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## Prevention of Discrimination, Harassment, and Bullying

Procedure No.:	7507-PR1
Version:	4
Policy Reference:	7507, Prevention of Discrimination, Harassment, and Bullying
Category:	Human Resources
Approval Body:	Board of Governors
Executive Sponsor:	VP People, Culture, & Inclusion
Department Responsible:	People, Culture, & Inclusion (Respect, Diversity, & Inclusion Office)
Directory of Records Class:	0650-10
Approval Date:	2025 Dec 03

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### Objectives

This Procedure forms part of Policy 7507, Prevention of Discrimination, Harassment, and Bullying. This Procedure provides a fair and equitable process for the resolution of concerns and Formal (written or otherwise documented) complaints of Discrimination, Harassment, or Bullying (including retaliation as defined in the Policy).

### Who This Procedure Applies To

This Policy applies to all BCIT students, employees, contractors, volunteers, visitors, and members of the Board of Governors, during all BCIT-related activities.

### Scope

BCIT-related activity includes any type of activity or communication directly related to or arising out of the operations of BCIT regardless of the location, including but not limited to: online and electronic communications; engagement with the public; practicums; field schools; co-ops; conferences; BCIT-sponsored events; participation in student clubs, teams, and social events sponsored by the Student Association or its clubs.

### Purpose

The purposes of this Procedure are:

- to communicate how concerns relating to conduct prohibited under the Policy are to be addressed; and,
- to set out the roles, rights, and responsibilities of parties to a Complaint.

### Related Documents and Legislation

As set out in the Policy.

### Definitions

The terms and meanings in this Procedure are as used and defined in the Policy.

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**Duties and Responsibilities**

*Preventing and Responding to Concerns Relating to Discrimination, Harassment, or Bullying*

**All BCIT Community Members including employees and students**

Individuals are encouraged to resolve concerns informally, if they feel safe doing so. An individual may directly advise a person they believe has behaved inappropriately that the behaviour is unwelcome.

Any individual who believes they have been or are being subjected to Discrimination, Harassment, or Bullying as defined in Policy 7507 should keep a record of the incident or incidents of the prohibited behaviour including dates, times, what happened, and names of any witnesses.

All *employees* are expected to report any behaviour that they believe could constitute Bullying and Harassment to a person in authority, even if they do not wish to make a Formal Complaint.

Members of the BCIT community are strongly encouraged to report any instances of suspected Discrimination, Harassment, or Bullying to a person in authority, especially if they or others have been unable to resolve it directly.

**BCIT Employees with management or supervisory authority**

BCIT personnel who manage or supervise employees have an obligation to take reasonable

steps within their scope of authority to prevent and respond to Discrimination, Harassment, or Bullying they are aware of.

Faculty and Faculty Instructors responsible for students have an obligation to take reasonable steps within the scope of their authority to prevent and respond to Discrimination, Harassment, or Bullying of their students they are aware of.

All employees are encouraged to contact RDI with any questions about how to fulfill their responsibilities.

### **RDI**

Anyone believing or suspecting that Policy 7507 may have been breached, whether or not they are the individual subjected to the conduct in question, can contact RDI for confidential advice and information.

RDI will listen to the concern raised, ask questions, and provide relevant information appropriate to the situation. Such advice or information may include an assessment of whether the alleged behaviour appears to be conduct prohibited by the Policy, options for resolutions under this Procedure or other ways of addressing the concerns, and any referrals deemed appropriate.

RDI does not provide legal advice, nor does it advocate for any party.

## **Procedures**

### **1. Reporting Concerns**

Reporting an allegation of Discrimination, Harassment, or Bullying means advising a person in authority of the concern. Reporting a concern is not the filing of a Formal Complaint under this Procedure.

