



Harassment and Discrimination

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| Category: | Administration |
| Approving Body: | Leadership Team |
| Executive Division: | President |
| Department Responsible: | Harassment and Discrimination Advisor |
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Policy Statement

The British Columbia Institute of Technology, the British Columbia Government and Services Employees' Union (BCGEU) Local 703 Support and Instructional Bargaining Units, the BCIT Faculty and Staff Association and the Student Association agree that all members of the BCIT community are entitled to work and learn in an environment free from harassment and discrimination. To that end, these parties:

- Are committed to providing a learning environment where the individual differences of all students and employees are valued and respected.
- Will not condone and will not tolerate any discrimination or harassing behaviour which undermines the dignity, self esteem, and productivity of any student or employee.
- Consider harassment and/or discrimination by any employee or student to be a serious breach of human rights which requires immediate resolution. Such resolution may include disciplinary measures up to and including dismissal or expulsion.

All members of the BCIT community are expected to promote a learning and working environment of mutual trust and respect. Nothing in this policy or its associated Procedure 7507-PR1, Harassment and Discrimination Policy and Procedure derogates from the responsibility or the role of managers of BCIT to ensure a work and educational environment that is free from harassment and discrimination. BCIT is responsible to remedy situations of harassment and/or discrimination as they occur.

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Application of this Policy

This policy applies to BCIT students, employees of BCIT, and contract employees.

Related Documents and Legislation

Colleges and Institutes Act, RSBC 1996

British Columbia Human Rights Code

Definitions**BCIT Community**

The BCIT community includes all BCIT students, employees and contract employees.

Discrimination

Discrimination, as it applies to BCIT's students, is defined as denial of any accommodation, service, or facility, or opportunity that is customarily available to the public, because of the race, color, ancestry, place of origin, religion, marital status, family status, physical or mental disability, gender, or sexual orientation of the individual who was denied the accommodation, service, facility, or opportunity, except where there is a bona fide educational requirement.

Discrimination, as it applies to BCIT's employees, is defined as refusing to employ or to continue to employ a person, or refusing to provide an opportunity or benefit with respect to employment or any term or condition of employment, because of the race, color, ancestry, place of origin, political belief, religion, marital status, family status, sexual orientation, physical or mental

disability, gender, or unrelated criminal or summary conviction of that person, except where there is a bona fide occupational requirement.

Harassment

Harassment, for the purposes of this policy, is defined as any unwelcome remarks, behaviours or communications based on race, colour, ancestry, place of origin, political belief, religion, marital status, family status, sexual orientation, physical or mental disability, gender, age or criminal or summary conviction which causes offense or humiliation to any person, and:

- Submission to such conduct becomes explicitly or implicitly a term or condition of employment or the learning environment; or
- Submission to or rejection of such conduct is used as a basis for employment or educational decisions; or
- Such conduct has the purpose or effect of interfering with work or educational performance; or
- Such conduct creates an intimidating, hostile, or offensive working or educational environment.

Sexual Harassment

Sexual harassment is unwelcome sexually oriented conduct, which may be either verbal, physical, or by innuendo, where:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment or of educational progress; or
- Submission to or rejection of such conduct is used as a basis for employment or educational decisions; or
- Such conduct has the purpose or effect of interfering with work or educational performance; or
- Such conduct creates an intimidating, hostile, or offensive working or educational environment.

Personal Harassment

Personal harassment is defined as unwelcome remarks, behaviours or communications directed toward an individual or a group of individuals which misuses authority, or abuses the power one individual or a group of individuals has over an individual or a group of individuals. For the purposes of this Policy, the term power is intended to mean more than the power that is vested in an individual or position by the Institute. Power in this context includes any type of power that one individual may have over another individual. Misuse or abuse of power occurs when it has the effect or purpose of seriously abusing, threatening, demeaning, or intimidating the individual or group of individuals, and:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment or of educational progress; or
- Submission to or rejection of such conduct is used as a basis for employment or educational decisions; or
- Such conduct has the purpose or effect of interfering with work or educational performance; or
- Such conduct creates an intimidating, hostile, or offensive working or educational environment.

Other Information

It is recognized that harassing or discriminatory behaviour, as defined in this Policy, may be unintentional and that those responsible may not be aware of the offense they are causing and the effect their behaviour may have on the work or educational environment.

Discrimination and harassment can occur between individuals of the same or different status and both men and women can be the subject of harassment by members of either gender.

Discrimination and harassment can involve individuals or groups; can occur during one incident, or over a series of incidents, which, in isolation, would not necessarily constitute harassment; and can occur on campus or off, during working hours or not.

