 If the Director declines a request for reasons B6.4(a) through (f) above, the Director will notify the individual who made the request in writing of the decision and include the reason(s) for making the decision.

B6.6 If the Director declines a request for reason B6.4(f), the Director will provide an opportunity for the Person Who Has Experienced Harm to submit a Report if they are willing and able. In some cases, the University will consider a University-Initiated Process (see Policy section 20).

#### **B7. Voluntary Process Options**

B7.1 The Person Who Has Experienced Harm and the Person Alleged to Have Caused Harm must willingly agree to engage in the Voluntary Process.

B7.2 Before the Voluntary Process is considered initiated, the Person Who Has Experienced Harm and the Person Alleged to Have Caused Harm will each be invited to a preliminary meeting with EQHR to discuss Voluntary Process options and potential outcomes.

B7.3 For the Voluntary Process to occur, a meeting between Participants is not a requirement.

- B7.4 The Voluntary Process is often designed through a single meeting, or a series of meetings, where various options can be explored with the Participants. When discussing Voluntary Process options with EQHR, Participants may request that a specific option be explored during the process.
- B7.5 Voluntary Process options include but are not limited to:
- (a) requesting support from EQHR in letting someone know their behaviour was of concern or unwanted;
  - (b) requesting that the other Participant take training related to the prevention of Discrimination and Harassment;
  - (c) seeking a voluntary apology. A voluntary apology is not considered to be an admission of wrong-doing or fault, and will not be used as a basis for discipline;
  - (d) making a request for a voluntary no-contact agreement;
  - (e) making reasonable requests for academic or work-related changes that will not impact academic or professional progress or limit the rights of the other Participant;
  - (f) requesting mediation, facilitated conversation, conflict coaching, or any form of culturally supportive and appropriate resolution; or
  - (g) requesting the negotiation of a behavioural agreement or a voluntary letter of agreement, where appropriate.
- B7.6 Participants may request other individuals are included as part of the Voluntary Process (e.g. Individuals With Supervisory Responsibilities; colleagues). Individuals can choose whether to participate. Individuals With Supervisory Responsibilities may have additional responsibilities as per section 26.4 of the Policy.
- B7.7 If a Voluntary Process results in terms and conditions that the Participants agree to, EQHR will document the agreement for review by the Participants. In these circumstances:
- (a) the Director will work with the Participants to ensure alignment with applicable collective agreements;
  - (b) the Director must approve the agreement before it is considered final;
  - (c) the Director may suggest terms and conditions as appropriate; and
  - (d) a copy of the agreement will be retained by EQHR.

## **B8. Right to Support**

- B8.1 At any point in a Voluntary Process, a Participant may elect to involve a support person. The support person of their choice cannot be someone involved in the allegations. The support person may be internal or external to the University. The support person's role is to provide emotional, spiritual, procedural, and/or cultural support. The support person is separate from a union or legal representative. Any financial costs associated with the support person are not paid for by the University.
- B8.2 The support person must agree in writing to maintain confidentiality in accordance with the Policy and these procedures.
- B8.3 To ensure equitable access to the Voluntary Process, individuals who require accommodation to fully participate should notify the Director to discuss their needs.

- B8.4 If a Participant is a Student, they have the option to seek support from a Student Support Coordinator or information from the University Ombudsperson.
- B8.5 During the Voluntary Process, EQHR will take actions to help ensure that all Participants:
- (a) are treated with compassion, dignity, and respect;
  - (b) are provided with information about and referrals to available on- and off-campus support services and resources;
  - (c) receive a fair and unbiased process;
  - (d) receive a clear explanation of the process, options available to them, and potential outcomes; and
  - (e) are provided Trauma-Informed, non-judgmental, and empathetic communications.

#### **B9. Right to Representation**

- B9.1 A Participant may choose to involve a union representative and/or legal counsel (at their own cost) in any meetings or processes related to a Voluntary Process. A union or legal representative is separate from a support person.
- B9.2 If a Participant intends to be represented by legal counsel, they must provide the Director with a minimum of three (3) University business days' notice in advance of any meeting.

#### **B10. Terminating a Voluntary Process**

- B10.1 Participation in the Voluntary Process is voluntary, and Participants may withdraw at any time.
- B10.2 The University may terminate the Voluntary Process if the Director has a reasonable concern that one or more of the circumstances in B6.4 exist.
- B10.3 If the Voluntary Process is terminated by the University, or by the withdrawal of any Participant, the Person Who Has Experienced Harm may file a Report (see relevant jurisdiction, Policy section 7) or request that the University resume an investigation that has been paused.

## **APPENDIX C PROCEDURES FOR FILING A REPORT**

**Procedural Authority:** President

**Procedural Officer:** University Secretary

**Parent Policy:** Discrimination and Harassment

Prevention and Response Policy (GV0205)

**Effective Date:** Sept 2024

**Supersedes:** n/a

**Last Editorial Change:**

### **C1. Purpose**

- C1.1 These procedures set out the process for filing a Report alleging Personal Discrimination, Systemic Discrimination, Personal Harassment, and/or Discriminatory Harassment according to the Discrimination and Harassment Prevention and Response Policy ("the Policy").

### **C2. Definitions**

- C2.1 The definitions in the Policy apply to these procedures. In addition, the following definitions apply:

"**Director**" means the role in EQHR responsible for overseeing these procedures.

### **C3. Confidentiality**

- C3.1 Section 28 of the Policy and Appendix F –Statement on Confidentiality and Privacy apply to these procedures.

### **C4. Consultations**

- C4.1 University Community Members must participate in a Consultation with EQHR prior to filing a Report.

- C4.2 The Consultation will be held in confidence unless EQHR is obliged to act under section 28.5 of the Policy. At the Consultation, confidentiality and limits on confidentiality will be explained.

- C4.3 A Consultation does not necessarily lead to a Report.

- C4.4 Where a collective agreement applies, the Person Who Has Experienced Harm should consult with their union prior to filing a Report to ensure that the implementation of these procedures complies with the applicable collective agreement(s).

