
POLICY TITLE: HARASSMENT PREVENTION

AUTHORITY Board of Governors

PRIMARY CONTACT President

RELATED POLICIES

POLICY

The University of the Fraser Valley is committed to providing an environment supportive of working, teaching, scholarship and research, and the fair treatment of all members of the university community. The basis for interaction among all members of the university is mutual respect, co-operation and understanding.

Harassment of any kind violates fundamental rights, personal worth and human dignity. Members of the university community are entitled to an atmosphere free of harassment while pursuing university-related activities. Accordingly, the university provides a policy that prohibits all kinds of harassment. The university considers harassment to be a serious offence that is subject to a range of disciplinary measures up to and including dismissal or expulsion.

UFV acknowledges its responsibility in providing all members of the university community with access to information on harassment policy and procedures.

DEFINITIONS

1. Harassment is behaviour that is inappropriate or unwanted, and which the individual ought reasonably to know or have known would cause offence or harm. It comprises objectionable acts, comments or displays that demean, belittle, or cause personal humiliation; and acts of intimidation or threats which would be considered by a reasonable person to create an intimidating, hostile or offensive environment for work, study and other university-related activities.
 2. It includes behaviour which would be considered discriminatory under the BC Human Rights Code, including humiliating, offending or demeaning a person or group of persons on the basis of race, colour, ancestry, place of origin, political belief, religion, family status, marital status, physical or mental disability, age, sex, sexual orientation or conviction for a criminal offence unrelated to employment.
 3. Sexual harassment, for the purposes of this policy, has some characteristics and definitions distinct from other forms of harassment. It is not mutual flirtation or a consensual relationship. It should be recognized, however, that in certain instances where a power imbalance exists (i.e. in the case of relationships between supervisors and subordinates, or faculty and students), a sexual relationship could be considered as sexual harassment.
 4. Sexual harassment is defined as unwanted sexual attention, sexual solicitation, or sexually oriented remarks. It includes unwanted behaviour such as touching, suggestive or demeaning remarks, jokes or other types of verbal abuse of a sexual or sexist nature directed at an
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individual or group; and graphic or suggestive comments about an individual's appearance, sex or sexual orientation, made by a person who knows or ought reasonably to know that such attention, solicitation or behaviour is unwanted and, without limiting the generality of the foregoing, when:

- a. submission to such conduct is made either implicitly or explicitly a term or condition of employment or of educational progress;
 - b. submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that employee or student; or
 - c. such conduct has the effect or purpose of unreasonably interfering with an employee's work performance or a student's academic performance or creating an intimidating, hostile or offensive work or educational environment.
5. Reprisal or threat of reprisal against any participant in a complaint of harassment under this policy is harassment.
 6. Harassment may occur between people of the same and different status within the university community, and both women and men may be the subject of harassment by members of either sex.
 7. Harassment may occur as a single incident, or over a series of incidents that, in isolation, would not necessarily constitute harassment.
 8. Harassment prohibited under this policy may occur on campus or off campus during university-related activities.
 9. Harassment does not include collegial disputes or disagreements regarding policy, practice, ideology or matters of academic freedom. Neither this policy generally nor its definitions are to be applied in such a way as to detract from the right of faculty, staff and students to engage in the frank discussion of potentially controversial matters, such as race, age, politics, religion, sex and sexual orientation, subject to the provisions of the Human Rights Code of BC.
 10. This policy is not to be interpreted, administered or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage and discipline employees and students in accordance with collective agreements and applicable administrative policies.

PROCEDURES/GUIDELINES

Application

1. This policy applies to all members of the university community. The university community includes individuals who are either students or employees of the university, or who have been students or employees of the university within the previous six months prior to any complaint being made.
2. Service providers, contractors, independent societies and associations operating on campus, and their employees, agents and visitors, must conduct themselves in a manner consistent with this policy. Allegations of harassment by any of the above named groups or individuals will be dealt with by the university as potential breaches of contract and, if proven, may result in suspension or termination of such contract, or suspension of university privileges, including access to the campus.

Responsibilities & Expectations

UFV is responsible for:

1. receiving, reviewing, facilitating resolution and, where appropriate, formally investigating complaints of harassment;
2. imposing appropriate disciplinary measures when a complaint of harassment is found to have been substantiated, regardless of the status or seniority of the offender;
3. supporting and assisting any member of the UFV community who complains of harassment at UFV by a person who is not a member or employee of UFV;
4. providing advice and support to persons who are subjected to harassment;
5. ensuring that professional assistance (e.g. counseling) is available, when appropriate;
6. maintaining records as required by this policy; and
7. making all members of the UFV community aware of the problem of harassment and the existence of the procedures available under this policy.