Duties, Responsibilities, and General Information

1. Education and Prevention

A crucial component of this policy is the provision for education about harassment and discrimination which will encourage awareness and prevention. BCIT will endeavour to ensure that all employees and students are made aware of what constitutes harassment and discrimination, why it is so harmful to those who are hurt or offended by it and what individuals can do to take corrective action. The BCGEU Local 703 Support and Instructional Bargaining Units, the BCIT Faculty and Staff Association, and the Student Association as parties to this agreement support and encourage BCIT's endeavours.

2. The Harassment and Discrimination Advisor

BCIT, in consultation with the Harassment and Discrimination Steering Committee, will act as a selection committee for the position of Harassment and Discrimination Advisor (Advisor). The Advisor will carry out the roles as set out in this Policy and Procedure 7507-PR1.

The role of the Advisor is to provide prevention-oriented education and confidential advisory services to the BCIT community, which promotes understanding and awareness of harassment and discrimination issues.

Specifically the Advisor shall:

- Act as a resource for all members of the BCIT Community who require general or specific information on harassment or discrimination.
- Be available to provide confidential advice or information about harassment or discrimination issues to any student, employee, or contract employee.
- Coordinate the development and delivery of appropriate training and education to employees and students on harassment and discrimination issues, this policy and Procedure 7507-PR1.
- Facilitate the resolution of complaints filed under this policy and assist members of the BCIT community to effectively resolve interpersonal conflicts where harassment or discrimination may be an issue.

3. Time Limit

For a complaint to be considered under this policy, it must be filed within one year of the last incident of harassment or discrimination. The Advisor has the discretion to waive this requirement where there are extenuating circumstances which prevented the complaint from being brought forward in that time frame. Participation in a successful or unsuccessful resolution attempt will constitute an extenuating circumstance for the purpose of this paragraph.

4. Confidentiality

Requests to the Advisor for advice or information will be held in strict confidence.

The name of the person filing the complaint (the Complainant), the person responding to the complaint (the Respondent), and the circumstances of the complaint will not be disclosed to any person except where disclosure is necessary for the purpose of investigating and resolving the complaint, taking any related disciplinary measures, or as required by law.

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The confidentiality of complaints of harassment or discrimination shall be respected by all those who are privy to information or in possession of documentation pertaining to matters/incidents relating to a complaint. This shall include refraining from discussions or releasing information in any form, beyond that outlined in this Policy and Procedure 7507-PR1 or as required by law.

Confidentiality is not the same as anonymity. The identity of the Complainant or Respondent may be disclosed by the Advisor if disclosure is necessary to facilitate the resolution of the complaint. The Complainant or Respondent will be advised if their identity will be disclosed.

Concerns for an individual's health, safety, and security, or legal proceedings such as arbitration, or requirements under the *Criminal Code* may require BCIT to disclose information about a complaint to individuals who may not be involved directly in the application of the procedures. In such a case the information will be disclosed through the Advisor with the authority of the President.

No documentation of the harassment or discrimination, including any materials resulting from an informal or formal resolution process, such as reports from the Advisor, the alternate Advisor, or Board of Inquiry will be placed on the Complainant's personnel file or student record.

In the event that the conclusion of an Advisor's review is that harassment or discrimination did occur and where disciplinary action was taken, a letter indicating the disciplinary action taken is the only documentation that will appear on the Respondent's personnel file or student record.

Any documentation, files, or records which relate to a complaint under this policy will be maintained in a confidential manner by the Advisor.

5. Representation

The Complainant and Respondent are entitled to be represented by a union representative, where they are a member of a bargaining unit, or by a representative of the Student Association, where they are a student, in all meetings with the Advisor, the alternate Advisor, or other meetings or hearings in relation to a complaint under this Policy and Procedure 7507-PR1. The type of representation available for the Complainant or the Respondent at the Board of Inquiry stage is determined by the representative of the Complainant or Respondent.

Where either the Complainant or Respondent is a member of excluded staff, they are entitled to a representative who is an employee of the Institute in all meetings with the Advisor, the alternate Advisor, or other meetings or hearings in relation to a complaint under this Policy and Procedure 7507-PR1.

6. Natural Justice and Fairness

The principles of natural justice and fairness shall be adhered to by anyone who becomes involved in any aspect of the process set out to deal with harassment or discrimination. This means that all parties to the harassment or discrimination complaint, including the Complainant, Respondent, and witnesses, will be given the opportunity to fully explain what happened from their perspective, to have their explanations and concerns fully considered, and to challenge any evidence that is being or has been considered.