### **C5. Filing a Report**

- C5.1 Filing a Report means completing a Report form and filing it with EQHR with the intention of having the University initiate:

- (a) an investigation of an incident(s) of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment; or

- (b) a review of Systemic Discrimination (see Appendix E – Procedures for Responding to Reports of Systemic Discrimination).
- C5.2 A Report to EQHR may be filed only in accordance with the University's jurisdiction to accept reports (see Policy section 7).
- C5.3 Normally a Report of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment is made by an individual against another individual. In cases where there are multiple Respondents or Complainants, the Director will adapt the relevant procedures to not jeopardize any individual's right to fair process. Respondents must be named as a report cannot be against a group (e.g. department, club, committee).
- C5.4 When filing a Report of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment, the Complainant should set out the allegations in writing including the named Respondent(s), the nature of the incident(s), and any other relevant details they can recall such as the date of the incident(s).
- C5.5 When filing a Report of Systemic Discrimination, the Complainant should set out the allegation(s) including what policy or practice at the University the Complainant believes is discriminatory. A Report of Systemic Discrimination cannot be made against an individual(s).
- C5.6 After a Report is received, it will be reviewed by the Director to decide to whether or not to proceed with an investigation in accordance with Appendix D - Discrimination and Harassment – Procedures for Investigating a Report or a review in accordance with Appendix E – Procedures for Responding to Reports of Systemic Discrimination.

## **C6. Right to Support**

- C6.1 Prior to the Complainant filing a Report, EQHR will explain to them the implications of initiating and participating in an investigation or a Systemic Discrimination review (e.g. process, potential outcomes) and answer any procedural questions so that they may make informed decisions. The Complainant will be asked to sign a written acknowledgement that their rights and responsibilities in the investigation process have been explained to them and that they understand the process.
- C6.2 The Complainant may elect to involve a support person at any point while considering or filing a Report. The support person of their choice cannot be someone involved in the allegations. The support person may be internal or external to the University. The support person's role is to provide emotional, spiritual, procedural, and/or cultural support. The support person is separate from a union or legal representative. Any financial costs associated with the support person are not paid for by the University.
- C6.3 The support person must agree in writing to maintain confidentiality in accordance with the Policy and these procedures.
- C6.4 To ensure equitable access to the reporting process, individuals who require accommodation should notify the Director to discuss their needs.

C6.5 If the Complainant is a Student, they have the option to seek support from a Student Support Coordinator or information from the University Ombudsperson.

**C7. Right to Representation**

- C7.1 The Complainant may choose to involve a union representative and/or legal counsel (at their own cost) in any meetings or processes related to filing a Report. A union or legal representative is separate from a support person.
- C7.2 If the Complainant intends to be represented by legal counsel, they must provide the investigator with a minimum of three (3) University business days' notice in advance of any meeting.

## **APPENDIX D**

### **PROCEDURES FOR INVESTIGATING A REPORT**

**Procedural Authority:** President

**Effective Date:** Sept 2024

**Procedural Officer:** University Secretary

**Supersedes:** n/a

**Parent Policy:** Discrimination and Harassment

**Last Editorial Change:**

Prevention and Response Policy (GV0205)

#### **D1. Purpose**

- D1.1 These procedures set out the process the University will follow to investigate Reports filed under the Discrimination and Harassment Prevention and Response Policy (“the Policy”).

#### **D2. Definitions**

- D2.1 The definitions in the Policy apply to these procedures. In addition, the following definitions apply:

“**Director**” means the role in EQHR responsible for overseeing these procedures.

“**Investigation Participants**” include the Complainant(s), Respondent(s), and witnesses.

#### **D3. Confidentiality**

- D3.1 Section 28 of the Policy and Appendix F –Statement on Confidentiality and Privacy apply to these procedures.

#### **D4. Investigation Participant Rights**

- D4.1 All investigations will follow principles of procedural fairness and natural justice, including the right to be heard and to be treated fairly and impartially, and will respect the rights of the Complainant, the Respondent, and witnesses.
- D4.2 The University strives to treat all Investigation Participants in a manner that is respectful, Trauma-Informed, and procedurally fair. All Investigation Participants have the right to:
- (a) ask questions about the investigation process;
  - (b) receive information about available supports; and
  - (c) communicate their own experiences without fear of retaliation and with the expectation that those experiences will be dealt with in confidence, subject to the limitations described in section 28.5 of the Policy.

#### **D5. Receipt of Report**

- D5.1 When EQHR receives a Report, the Director will assess it and determine whether to:
- (a) conduct a preliminary assessment of the Report (see section D7);
  - (b) form a Response Coordination Team in accordance with section 24 of the Policy;
  - (c) recommend Interim Measures; and/or
  - (d) proceed with an investigation.

D5.2 When reviewing the Report, the Director is guided by the understanding that if the University has jurisdiction to investigate (see D6), the University will normally undertake either a preliminary assessment of the allegation or investigate if there is sufficient information to proceed.

**D6. Jurisdiction to Investigate Reports of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment**

D6.1 EQHR will determine whether there is jurisdiction to investigate a Report of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment. The University will only investigate allegations that, if substantiated, would constitute a violation of the Policy.

D6.2 Jurisdiction to investigate is limited by the following:

- (a) the allegation(s) is against a University Community Member; and,
- (b) the alleged Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment has occurred in one or more of the following circumstances:
  - i. on any property that is controlled by the University and used for University purposes including during use of the University's electronic information resources;
  - ii. when the Respondent was in a position of power or influence over the Complainant's status relating to a University Activity; or
  - iii. while engaged in a University Activity.

D6.3 If the allegation(s) in the Report does not meet the criteria in section D6.2(b) and the University has authority to address the matter, the University, through a Response Coordination Team (see Policy section 24) that includes EQHR and the Administrative Authority, may respond if the allegation in the Report has occurred in one or more of the following circumstances:

- (a) the Respondent is claiming to represent the University or could reasonably be interpreted to be representing the University; or
- (b) the University has reasonable grounds to believe the conduct creates a risk to the health or safety of a University Community Member in the University's living, learning, or working environments.