Confidentiality:

1. UFV recognizes the difficulty of coming forward with a complaint of harassment and the desire of all parties to the complaint to keep the matter confidential.
2. All records of complaints, including contents of meetings, interviews, results of investigations and other relevant materials will be disclosed only to the extent necessary to carry out the investigation(s), disciplinary proceedings and, where applicable, appeals, grievances and arbitrations. Such records may also be released to external authorities where required by statute, court order or subpoena.
3. Information concerning a complaint may be provided to appropriate UFV officials on a need-to-know basis.

Resolution Processes:

Early Resolution Processes:

1. Wherever appropriate and possible, a serious attempt at resolving harassment situations informally should be made by all parties without filing a written complaint. Such early resolutions, when possible, assist in creating and sustaining a respectful working and learning environment.
2. A complainant who believes that she/he has a complaint of harassment may want to consider discussing the complaint with the respondent and to ask the respondent to stop the offensive behaviour or to correct the action which resulted in discrimination or harassment before taking action under this policy.
3. Early resolution may also be possible with assistance. Persons wishing to explore the applicability of informal resolution mechanisms such as facilitation, coaching, and counseling to a particular situation should contact the Conflict Resolution Advisor (also known as the advisor).

Written Complaint Process:

Filing a Complaint

1. A person must bring a complaint of alleged harassment at UFV by a member of the university community to the Conflict Resolution Advisor within six months of the last alleged incident of harassment.
2. The advisor will inform the complainant of the university harassment policy and procedures, including the available resolution processes, and of the availability of counseling and other support services provided by UFV.
3. The advisor will inform the complainant of the right of the complainant to be accompanied at any stage of the process by a person of choice (who may be a union representative), who has agreed to do so and is not a party to the process.
4. The advisor will interview the complainant and advise whether there appear to be grounds to proceed within the terms of the university policy on harassment, or advise the complainant to consider other applicable university policies and procedures.
5. The complainant will provide the Conflict Resolution Advisor with a written account of the alleged harassment, outlining the particulars of the complaint, including the date(s) of the incident(s), a description of the incident(s) and statements said and/or actions taken, the location of the incident(s), the name(s) of possible witness(es), and the remedy requested.
6. The advisor will assist the complainant in drafting a written complaint, which must be signed and dated by the complainant in the presence of the advisor.
7. Within ten (10) working days of receipt of the written complaint, the Conflict Resolution Advisor will
 - a) provide the respondent a copy of the written complaint, and discuss the nature of the complaint with her or him;
 - b) inform the respondent of the University harassment policy and procedures, including the available resolution processes;
 - c) inform the respondent of the right to be accompanied at any stage of the process by a person of choice (who may be a union representative), who has agreed to do so and is not a party to the process; and
 - d) inform the respondent of the availability of counselling and other support services provided by UFV.
8. Within ten (10) working days of receiving a copy of the written complaint, the respondent shall provide the Conflict Resolution Advisor with a written response to the complaint, a copy of which shall be made available to the complainant.

Note: The time limits in this section are imposed to ensure expeditious handling of complaints, and may, at the discretion of the Conflict Resolution Advisor, be waived in individual instances.

9. Where appropriate, the Conflict Resolution Advisor may make arrangements through the appropriate senior administrator for
 - a) the complainant and the respondent to be separated hierarchically, physically, or both for the duration of the complaint process;
 - b) the work and/or examinations, if any, of the complainant and/or respondent to be evaluated by a third party whose interests are not at stake.

Informal Complaint Resolution Process:

1. The advisor will discuss with both the complainant and the respondent the informal processes that are available, and will work with both parties with a view to obtaining resolution of the complaint through informal resolution processes when possible and, in the judgment of the advisor, appropriate.
2. The strategies employed during an informal complaint resolution are varied and include discussion and facilitation. Strategies used will depend entirely upon the specific circumstances of the case, and the advisor will discuss with the parties to the complaint particular approaches which could be used during an informal resolution process and their likely outcomes.
3. The complainant may, at any time during the process of informal mediation, choose to withdraw the complaint, in which case all formal record of the case shall be destroyed. The respondent shall be notified immediately of the withdrawal, and no further action shall be taken.
4. Where a satisfactory resolution is achieved through mediation, the advisor will record the terms of settlement in writing and will have such record signed and dated by both the complainant and the respondent. Both the complaint and the terms of settlement will be retained by the advisor.
5. Normally the matter will go no further. However, if the terms of settlement are subsequently breached by the respondent and/or if the respondent is named in any other harassment complaint within five years of the date of settlement by the same or another complainant, the original complaint and the terms of settlement may be introduced as evidence in any resulting investigation.