Allegations of Discrimination, Harassment, or Bullying can be reported to any of the following:

*For employees:*

- direct supervisors or managers;
- if the direct supervisor or manager is the subject of the reported behaviour, their manager;
- [the Health and Safety Representative](#);
- [the Human Resources Department](#)
- the [Senior Director Student Success](#) or designate if the conduct is that of a student, per Policy 5102, Student Code of Conduct (Non-Academic);
- RDI; or,
- a Union Representative.

**For students:**

- Faculty and Faculty Instructors, Program or Department Heads, or Associate Deans;
- [the Student Life Office](#);
- the [Senior Director Student Success](#) or designate, if the conduct is that of a student, per Policy 5102, Student Code of Conduct (Non-Academic);
- RDI; or,
- [the Advocacy Services of the Student Association](#).

**For anyone else:**

- The supervisor or manager of the person whose behaviour is being reported; or,
- RDI.

**2. Addressing Concerns through the RDI Office**

During an initial meeting with a person reporting potential violation of the Policy, RDI will outline the Policy and available options, provide advice regarding rights to representation and confidentiality, and discuss available resources for example those found on the RDI webpage.

**(a) Informal Resolution Process**

RDI may, if appropriate, offer to address the reported potential violation informally, without the filing of a Formal Complaint. An offer to assist an Informal Resolution is not a determination as to the merits of the case.

Informal Resolution is a voluntary process. Parties are strongly encouraged to make a reasonable effort to resolve matters unless they feel unsafe doing so. Any party to the concern may decline to participate in this process or may terminate their participation in the process at any time without prejudice. Informal Resolution may take various forms, including but not limited to:

- RDI relaying a concern brought by one party about another and providing information around behavioural expectations set out in the Policy;
- exchanging information between the parties to facilitate resolution; and,
- bringing parties together for facilitated conversations to resolve matters.

The Informal Resolution process is confidential. Any statements made in good faith in attempting to resolve the matter, including apologies (in accordance with the *Apology Act*) or admissions of culpability cannot be used against either party should the matter proceed to a Formal Complaint and Investigation.

If an Informal Resolution is not initiated or does not resolve the matter, the Complainant may submit a Formal Complaint in accordance with this Procedure.

**(b) Formal Complaints****(i) Documenting a Formal Complaint**

Potential Complainants are strongly encouraged to discuss their concerns with RDI before submitting a Formal Complaint.

Any person filing a Formal Complaint must do so in good faith. A Formal Complaint must be provided in the prescribed manner or equivalent as determined by RDI. This includes filing the appropriate complaint form and providing information clearly outlining:

- name of the person submitting the Complaint (Complainant);
- name of the person(s) alleged to have breached the Policy (Respondent(s)), or if not yet known, a sufficiently clear description of the person(s), their apparent role, and circumstances, to enable identification;
- The specific sections of the Policy that are believed to have been breached;
- the actions, comments, behavior, or decisions believed to have contravened the Policy; and,
- a timeline of relevant events.

(ii) *Submitting a Formal Complaint*

A Formal Complaint can usually be submitted only by the person who was subjected to the alleged prohibited conduct. Exceptions where others may file a Formal Complaint may include:

- Complaints alleging systemic discrimination;
- Complaints filed on another's behalf with their signed consent (subject to collective agreement provisions); or,
- Complaints where in the opinion of the Head of RDI extenuating circumstances warrant acceptance.

A Complainant is required to inform RDI if they have reason to believe this matter has been, is being, or will be addressed through another complaint process either internally or externally.

(iii) *Review of Filed Formal Complaint*

RDI reviews all filed Formal Complaints to determine whether to accept them. They may decline to accept a Formal Complaint on any of the following grounds:

- the allegations are so unclear or vague that they could not be reasonably dealt with in accordance with procedural fairness;
- the allegations are past the time limit specified in the Policy and an extension has not been granted;
- the allegations (even if assumed to be true) do not constitute behaviour prohibited by the Policy;
- the allegations have been or are being fairly dealt with through another suitable process or proceeding;
- if doing so may prejudice the rights of a party to a Complaint in another proceeding; and,
- any other reason, if in accordance with procedural fairness.