D6.4 EQHR may accept a Report of Personal Discrimination, Personal Harassment, and/or Discriminatory Harassment from an individual who is not a University Community Member if the Respondent is a University Community Member and the incident falls within section D6.2 or D6.3.

**D7. Preliminary Assessment**

D7.1 After receiving a Report, the Director may undertake a preliminary assessment of the Report, as necessary. The purpose of a preliminary assessment is to verify whether there is sufficient information to proceed to an investigation.

D7.2 During the preliminary assessment of the Report, the Director:

- (a) examines the information provided in the Report and assesses it against the scope and intent of the Policy;
- (b) takes any necessary steps to clarify key aspects of the Report;
- (c) gathers supporting information to help determine if an investigation is appropriate;
- (d) confidentially consults with a Response Coordination Team, as appropriate; and
- (e) determines if there is sufficient information to proceed with an investigation.

- D7.3 A preliminary assessment is not an investigation and will not result in findings of whether the Policy was violated. The Director will take reasonable steps to conduct the preliminary assessment in a discreet and timely manner.
- D7.4 If a preliminary assessment is conducted, the Director will notify the Complainant within ten (10) working days of receiving the Report of either the decision to not investigate or the decision to investigate. If more time is required, the Director will notify the Complainant and provide an estimated timeline.

#### **D8. Notification of Decision to Not Investigate**

- D8.1 After conducting the preliminary assessment, the Director may decline to initiate an investigation in cases where the Director reasonably believes one or more of the following:
  - (a) the allegation(s), if substantiated, would not constitute a violation of the Policy;
  - (b) the allegation(s) is outside the scope, including jurisdiction, and/or intent of the Policy;
  - (c) there is insufficient information available to proceed with an investigation;
  - (d) the allegation(s) cannot be investigated due to the amount of time since the incident(s) occurred;
  - (e) it would be more appropriate to proceed under another policy, process, or collective agreement;
  - (f) the allegation has already been adequately addressed by another process; or
  - (g) the allegation should be put on hold pending the resolution of another process (including but not limited to a grievance, a Human Rights Tribunal process, or a criminal investigation).
- D8.2 If the Director decides not to proceed with initiating an investigation, the Director will notify the Complainant in writing of the decision. The Director will include reasons for making the decision not to investigate and may recommend to the Complainant that the allegation be addressed through a Voluntary Process or through other means (see Appendix B – Voluntary Process Procedures).
- D8.3 If relevant information emerges that was not available at the time of the decision, the Complainant may, at any time, ask the Director to reconsider their decision.
- D8.4 The Complainant may seek an appeal of the Director's decision not to investigate only where the Complainant reasonably believes and can demonstrate that the decision to not investigate was biased.
- D8.5 The Complainant should submit their request to appeal the decision not to investigate in writing to the University Secretary. The request must be submitted by the Complainant within five (5) University business days of receiving the Director's written reasons not to investigate.
- D8.6 In extenuating circumstances, the Complainant may request an extension of time to the University Secretary to appeal the decision not to investigate.
- D8.7 Upon receiving the request for appeal, the University Secretary will appoint a panel of three (3) or more Associate Vice Presidents to reconsider the Director's decision not to investigate.

- D8.8 Panel members must undergo a conflict-of-interest check prior to being appointed.
- D8.9 Panel members will adhere to the confidentiality requirements set out in Appendix F –Statement on Confidentiality and Privacy.
- D8.10 The panel will review the Complainant’s submission and will issue a decision on whether to investigate. The panel’s decision is final within the University.

#### **D9. Notification of Decision to Investigate**

- D9.1 If the Director decides to initiate an investigation of the Report, the Director will:
- (a) appoint an investigator or investigators;
  - (b) set out the investigator’s mandate and Terms of Reference for the investigation;
  - (c) notify the Complainant in writing indicating that an investigation into the allegation will commence; and
  - (d) notify the Respondent in writing with a notice of investigation.
- D9.2 The notice to the Respondent must be sufficient to allow the Respondent to understand the nature of the allegation (subject to any redactions made in response to health or safety concerns or other confidentiality obligations) including the material details of the allegations being made.
- D9.3 Notice to the Respondent will include:
- (a) a summary of pertinent information regarding the alleged Discrimination and/or Harassment;
  - (b) a timeline for providing relevant documentation;
  - (c) a proposed date and time to meet with the Director (including notice of the right to reschedule within reasonable timeframes and under reasonable circumstances);
  - (d) information on the right to be accompanied by a support person and/or a representative;
  - (e) information on University support services; and
  - (f) access to a copy of the Policy and other relevant supporting University policies or documents.

#### **D10. Investigator Appointment**

- D10.1 The University will compile and maintain a roster of investigators who:
- (a) are trained in Trauma-Informed investigation practices;
  - (b) have the requisite skills, experience, and knowledge of administrative law to conduct an investigation;
  - (c) are trained in recognizing and addressing personal and unconscious bias;
  - (d) understand the University context; and
  - (e) will adhere to the principles and procedures of the Policy.
- D10.2 The Director will appoint an investigator who, in most cases, will be external to the University.
- D10.3 Investigators must undergo a conflict-of-interest check before beginning the investigation.
- D10.4 The Director will provide the investigator with a mandate to gather all facts relevant to the Report while mindful of the scope of the Policy and the responsibilities of the Administrative Authority (see Policy section 27). The Director may specify additional mandates as they

determine are appropriate. The Director will specify an expected timeline for the investigator to complete the investigation and submit the investigation report.