Formal Complaint Resolution Process:

1. If the informal resolution process is inappropriate or is unsuccessful, the case will be advanced for formal resolution. The advisor will provide a copy of the complaint, including the written statement of particulars and any formal response thus far filed by the respondent, to the Associate Vice President, Employee Services for further action.
2. The Conflict Resolution Advisor may also recommend to the Associate Vice President, Employee Services that formal proceedings be initiated, bypassing the informal resolution process, in the case of
 - a) a respondent who is alleged to have committed repeated infringements of the policy on sexual harassment; or
 - b) a respondent who is alleged to have committed an offence that, in the judgment of the Conflict Resolution Advisor, is not amenable to informal resolution;
 - c) or where, notwithstanding the requirement for a complainant to provide a signed, written complaint to the Conflict Resolution Advisor, the advisor believes that the complaint is serious and that there is sufficient independent evidence to launch a further investigation, but the complainant does not wish to make a written complaint or to be identified.
3. The Associate Vice President, Employee Services shall be responsible for
 - a) deciding whether to appoint an internal or external investigator and for appointing that individual to investigate complaints referred by the Conflict Resolution Advisor for formal resolution;
 - b) deciding whether, when more than one complaint has been made about a

respondent, the complaints will be investigated together.

- c) Additionally, the Associate Vice President, Employee Services shall have the right to refuse to appoint an investigator where the complainant is no longer associated with the UFV community or is not prepared to cooperate in the investigation, or where the named respondent is no longer a member of the UFV community.
4. The investigator is responsible for interpreting any provisions of any policy or statute under consideration and, subject to compliance with the principles of natural justice and fairness, is free to develop his/her own procedures and practices to conduct the investigation and is not constrained by strict rules of procedure and evidence.
5. The investigator is responsible for contacting both parties and, where written submissions have not yet been filed by one or both parties to the complaint, ordering the delivery of such submissions within fifteen (15) days of notification.
6. The investigator may interview third parties who may have witnessed the incidents which form the substance of the complaint or who may have other evidence relevant to the events in question. Both the complainant and respondent will be made aware of the third parties. The burden of proof is on the complainant. The standard of proof shall be the civil burden of proof on a balance of probabilities.
7. Both parties have the right to be accompanied during the investigation by a representative or support person at their own expense. If a union or professional association representative is present, it shall be on a “without prejudice” basis to any subsequent grievance or action taken under the terms of the governing collective agreement or contract.
8. The investigator shall state in writing his/her findings of fact and reasons for the decision and include any mitigating or aggravating circumstances to be considered. He/she shall deliver the report to the Associate Vice President, Employee Services.
9. If the complainant or respondent refuses to cooperate with the investigator, the Investigator may either proceed with the investigation or make recommendations regarding further action. The Associate Vice President, Employee Services will make a decision concerning this recommendation and is not bound by the recommendation and may direct a different course of action.

Discipline And Remedies Where The Complaint Is Substantiated:

1. Where the investigator finds that the complaint is substantiated, either the UFV President (or designated representative) shall be responsible for imposing appropriate disciplinary sanctions against the harasser.

Considerations affecting disciplinary action should include:

- a) the nature of the harassment;
 - b) whether the offence was an isolated incident or involved a repeated course of conduct;
 - c) the respondent’s previous record; and
 - d) any mitigating or aggravating circumstances.
2. The UFV President (or designated representative) may also order any remedy for the complainant deemed appropriate in the circumstances.

Possible Remedial Actions Where The Complaint Is Not Substantiated:

1. Where the investigator determines that the complaint is not proven, all records of the complaint shall clearly indicate that the complaint was not proven.
2. Where the investigator determines that an individual has initiated a harassment complaint with malice or in bad faith, formal disciplinary action may be taken against that individual. Complaints filed which are based on mistakes, misunderstandings or misinterpretations do not constitute malicious conduct.

APPENDICES

Related Policies:

B.C. Human Rights Code

University Act

Criminal Code of Canada

Collective Agreement, Article 10.7