

RESPONDING TO DISCRIMINATION & HARASSMENT



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POLICIES

Policy 110.25 — Harassment Prevention

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.

Policy 110.30 — UFV Statement of Institutional Ethics

A respect for persons:

Respecting persons implies recognizing that we are distinctive individuals with our own goals, beliefs, feelings, values and relationships, and that these have a vital place in one's sense of dignity and autonomy. It does not imply carte blanche acceptance of any values, beliefs or goals, but does require that in our attempts to cause a person to change, we appeal to his or her capacity for independent judgment and ability to assess reasons.

Conflict resolution:

Members of the UFV community recognize the inevitability of personal and professional conflicts with other members and the impact that these conflicts may have on seemingly uninvolved students and colleagues. In recognition of these dynamics, members of the UFV community embrace the responsibility to respond to these conflicts in positive and professional ways.

WHAT IS DISCRIMINATION?

The Supreme Court of Canada provided the legal definition for discrimination in its 1989 decision in *Andrews v. Law Society of British Columbia*:

Discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations, or disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association with a group will rarely escape the charge of discrimination, while those based on an individual's merits and capacities will rarely be so classed.

The legislative authority governing human rights-based discrimination in British Columbia is the *Human Rights Code*.

WHAT IS HARASSMENT?

Harassment is a form of discrimination that occurs when offensive behaviour is based on a prohibited ground of discrimination enumerated in either federal or provincial human rights legislation. Although British Columbia's *Human Rights Code* is silent on the subject of harassment, the Ontario *Human Rights Code* provides the following definition:

Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

UFV POLICY 110.25 — HARASSMENT PREVENTION

Like many post-secondary education institutions and other large employers, the University of the Fraser Valley's *Harassment Prevention Policy* has an expanded definition of harassment which, in addition to human rights-based harassment and sexual harassment, also includes personal harassment.

While personal harassment is not specifically prohibited by law in the same way that human rights-based discrimination and sexual harassment are, the University's *Harassment Prevention Policy* makes it clear that this type of behaviour is not tolerated at UFV:

Harassment of any kind violates fundamental rights, personal worth, and human dignity. All members of the University community are entitled to an atmosphere free of harassment while pursuing university-related activities.

What behaviours are considered harassment under UFV's policy?

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.

Definition of harassment includes discrimination

The definition of harassment at UFV specifically includes discrimination based on any of the protected grounds as set out in the *Human Rights Code*, such as:

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.

WHAT IS THE PROCEDURE TO MAKE A COMPLAINT?

An individual who believes that he or she has been subjected to discrimination or harassment should promptly make a confidential appointment with the Human Rights and Conflict Resolution Officer, who will determine whether there are sufficient grounds for filing a complaint under the policy.

Time limit for filing a complaint

Do not hesitate to seek help or advice in a timely manner. Under the *Human Rights Code* and *UFV's Harassment Prevention Policy*, a complaint of discrimination or harassment must be made within six months of the last occurrence of the offensive behaviour.

Informal complaint resolution process

The Officer 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 Officer, appropriate.

The strategies employed during an informal complaint resolution are varied and include conflict coaching, facilitated discussion, and voluntary mediation. Strategies used will depend entirely upon the specific circumstances of the case, and the Officer will discuss with the parties to the complaint particular approaches which could be used during an informal resolution process and their likely outcomes.

Formal complaint resolution process

If the informal resolution process is inappropriate or is unsuccessful, the case will be advanced for formal resolution. The Officer 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.

The Officer may also recommend to the Associate Vice-President, Employee Services, that formal proceedings be initiated, bypassing the informal resolution process, in certain cases.

The burden of proof

Establishing that discrimination or harassment has taken place is complex.

The burden of proof is always with the person bringing the complaint and he or she must establish, on a balance of probabilities, that the events described in the complaint took place and in the manner in which they are described.

The existence of records establishing a series of events or a pattern of

behaviour—and the corroborating testimony of third-party witnesses—are usually instrumental in establishing that harassment has taken place; however, the *Harassment Prevention Policy* at UFV also allows for a determination of harassment to be made in the case of a single serious infraction:

Harassment may occur as a single incident, or over a series of incidents that, in isolation, would not necessarily constitute harassment.