- D10.5 If the Director appoints multiple investigators, the investigators must assign responsibility for fact-finding to one investigator, or else agree in advance to conduct fact-finding by consensus.
- D10.6 The Complainant or Respondent may raise reasonable claims to the Director that an investigator has a conflict of interest or reasonable apprehension of bias. Such claims must be made to the Director in a timely manner.
- D10.7 Where the Director is of the opinion that the Respondent may have engaged in behaviour that violates additional University policies, the investigator may be asked to also reach findings under those policies as part of their mandate.
- D10.8 If during the investigation, the investigator is of the opinion that another University policy may have been violated, the investigator will consult the Director who will determine if the investigator's mandate should be expanded.
- D10.9 If during the investigation, the investigator is of the opinion that an Investigation Participant may not be participating in good faith, the investigator will consult with the Director who will determine if the investigator's mandate should be expanded.
- D10.10 In cases where more than one policy or process may apply, the Director will consult with General Counsel, and others as appropriate, to determine jurisdiction and which University policy the investigation is most appropriately conducted under.

## **D11. Referral to a Voluntary Process**

- D11.1 At any time after the Report has been received and the investigator has been appointed, the Complainant or Respondent may request to the Director to pause the investigation and engage in a Voluntary Process. A Voluntary Process may occur before, during, or after the investigation.

## **D12. Investigation Participation**

- D12.1 All University Members are encouraged to participate in investigations when they are invited to do so. Individuals With Supervisory Responsibilities may have additional responsibilities as per section 26 of the Policy.
- D12.2 All Investigation Participants have access to advice from the Director. The Director's role is to remain unbiased and to advocate for an environment free from Discrimination and Harassment, but not to advocate for any Investigation Participant.
- D12.3 Any University employee who participates in these procedures may normally do so during their regular working hours at a time that minimizes disruption to operations.
- D12.4 The Complainant may choose whether to participate in the investigation process, though a decision not to participate will likely impact the investigation, Interim Measures, and the outcome.

- D12.5 The Respondent may choose whether to participate in the investigation but is encouraged to provide all relevant information and materials in response to the allegation(s).
- D12.6 An Investigation Participant may decline to participate in all or part of the investigation; however, the Director may instruct the investigator to proceed to complete the investigation without that individual's participation. In the case of employees, the Director may inform the Investigation Participant's supervisor.
- D12.7 When an Investigation Participant chooses not to participate in all or part of the investigation, the investigator may complete their investigation report based on the available information collected.
- D12.8 If the Respondent leaves the University during the investigation, whether the investigation is paused or proceeds, the University will keep a record on their file on appropriate next steps should the Respondent return to the University.
- D12.9 All Investigation Participants will be informed of the confidentiality requirements of the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the Policy (see Policy section 28 and Appendix F – Statement on Confidentiality and Privacy).

### **D13. Right to Support**

- D13.1 During any process conducted under these procedures, an Investigation Participant may elect to involve a support person. The support person of their choice cannot be someone involved in the allegations. The support person may be internal or external to the University. The support person's role is to provide emotional, spiritual, procedural, and/or cultural support. The support person is separate from a union or legal representative. Any financial costs associated with the support person are not paid for by the University.
- D13.2 The support person must agree in writing to maintain confidentiality in accordance with the Policy and these procedures.
- D13.3 The support person may not speak for or act on behalf of the Investigation Participant. Information must come directly from the Investigation Participant unless the investigator decides otherwise.
- D13.4 To ensure equitable access to the investigation process, individuals who require accommodation to fully participate in the investigation should notify the Director to discuss their needs.
- D13.5 If an Investigation Participant is a Student, they have the option to seek support from a Student Support Coordinator or information from the University Ombudsperson.

### **D14. Right to Representation**

- D14.1 Investigation Participants may choose to involve a union representative and/or legal counsel (at their own cost) in any meetings or processes related to these procedures. A union or legal representative is separate from a support person.

D14.2 If an Investigation Participant intends to be represented by legal counsel, they must provide the investigator with a minimum of three (3) University business days' notice in advance of any interview or meeting.

## **D15. Information Gathering**

D15.1 The investigator will give all Investigation Participants sufficient opportunity to participate and provide information relating to the allegation(s).

D15.2 The investigator may interview witnesses at the investigator's discretion, including witnesses suggested by the Complainant or Respondent.

D15.3 The Complainant and Respondent will not be required to meet as part of the investigation.

D15.4 An investigation under these procedures is not an adversarial process. There is no right to cross-examination, and the investigator must ensure that the investigation is conducted in a manner that is neither aggressive nor confrontational.

## **D16. Interim Summary of Information**

D16.1 Once the investigator has concluded the initial information collection stage of the investigation, and has considered all statements and documents provided, the investigator will create an interim summary of information collected. This will include:

- (a) summaries of interview statements from participants and witnesses; and
- (b) other information gathered during the investigation.

D16.2 The investigator will provide the interim summary of information to the Director, who will provide it to the Complainant and the Respondent with support resources and information about confidentiality. The Complainant and the Respondent will each be given an opportunity to respond.

D16.3 Upon receiving the interim summary, the Complainant may choose to respond by submitting comments to the investigator regarding the interim summary of information. The Complainant may also provide comments that address the impact of the harm caused by the reported incident.

D16.4 Upon receiving the interim summary, the Respondent may choose to respond by submitting comments to the investigator regarding the interim summary of information or may seek an opportunity to test the information contained in the interim summary.

D16.5 If the Complainant or Respondent does not respond to the investigator within ten (10) University business days of receiving the interim summary, then, unless the investigator decides that it is reasonable to extend this timeline, the investigator may proceed to complete the investigation without that individual's response.

D16.6 If the Complainant or Respondent provides a response to the interim summary of information, the investigator may decide it is necessary to seek further input from the Investigation Participants in accordance with principles of procedural fairness.