7. Retaliation

Retaliation against any individual who has filed a complaint, or who has been named as a

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Respondent or witness in the complaint or who investigates the complaint according to Procedure 7507-PR1 shall itself be an incident of harassment and may result in disciplinary action.

8. Vexatious Complaints

Any person who makes a frivolous or vexatious complaint shall be subject to disciplinary action. Frivolous or vexatious complaints may themselves be grounds for a complaint of harassment.

9. Cost Sharing

All costs arising from filing a complaint with the Advisor or from a review by an Alternate Advisor shall be borne by BCIT. Where the parties proceed to a Board of Inquiry, the costs of the Board of Inquiry shall be shared by BCIT, the BCIT Faculty and Staff Association, and the BCGEU as follows:

- Where the Complainant and Respondent are members of the same bargaining unit, BCIT shall pay 1/3 of the cost and the bargaining unit shall pay the other 2/3.
- Where the Complainant and Respondent are not members of the same bargaining unit, BCIT shall pay 1/3 of the total cost and the bargaining units shall each pay 1/3 of the total cost.
- Where either the Complainant and/or Respondent is a management or excluded employee of BCIT shall pay 1/3 of the total cost, plus 1/3 of the cost in respect of the Complainant and/or Respondent who is a management or excluded employee. Where either the Complainant or Respondent in this instance is a member of a bargaining unit, that bargaining unit shall pay the remaining 1/3 of the cost.
- Where either the Complainant and/or Respondent is a student, BCIT shall pay 1/3 of the total cost, plus the cost in respect of the Complainant and/or Respondent who is a student.

10. British Columbia Human Rights Tribunal

Employees and students should also be aware that they may file a complaint of harassment or discrimination with the B.C. Human Rights Tribunal.

11. Grievance and Arbitration

BCIT, the BCGEU Local 703 Support and Instructional Bargaining Units, and the BCIT Faculty and Staff Association agree that the complaint and investigation processes provided in this policy constitute the grievance process for any and all complaints of harassment and discrimination on grounds included in this policy and involving employees who are members of bargaining units.

In such cases employees shall not have access to the other grievance processes in the collective agreements.

The aforementioned parties further agree that the Board of Inquiry provided for in this policy is a Board of Arbitration as provided under the Labour Relations Code of British Columbia, which will render (when required) a final and binding determination in any and all complaints of harassment and discrimination involving employees who are members of bargaining units.

12. Appeal to Board of Governors

If a student elects to appeal discipline implemented under this Policy to the Board of Governors, a decision by the Board of Governors regarding the discipline is final and determinative of the matter.

Duties, Responsibilities, and General Information

13. Steering Committee

There shall be a steering committee comprising members representing the parties to this policy. The steering committee shall provide interpretation of this policy and shall be responsible for any revisions to the Policy and Procedure 7507-PR1. The committee shall meet at least quarterly and more often if requested by members of the committee. The Advisor shall be a resource to the steering committee.

14. Periodic Review of Policy and Procedures

This Policy and Procedure 7507-PR1 are ratified for a three year period by BCIT, the BCGEU Local 703 Support Staff and Instructional Bargaining Units, the BCIT Faculty and Staff Association, and the Student Association.

During this time, amendments or revisions to the policy or the procedures may be made by mutual agreement of the parties. A formal review of the policy will commence one year prior to the expiry of this agreement. Any renewal or revision of this agreement must be mutually agreed to by all the parties to the agreement.

A student who is disciplined pursuant to Section 37(2) of the *Colleges and Institutes Act, RSBC 1996* under this policy retains a right to appeal that discipline to the Board of Governors. If a student elects to appeal discipline implemented under this policy to the Board of Governors regarding the discipline is final and determinative of the matter. As well, by electing to appeal to the Board of Governors, the student is precluded from pursuing a review by a Board of Inquiry on the matter of discipline.

An employee, who is suspended pursuant to Section 37(1) of the *Colleges and Institutes Act, RSBC 1996*, under this policy, retains a right to appeal that suspension to the Board of Governors. If the employee elects to appeal a suspension implemented as a form of discipline under this policy to the Board of Governors, a decision by the Board of Governors regarding the suspension is determinative of the matter. As well by electing to appeal to the Board of Governors, the member of the instructional, administrative and other staff is precluded from pursuing a review by a Board of Inquiry on the matter of the suspension.

Procedures Associated With This Policy

Procedure 7507-PR1, Harassment and Discrimination

Forms Associated With This Policy

See procedure for list of forms.

Amendment History

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Scheduled Review Date

2015 May 01