But I'm afraid

Individuals who file complaints need not be afraid to voice their concerns. The policy specifically protects an individual from being reprimanded for speaking out. In fact, if another individual or group of individuals retaliates against someone who brings forward a complaint of discrimination or harassment under the policy, there can be serious consequences for that individual or individuals:

Reprisal or threat of reprisal against any participant in a complaint of harassment under this policy is harassment.

What if the behaviour takes place off campus?

Harassment is prohibited either on campus or off campus if university-related activities are taking place:

Harassment prohibited under this policy may occur on campus or off campus during university-related activities.

Confidentiality

UFV recognizes the difficulty of coming forward with a complaint of discrimination or harassment and the desire of all parties to the complaint to keep the matter confidential. The protection of privacy and the maintenance of people's reputations necessitates that all parties to a complaint keep the matter strictly confidential.

HUMAN RIGHTS-BASED HARASSMENT

Human rights-based harassment refers to behaviour occurring in one of the areas of jurisdiction covered by the *Human Rights Code*, and arising out of any of the enumerated grounds. This type of harassment includes behaviours “*which would be considered by a reasonable person to create an intimidating, hostile or offensive environment for work, study and other university-related activities.*”

Human rights-based harassment refers either to direct or indirect behaviour and includes comments, remarks, gestures, or other conduct that is unwelcome to the recipient.

Examples of human rights-based harassment

- Intimidation or threats motivated by a protected ground of discrimination
- Staring at, mocking, or belittling someone because of a physical or mental disability
- Obscene graffiti or sexualized jokes
- Practical jokes that are offensive to an individual based on any of the protected grounds of discrimination
- Display or distribution of racist or offensive pictures or materials
- Any actions that could be perceived as exhibiting offensive or demeaning treatment toward an individual or group based on grounds protected under the *Human Rights Code*
- Derogatory remarks, innuendoes, or taunts about a person’s body, dress, physical appearance, or beliefs based on a protected ground of discrimination
- Derogatory comments, threats, or jeers about race, colour, ancestry, place of origin, or about the adornments and rituals associated with cultural or religious practices
- Racist jokes and ethnic slurs
- Derogatory comments about one’s gender, sexual orientation, gender identity, family status, or marital status
- Discriminatory comments about a person’s age

SEXUAL HARASSMENT

Sexual harassment is a form of human rights-based discrimination (on the basis of sex) that is prohibited under the *Human Rights Code*. UFW's *Harassment Prevention Policy* views sexual harassment as distinct from other forms of harassment:

Sexual harassment has some characteristics 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.

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 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.*

Examples of sexual harassment

- Making sexualized remarks about a person's appearance
- Producing sexualized sounds, e.g., whistling at someone
- Redirecting conversations to sexualized topics or fantasies
- Telling sexualized jokes or stories about oneself or another
- Asking questions about an individual's fantasy or sexual life
- Telling lies or spreading rumours about a person's sexual life
- Staring, leering, or looking a person up and down
- Displaying or distributing sexualized photos, audio, or video
- Making sexualized gestures or expressions with one's body
- Unwanted touching of a person's hair, face, or body
- Touching oneself sexually in the presence of another person

CRIMINAL HARASSMENT

Under Section 264. (1) of the *Criminal Code of Canada*, criminal harassment is illegal. More commonly known as stalking, criminal harassment is unwelcome behaviour to the recipient, including repeatedly following, communicating with, or watching over a person's home or work location. The harasser may be known or unknown to the recipient, but is sometimes a former partner. Both men and women may engage in or experience stalking behaviour.

Because criminal harassment falls under the jurisdiction of the *Criminal Code of Canada*, its occurrence should immediately be reported to local police authorities.

PERSONAL HARASSMENT, BULLYING, AND UNCIVIL CONDUCT

Personal harassment includes bullying, ostracizing, shunning, and other forms of uncivil conduct. This is inappropriate and unwelcome behaviour that does not fall under one of the protected grounds enumerated in the *BC Human Rights Code* but is nevertheless unacceptable in a university community.