## **D17. Decision and Investigator's Findings**

- D17.1 After concluding their investigation, the investigator will make findings of fact on whether the Policy has been violated.
- D17.2 The investigator will make their findings using the balance of probabilities standard of proof. When determining that the policy has been violated, the information must show that it is more likely than not that the Respondent violated the Policy.
- D17.3 In making a finding, the investigator will review and consider all relevant facts and information gathered during the investigation.
- D17.4 For the purposes of the Policy, reasonableness will be determined in consideration of both a subjective and objective perspective. Consideration should be given to the context of the allegations and the perspective of the Person Who Has Experienced Harm and not stereotyped notions of acceptable behaviour.
- D17.5 The investigator will prepare an investigation report in writing which will include:
- (a) the information that the investigator considered relevant to their findings of fact;
  - (b) findings of credibility;
  - (c) findings as to any violations of the Policy, responding to each element of the Report;
  - (d) reasons for the investigator's findings; and
  - (e) any findings of fact and determinations related to other University polices (based on the investigator mandate).
- D17.6 In the investigation report, the investigator may determine that:
- (a) the information does not demonstrate, on a balance of probabilities, that the Respondent violated a policy;
  - (b) the information demonstrates, on a balance of probabilities, that the Respondent's conduct violated the Policy, or another relevant policy; or
  - (c) based on the information collected and assessed through the investigation, a determination could not be reached as to a violation of the Policy.
- D17.7 The Director will provide the investigation report to the Complainant and the Respondent within five (5) University business days of its receipt. Under certain circumstances, the University may redact information in response to reasonable health or safety concerns expressed by Investigation Participants and to ensure that confidentiality requirements are met.
- D17.8 The Director will provide the investigation report to the appropriate Administrative Authority within five (5) University business days of its receipt for review and adjudication. The Director may provide the Administrative Authority with recommendations.

## **D18. Disciplinary or Corrective Action**

- D18.1 Where no violation of the Policy is found, the Administrative Authority, in accordance with their responsibilities (see Policy section 27), will assess the investigation report to determine whether the Respondent's behaviour, based on the findings, requires further action and/or should be assessed through another policy or educational process.

- D18.2 Where the investigation demonstrates that the Respondent violated the Policy, the Administrative Authority will engage in disciplinary or corrective action against the Respondent.
- D18.3 All disciplinary or corrective action applied against a Respondent who is an employee will be conducted in accordance with the applicable collective agreement or terms and conditions of employment and will not include financial compensation.
- D18.4 All disciplinary or corrective action applied against a Respondent who is a Student will be conducted in accordance with the Resolution of Non-Academic Misconduct Allegations Policy ([AC1300](#)) or another relevant University policy or process.
- D18.5 In determining fair and appropriate disciplinary or corrective action for a violation of the Policy, the Administrative Authority will consider several key factors including:
- (a) the severity of the Respondent's actions and the impact of those actions on the Complainant and/or the learning/working environment;
  - (b) whether the incident(s) is isolated or a recurring pattern;
  - (c) whether the incident(s) was deliberate or intentional;
  - (d) the impact of the Respondent's actions on the University community as a whole and if the behaviour undermines the University's commitment to providing a safe and inclusive environment;
  - (e) whether the Respondent's behaviour caused harm to the University's reputation; and
  - (f) any other mitigating factors such as the Respondent's willingness to take responsibility, their cooperation during the investigation, any corrective actions taken, previous discipline, or any attempts to rectify the harm caused.
- D18.6 The disciplinary or corrective action should be proportionate to the severity of the violation and should demonstrate that Discrimination and Harassment will not be tolerated within the University community.
- D18.7 The Administrative Authority should notify the Director of any discipline or corrective action applied against the Respondent within five (5) University business days of its application.
- D18.8 Under FIPPA, information about any disciplinary or corrective action is the Respondent's personal information and only the Respondent may decide to release it. Therefore, the Complainant is not entitled to know whether the Respondent was disciplined, or which corrective action was imposed. The Complainant will be informed of any restrictions that the University imposes on the Respondent if those restrictions directly affect the Complainant's health and/or safety.

**APPENDIX E –  
PROCEDURES FOR RESPONDING TO REPORTS OF SYSTEMIC DISCRIMINATION**

**Procedural Authority:** President

**Effective Date:** Sept 2024

**Procedural Officer:** University Secretary

**Supersedes:** n/a

**Parent Policy:** Discrimination and Harassment Prevention and Response Policy (GV0205)

**Last Editorial Change:**

**E1. Purpose**

- E1.1 These procedures set out the process for responding to Reports of Systemic Discrimination filed under the Discrimination and Harassment Prevention and Response Policy (“the Policy”).

**E2. Definitions**

- E2.1 The definitions in the Policy apply to these procedures. In addition, the following definitions apply:

“**Director**” means the role in EQHR responsible for overseeing these procedures.

“**Unit**” means academic or administrative areas at the University, including but not limited to faculties, departments, divisions, offices, schools, and centres.

“**Review**” means an examination of a policy or practice with the intention of identifying systemic barriers and recommendations for their removal.

**E3. Confidentiality**

- E3.1 Section 28 of the Policy and Appendix F –Statement on Confidentiality and Privacy apply to these procedures.

**E4. Approach**

- E4.1 The University recognizes that policies and practices have been designed over time and individuals will not be held personally accountable for the ongoing impacts of policies and/or practices that they have been employed to administer.

- E4.2 Unit leaders responsible for the policy or practice will act intentionally to resolve concerns of systemic barriers and will be proactive in the removal of identified systemic barriers.

- E4.3 Due to the many interconnected structures and systems within the University, making changes can be complex and slow moving. Some changes may take years of coordinated cross-institution efforts, while others can happen more efficiently when the appropriate recommendations are implemented.

- E4.4 There are three ways in which EQHR responds to Systemic Discrimination:

- (a) promoting and providing education on Systemic Discrimination (see Appendix G – Awareness and Education Framework);
- (b) providing recommendations based on trends related to Discrimination and Harassment; and
- (c) receiving Reports of Systemic Discrimination and supporting the Review process

E4.5 The purpose of a Review is to identify changes that the University can reasonably undertake to address possible Systemic Discrimination within existing policies and practices. A Review will not result in a finding of fact of whether the Policy was violated.

## **E5. EQHR Provides Recommendations**

- E5.1 EQHR will make recommendations based on observed trends related to Discrimination and Harassment at the University, including Systemic Discrimination.
- E5.2 The recommendations will be provided directly to the leaders responsible for the policy or practice.
- E5.3 EQHR's recommendations will be summarized, respecting confidentiality, in the EQHR annual report.
- E5.4 If a University Community Member believes they have experienced Systemic Discrimination and they do not wish to engage in the Review process, they have the option of sharing their experience with EQHR for consideration in the recommendations referenced in section E5.1.

## **E6. Receipt of a Report of System Discrimination**

- E6.1 The Complainant may submit a written Report of Systemic Discrimination to EQHR in accordance with Appendix C – Procedures for Filing a Report.
- E6.2 Upon receipt of a Report of Systemic Discrimination, the Director may first attempt to address the concerns through informal measures if the Director has reason to believe any of the following:
  - (a) it is possible to address the concern with minimal process;
  - (b) the concern is already being addressed; and/or
  - (c) there are existing plans for resolving the concern.

## **E7. Jurisdiction to Conduct a Review in Response to Reports of Systemic Discrimination**

- E7.1 EQHR will determine whether there is jurisdiction to conduct a Review.
- E7.2 Jurisdiction to conduct a Review is limited to policies or practices that are currently part of the structures of the University. This excludes past and historical policies and practices.
- E7.3 Jurisdiction to conduct a Review does not include any policies or practices where the University is not the decision-maker or does not hold ultimate responsibility for design and implementation. Excluded policies and practices include, but are not limited to, those set by:
  - (a) external research organizations;
  - (b) faculty, staff, and student unions;
  - (c) accrediting and professional associations; and
  - (d) national, regional, or local associations.

E7.4 If the University does not have jurisdiction to conduct a Review, the University may assist University Community Members in reporting to the appropriate organization or association, where possible.

#### **E8. Decision Not to Initiate a Review**

E8.1 The Director may decline to initiate a Review where the Director reasonably believes one or more of the following:

- (a) the allegation(s) is outside the scope and intent of the Policy;
- (b) the allegation(s), if substantiated, would not meet the definition of Systemic Discrimination;
- (c) there is insufficient information available to proceed with a Review;
- (d) the allegation(s) cannot be looked into due to the amount of time that has passed and the policy or practice is no longer in place;
- (e) it would be more appropriate to proceed under another policy, process, or collective agreement;
- (f) the allegation has already been adequately addressed by another process; or
- (g) the allegation should be put on hold pending the resolution of another process (including but not limited to a Human Rights Tribunal process or a criminal investigation).

E8.2 If the Director decides not to proceed with initiating a Review, the Director will notify the Complainant in writing of the decision.

E8.3 If relevant information emerges that was not available at the time of the decision, the Complainant may, at any time, ask Director to reconsider their decision.

E8.4 The Complainant may seek an appeal of the Director's decision to not initiate a Review only where the Complainant reasonably believes and can demonstrate that the decision to not investigate was biased.

E8.5 The Complainant should submit their request to appeal the decision to not initiate a Review in writing to the University Secretary. The request must be submitted by the Complainant within five (5) University business days of receiving the Director's written reasons.

E8.6 In extenuating circumstances, the Complainant may request an extension of time to the University Secretary to appeal the decision.

E8.7 Upon receiving the request for appeal, the University Secretary will appoint a panel of three (3) or more Vice Presidents and/or Associate Vice Presidents to reconsider the Director's decision.

E8.8 Panel members must undergo a conflict-of-interest check prior to being appointed.

E8.9 Panel members will adhere to the confidentiality requirements set out in Appendix F –Statement on Confidentiality and Privacy.

E8.10 The panel will consider the Complainant's submission and will issue a decision on whether to initiate a Review. The panel's decision is final within the University.

## **E9. Decision to Initiate a Review**

- E9.1 If the Director determines that none of E8.1 are present, they will forward the Report to the Assessment Team.

## **E10. Assessment Team**

- E10.1 The University will establish an Assessment Team who is responsible for the Review process. The Assessment Team will be chaired by the Executive Director of EQHR.
- E10.2 The Assessment Team will be made up of between three (3) and five (5) members appointed for a fixed term by the President. The Assessment Team will include members who have knowledge of institutional policies and practices with due consideration to representation and diverse points of view.
- E10.3 The Assessment Team will establish a Terms of Reference. The Terms of Reference will be approved by the President. The Terms of Reference will include provisions for training, frequency of general meetings, and a conflict-of-interest protocol if an Assessment Team member has a conflict with the Report of Systemic Discrimination.

## **E11. Review Process**

- E11.1 Upon receipt of the Report, the Assessment Team will conduct a conflict-of-interest check for members to determine ongoing participation in the process.
- E11.2 The Assessment Team will provide the Unit leader responsible for the policy or practice an opportunity to respond to the Report by providing a written response that indicates:
- (a) sufficient information that demonstrates that the policy or practice does not meet the definition of Systemic Discrimination; or
  - (b) they support the Review process and potential recommendations to adapt or change the policy or practice.
- E11.3 If the Unit leader responsible for the policy or practice declines to provide a written response to the Report, the Assessment Team will inform their supervisor and work with the appropriate Vice-President to identify the appropriate leader to provide a response as per section E11.2.
- E11.4 If the Assessment Team is satisfied that the policy or practice is reasonable and legitimate in the circumstances, they will provide reasons to the Director in writing, which will then be provided to the Complainant.
- E11.5 If the Assessment Team determines the Review should continue, they may elect to engage an independent party, external to the University, to assist in the Review. The Complainant will be notified that the Review will proceed and will be consulted on how they want to engage in the Review.
- E11.6 The Assessment Team will determine a mandate for the Review which will include scope, process, and timeline. The scope may include what information should be considered. The mandate will include the Complainant's role and the role of the Unit leader responsible for the policy or practice.

E11.7 If during the Review, the Assessment Team has a reasonable concern that another policy or practice should be included in the mandate, they will reconsider the mandate and inform the relevant Unit leaders.

## **E12. Review Outcomes**

E12.1 After concluding the Review, the Assessment Team or external reviewer will produce a summary of information.