Like human rights-based harassment, personal harassment, bullying, and uncivil conduct are behaviours that are unwelcome to the recipient, found to be offensive and demeaning, and "*would be considered by a reasonable person to create an intimidating, hostile or offensive environment for work, study, and other university-related activities.*"

Power dynamics and harassment

Understanding discrimination and harassment and their impact on individuals and organizations requires a grasp of how power can be misused. The dynamics of power are complex, with individuals and groups holding varying degrees of power according to factors such as social standing, role or position within an organization, length of service, and group affiliation. With that in mind:

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.

Examples of personal harassment, bullying, and uncivil conduct

When directed at an individual or individuals, the following behaviours are considered to be personal harassment:

- Abuse of authority
- Acts of intimidation or coercion
- Bullying
- Disparaging remarks about an individual
- Excessively critical or disrespectful comments
- Explicit threats or gestures
- Ganging up on or “mobbing” someone
- Hostile or aggressive behaviour
- Inappropriate and unwarranted rudeness
- Loud, angry outbursts
- Malicious gossip or slander
- Ostracizing, shunning, or singling someone out
- Subjecting someone to personal humiliation or insults
- Threatened or actual acts of physical violence
- Use of profanity or obscenities
- Verbal abuse, taunts, or malicious teasing

CONSEQUENCES OF HARASSMENT FOR THE INDIVIDUAL

The impact and consequences of harassment will vary from person to person and will be influenced by the duration and severity of the offensive behaviour, but people generally react to harassment by exhibiting symptoms of increasing distress. Individuals will frequently experience some or all of these responses to harassment:

- Disbelief — “this can’t be happening; it isn’t what I think it is; people don’t really do this sort of thing”
- Anger — “this isn’t right; they can’t do this; somebody has to make them accountable”
- Self-blame — “why didn’t I see this coming; I shouldn’t have been there; I should have done something”
- Loss of self-confidence — “I’m so stupid for letting this happen; I must be as bad as they say; I can’t seem to act or make decisions”
- Powerlessness — “Nothing is going to stop this; no one will believe me; people like this will always get away with it”
- Isolation, withdrawal, illness, depression

CONSEQUENCES OF HARASSMENT FOR THE UNIVERSITY

The impact of harassment on the University includes the human costs, but it has operational and financial implications as well. As employees and students experience harassment, the effect on the University includes:

- Reduced productivity — increasing preoccupation with the offensive conduct, combined with reduced self-confidence and a tendency to engage others in the situation
- Performance errors and a loss of individual and departmental productivity
- Increased absenteeism — strategies to avoid the offensive behaviour can result in increased sick time and stress leaves
- Turnover — with feelings of powerlessness and loss of faith in the ability of the University to address the matter, individuals will sometimes leave or exercise their right to move into other positions or programs of study
- Negative impact on public image — either formally through the media or informally through word-of-mouth, individuals will tell others of their experiences
- Union grievance and arbitration costs
- Human rights complaints and tribunal awards
- Financial costs of formal harassment investigations, severance payments, and compensation awards

WHY DON'T PEOPLE BRING COMPLAINTS FORWARD?

People don't bring forward concerns about inappropriate conduct for many reasons. Often, they are afraid of the consequences or have had unsatisfactory experiences voicing their concerns in the past. The following are some examples of why people don't bring forward complaints about their experience of inappropriate behaviour:

- Fear that nothing will be done
- Fear that they or the complaint won't be taken seriously
- Fear of reprisals from the perpetrator — especially if it is a supervisor or instructor
- Fear that they will be told they "asked" for it
- Fear of being blamed or ridiculed
- Afraid they will be told to "lighten up"
- Fear of getting a bad reputation
- Fear of appearing incompetent or unable to handle difficult situations
- Fear of being labelled a "troublemaker"
- Reluctance to get the perpetrator into trouble
- Feeling alone or isolated — that no one else objects to the behaviour
- Feeling embarrassed or humiliated by the behaviour

WHAT IS NOT HARASSMENT?

Relationships of mutual consent

Behaviours that are not considered harassment are those that arise from a relationship of mutual consent. A hug between friends, mutual flirtation, and a compliment on physical appearance between colleagues are not considered harassment.