E12.2 The summary of information will include:

- (a) the information gathered relevant to the allegation;
- (b) an assessment of whether or not a change should be made to the policy or practice; and
- (c) recommendations on future action, if change is required.

E12.3 The Review will not result in a determination of whether Systemic Discrimination occurred.

E12.4 Recommendations of the Review will be focussed on removing barriers that may give rise to Systemic Discrimination and preventing repeated similar experiences.

E12.5 The Assessment Team will provide the summary of information to the Director and the Unit leader responsible for the policy and practice. Under certain circumstances, the University may redact information in response to reasonable health or safety concerns expressed by those participating in the Review and to ensure that confidentiality requirements are met.

E12.6 The Assessment Team will collaborate with the Unit leader responsible for the policy or practice to identify support for implementing any recommendations, as required.

E12.7 The Director will notify the Complainant and provide information on the outcome of the Review process and a summary of the recommendations as appropriate.

E12.8 Outcomes of the Review will be summarized, respecting confidentiality, in the EQHR annual report.

E12.9 The Vice President with authority over the Unit leader responsible for the policy or practice has ultimate accountability to ensure that the recommendations are translated to an action plan, with a timeline, and that the Unit leader responsible for the policy or practice makes the required changes.

## **E13. Right to Support**

E13.1 During any process conducted under these procedures, the Complainant may elect to involve a support person. The support person of their choice cannot be someone involved in the allegations. The support person may be internal or external to the University. The support person's role is to provide emotional, spiritual, procedural, and/or cultural support. The support person is separate from a union or legal representative. Any financial costs associated with the support person are not paid for by the University.

E13.2 The support person must agree in writing to maintain confidentiality in accordance with the Policy and these procedures.

- E13.3 The support person may not speak for or act on behalf of the Complainant. Information must come directly from the Complainant unless the Assessment Team decides otherwise.
  - E13.4 To ensure equitable access to the investigation process, individuals who require accommodation to fully participate should notify the Director to discuss their needs.
  - E13.5 If the Complainant is a Student, they have the option to seek support from a Student Support Coordinator or information from the University Ombudsperson.
- E14. Right to Representation**
- E14.1 The Complainant may choose to involve a union representative and/or legal counsel (at their own cost) in any meetings or processes related to these procedures. A union or legal representative is separate from a support person.
  - E14.2 If the Complainant intends to be represented by legal counsel, they must provide the Assessment Team with a minimum of three (3) University business days' notice in advance of any interview or meeting.

## **APPENDIX F**

### **STATEMENT ON CONFIDENTIALITY AND PRIVACY**

**Procedural Authority:** President

**Effective Date:** Sept 2024

**Procedural Officer:** University Secretary

**Supersedes:** n/a

**Parent Policy:** Discrimination and Harassment Prevention and Response Policy (GV0202)

**Last Editorial Change:**

#### **F1. Purpose**

- F1.1 This statement applies to the Discrimination and Harassment Prevention and Response Policy (“the Policy”) and to its associated procedures. This statement elaborates on section 28 of the Policy.

#### **F2. Definitions**

- F2.1 The definitions in the Policy apply to these procedures. In addition, the following definitions apply:

**“Disclose”** means to transmit, provide, or make available personal information to someone other than an employee of the University who requires the information in the performance of their duties in accordance with British Columbia’s *Freedom of Information and Protection of Privacy Act* (FIPPA).

**“University Employees”** means all individuals under employment contracts with the University of Victoria as well as University of Victoria board members and volunteers.

#### **F3. Confidentiality**

- F3.1 Confidentiality is an important part of fostering an environment where individuals feel safe to make a Disclosure or Report of Discrimination and Harassment and seek support. The University respects the privacy of all University Community Members. Personal information received by the University will be kept confidential subject to limitations outlined in this statement.
- F3.2 University Employees must comply with FIPPA, which regulates the collection, use, disclosure, storage, and retention of personal information.
- F3.3 The information and records created and received to administer the Policy are subject to the access to information and protection of privacy provisions of FIPPA, and the University’s Protection of Privacy Policy ([GV0235](#)) and Records Management Policy ([IM7700](#)). The information and records will be treated as highly confidential, in compliance with FIPPA and applicable University policies and collective agreements.

#### **F4. Collection of Personal Information**

- F4.1 In administering the Policy and its associated procedures, the University collects personal information for the purposes of:
- ensuring the integrity and fairness of Policy processes;

- (b) providing appropriate information to individuals involved in Policy processes;
- (c) conducting a review or investigation; and
- (d) statistical data collection and reporting.

## **F5. Sharing and Using of Personal Information**

- F5.1 FIPPA restricts the personal information that University Employees are permitted to share with University Community Members and the public. FIPPA allows University Employees to use or disclose personal information where:
- (a) it is authorized by the individual the information is about;
  - (b) the University determines compelling circumstances exist that affect any University Community Member's health or safety as authorized by the University's General Counsel (or delegate);
  - (c) it is authorized or required by a law (e.g. an incident involving a minor, occupational health and safety legislation, and human rights legislation);
  - (d) it is for the purpose of preparing or obtaining legal advice for the University;
  - (e) it complies with a subpoena, a warrant, or an order issued by a court, person, or body in Canada with jurisdiction to compel the production of information;
  - (f) the University uses or discloses the information for the purpose for which the information was obtained or compiled, or a consistent purpose (e.g. where it is necessary to fulfill the University's duty of procedural fairness or where necessary for the conduct of the investigation); or
  - (g) a University Employee needs the information to perform their employment duties.
- F5.2 Should the University be compelled to disclose confidential information as per F5.1, the individual whose personal information it is will be informed to the extent permitted or compatible with the purpose of the demand for information.

## **F6. Respect for Privacy**

- F6.1 University Employees who receive a Disclosure must:
- (a) protect personal information from the Disclosure and maintain confidentiality;
  - (b) collect the minimum amount of information about individuals, ensuring it relates directly to and is necessary for responding to the Disclosure;
  - (c) use the information about individuals only for the purposes of, or for purposes consistent with, responding to the Disclosure, seeking advice from appropriate University resources, investigating, or taking disciplinary action;
  - (d) disclose information about individuals only to those who need it to perform their duties as University Employees; and
  - (e) disclose personal information in all other circumstances only as permitted under FIPPA.