Academic freedom and intellectual disagreements

Under the *Harassment Prevention Policy*, intellectual disagreements related to academic freedom are also not considered harassment:

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.

Direction of the workforce and student body

The management and discipline of employees and students is also not harassment. Legitimate requirements to comply with rules or standards — such as requests to meet dress codes, deadlines, employee performance standards, attendance requirements — are not considered harassment.

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.

DO NOT IGNORE THE PROBLEM — IT WILL NOT GO AWAY

Because of the significant personal and organizational costs of harassment and discrimination, it is important to address these inappropriate behaviours as early as possible. Ignoring harassment and discrimination doesn't make it go away. Instead, the perpetrator may view your silence as tacit acceptance of his or her behaviour. The behaviour will likely continue and may even escalate, compounding its detrimental effects.

HUMAN RIGHTS CODE OF BRITISH COLUMBIA

The *Human Rights Code* specifies fourteen grounds on which discriminatory practices are prohibited in the Province of British Columbia. Not all are protected in the eight areas of the Code's jurisdiction.

The protected grounds of discrimination in British Columbia

- Race
- Colour
- Ancestry
- Place of origin
- Political belief (*only* protected in employment advertisements & employment)
- Religion
- Marital status
- Family status (*not* protected in purchase of property)
- Physical or mental disability
- Sex
- Sexual orientation
- Age over 19 (*not* protected in purchase of property)
- Unrelated criminal conviction (*only* protected in employment and union and association membership)
- Lawful source of income (*only* protected in tenancy premises)

Application of the Human Rights Code

The *Human Rights Code* specifies eight areas of jurisdiction over which it has authority to prohibit discrimination. The areas of jurisdiction over which the *Human Rights Code* has authority are:

- Discriminatory publication
- Discrimination in accommodation, service and facility
- Discrimination in purchase of property
- Discrimination in tenancy premises
- Discrimination in employment advertisements
- Discrimination in wages
- Discrimination in employment
- Discrimination by unions and associations

RELATED WEBSITES

British Columbia Human Rights Coalition
www.bchrcoalition.org

British Columbia Human Rights Tribunal
www.bchrt.bc.ca

Ministry of Attorney General Human Rights Protection
www.ag.gov.bc.ca/human-rights-protection/

HUMAN RIGHTS AND CONFLICT RESOLUTION OFFICE

Services

UFV's Human Rights and Conflict Resolution Office provides confidential advice and assistance in resolving interpersonal conflicts among members of the University community. In addition, the Office receives informal and formal complaints of discrimination and harassment. If an issue falls within the jurisdiction of the Office, the Officer will offer services to assist the individual to seek redress for his or her concerns. The Office's services include:

- Confidential individual consultations and referrals
- Confidential individual conflict coaching
- Facilitated conversations between two or more parties
- Voluntary mediation sessions between two or more parties
- Labour, management, and Student Union consultations
- Receiving informal complaints of discrimination
- Receiving informal complaints of harassment
- Receiving formal complaints of discrimination
- Receiving formal complaints of harassment
- Education sessions for individuals and groups

Contact

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University of the Fraser Valley
Abbotsford Campus—Building A, Room 273
33844 King Road, Abbotsford, BC V2S 7M8
Telephone: (604) 864-4660
Toll Free: 1 (888) 504-7441 Local 4660
Email: humanrights@ufv.ca
Internet: www.ufv.ca/hrcro

HUMAN RIGHTS & CONFLICT RESOLUTION OFFICE

The Human Rights and Conflict Resolution Office provides confidential services to students, faculty, staff, and administrators at the University of the Fraser Valley, who seek advice, assessment, and assistance in the resolution of interpersonal conflicts between members of the University community.

The Office is responsible for ensuring that the University's *Harassment Prevention Policy* is enforced and that members of the University community comply with British Columbia's *Human Rights Code*.

The Office's services include:

- Confidential individual consultations and referrals
- Confidential individual conflict coaching
- Facilitated conversations between two or more parties
- Voluntary mediation sessions between two or more parties
- Labour, management, and Student Union consultations
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