## **F7. Use of Personal Information for Fair Investigations and Related Processes**

- F7.1 University Employees may disclose information to ensure that Report and investigation processes are fairly conducted, in accordance with the following principles:
- (a) the Respondent has the right to know sufficient information about the reported allegation(s) to be able to respond;
  - (b) during the investigation, the Complainant and the Respondent will each receive a summary of the information collected;

- (c) the University will disclose the investigation report to the Complainant and the Respondent, but reserves the right to withhold third-party personal information if disclosing it would threaten anyone's safety or mental or physical health or interfere with public safety;
- (d) the Complainant has the right to know and will be informed of the outcome of the investigation, but the Complainant is not entitled to know whether the Respondent was disciplined or which corrective actions were imposed. Under FIPPA, any discipline or corrective action is the Respondent's personal information and only the Respondent may decide to release it;
- (e) the Complainant will be informed of any restrictions that the University imposes on the Respondent if those restrictions directly affect the Complainant's health and/or safety;
- (f) witnesses may receive a copy of their own statement but will not receive any other information unless required to conduct a procedurally fair investigation process, or where it is necessary for health or safety reasons;
- (g) throughout an investigation, adjudication, or appeal process, University Employees will only be given the information that is necessary to perform their duties and must treat such information as highly confidential;
- (h) individuals other than Complainants, Respondents, and witnesses do not normally have the right to know any confidential information except where it is necessary for health or safety reasons.

## **F8. Sharing information**

- F8.1 University Community Members who are participating in a Voluntary Process, investigation, or review are free to speak about their own experiences but must not disclose information that they learn solely as a result of their participation in Policy processes, because this personal information belongs to another individual. University Community Members may contact EQHR for guidance about confidentiality and privacy.
- F8.2 University Employees are advised that, should they choose to share information about a Disclosure, a Voluntary Process, a Report, or an investigation (including on social or other electronic media), they may contravene FIPPA.
- F8.3 University Community Members, other than University Employees, are advised that should they choose to share information about a Disclosure, a Voluntary Process, a Report, or an investigation (including on social or other electronic media), they may compromise the process or the investigation or be putting themselves at risk of civil lawsuits by those who believe they have been defamed or have had their privacy rights violated. University Community Members should exercise care and judgment when deciding to share information or make public statements and should seek legal or other advice if unsure.
- F8.4 Any public statements made by the University about a Disclosure or Report, including statements to the media, will be Trauma-Informed and otherwise consistent with the principles of the Policy, and will not disclose any personal information without the consent of that individual. Notwithstanding the above, the University reserves the right to correct misleading or inaccurate public information.

## APPENDIX G

### AWARENESS AND EDUCATION FRAMEWORK

**Procedural Authority:** President

**Procedural Officer:** University Secretary

**Parent Policy:** Discrimination and Harassment  
Prevention and Response Policy (GV0205)

**Effective Date:** Sept 2024

**Supersedes:** n/a

**Last Editorial Change:**

#### **G1. Purpose**

- G1.1 This framework sets out the University's institutional framework for preventing and responding to Discrimination and Harassment through awareness, education, and training as per the Discrimination and Harassment Prevention and Response Policy ("the Policy").

#### **G2. Definitions**

- G2.1 The definitions in the Policy apply to these procedures.

#### **G3. Policy Awareness**

- G3.1 EQHR will, along with the appropriate units and divisions, create and disseminate accessible information about the Policy, including relevant support and process options, through information guides and online resources.

- G3.2 The University will make efforts to inform incoming Students and new employees of the Policy and their associated responsibilities.

#### **G4. Education and Training**

- G4.1 Discrimination and Harassment prevention and response education and training is a shared responsibility, and therefore units and departments may initiate prevention efforts in various formats (e.g. lectures, online learning modules, handouts, and workshops).

- G4.2 Any unit or department creating or implementing education or training regarding Discrimination and/or Harassment prevention and/or response should consult with EQHR for information, advice, and resources and to ensure all University Community Members are drawing on consistent principles, definitions, and approaches.

- G4.3 The University's Discrimination and Harassment prevention and response education and training will:
- be guided by the Policy, in particular the definitions, principles, commitments, and responsibilities;
  - be proactive, prosocial, sustained, and focused on creating a culture that promotes inclusive and respectful learning, living, and working environments, based in relevant best practices;
  - take into account Intersectional approaches to identity, barriers, power relationships, and other relevant factors;

- (d) identify the impact of the normalization of Microaggressions and Systemic Discrimination;
  - (e) identify the impact of all forms of Discrimination and Harassment in contributing to a Hostile Working or Learning Environment;
  - (f) be grounded in an anti-oppressive framework;
  - (g) contextualize Discrimination and Harassment within its colonial, historical, and sociological roots;
  - (h) be specific, tailored, and accessible to diverse campus populations; and
  - (i) have learning outcomes that are reviewed and updated, as necessary.
- G4.4 In addition, the University will provide education, which may include but is not limited to:
- (a) implementing a comprehensive education program for faculty, librarians, staff, and Students (pre-arrival, on-site orientation, and ongoing education materials, workshops, and on-line training);
  - (b) implementing training with a curriculum based on consistent foundational principles for members of units and offices most likely to receive Discrimination and Harassment Disclosures;
  - (c) making information on Trauma-Informed responses to Disclosures available to all faculty, librarians, staff, and Students; and
  - (d) addressing harmful attitudes and behaviours that reinforce beliefs about Discrimination and Harassment and perpetuate an environment where such behaviours are normalized.
- G4.5 At times, the University may mandate Discrimination and Harassment training for individuals or units to be completed within prescribed timeframes. Failure to complete training within timelines will be reported to an Individual with Supervisory Responsibilities for follow-up.