If RDI declines the Complaint, they will advise the Complainant in writing within 15 working days or notify them that more time is required to decide. They will also refer the Complainant to other BCIT policies that may address the matter, or to other BCIT services or supports, or to services outside BCIT that may assist in resolving the concerns.

The Complainant may request a review of RDI's decision to decline the Complaint. The Head of RDI must review the Formal Complaint within 10 working days of the request and advise the Complainant in writing of their decision.

If the reviewer determines to uphold the decision to decline the Complaint, the Complainant will be notified and no further action will be taken by RDI with respect to the Formal Complaint. The Complainant may pursue other available internal or external processes.

If, after review, the reviewer accepts the Formal Complaint, RDI will proceed in the manner outlined below.

(iv) *Acceptance of a Formal Complaint*

When RDI accepts a Formal Complaint, it will advise the Complainant. Acceptance of a Formal Complaint does not mean that it has been determined that the Complaint has merit.

The Complainant may request Formal Resolution or an Investigation of the Complaint at any stage in the process.

RDI will provide a copy of the Formal Complaint to the Respondent(s) and advise them whether the Complainant is seeking a Formal Resolution of the matter or has requested an Investigation.

The Respondent is provided the opportunity to submit a Reply document, which will be shared with the Complainant.

(v) *Formal Resolution Process*

A Formal Resolution process can be initiated with the endorsement of RDI and the agreement of both the Complainant and the Respondent. This process is voluntary and either party, or RDI, can end it at any time, without prejudice.

The Formal Resolution Process can take several forms, including but not limited to facilitated conversations. RDI will outline for the parties the process involved and only proceed with agreement of both parties.

The resolution process is confidential. Any statements made in good faith attempts to resolve the matter, including an apology (in accordance with the *Apology Act*) or admittance of culpability cannot be used against either party should the matter later proceed to an Investigation and adjudication.

(vi) *Agreement Reached*

If a resolution is reached RDI can assist the parties in documenting a binding resolution. A

resolution agreed to by the parties is considered to have addressed the Formal Complaint and resolved the matter. Copies of the documented resolution will be provided to both parties and be kept by RDI.

Where the resolution of the Formal Complaint is based on remedial measures agreed to by the Complainant and the Respondent, RDI can assist in the implementation of such measures.

Implementation of a resolution may require the sharing of information otherwise considered confidential by RDI. RDI will obtain the consent of both Complainant and Respondent if this is required.

(vii) *Agreement Violated*

Failure by the Complainant or Respondent to undertake remedial measures or adhere to the terms of the resolution may be regarded as a breach of the agreement and result in discipline or corrective action. RDI may refer a party's alleged breach of a resolution agreement to BCIT Labour Relations or to the Senior Director Student Success or designate for further review and to determine appropriate steps.

**(c) Investigation**

If a Formal Resolution process has not been attempted or was unsuccessful, the Complainant may request an Investigation.

(i) *Investigation Process*

RDI will conduct or administer the Investigation. Individuals who facilitated an attempted resolution will not be assigned as Investigators.

The Investigator is not an advocate but rather a neutral fact finder. The Investigation will determine whether, on a balance of probabilities, the Policy has been breached, as alleged in the Formal Complaint.

Both the Complainant and the Respondent will have the opportunity to provide any information and evidence they deem relevant, as well as to identify witnesses.

The Investigator will provide the Complainant and the Respondent with an opportunity to participate in at least one interview. All parties to a complaint will be given the opportunity to fully explain what happened from their perspective, to have their explanations and concerns fully considered, and to challenge evidence that is being considered, orally, in writing, or both.

Complainants and Respondents are expected to participate in the Investigation process, including one or more interviews. However, in cases where the Respondent fails to agree to an interview request within a reasonable time without appropriate justification, the Investigation will proceed without their participation. In cases where the Complainant fails to participate within a reasonable time without appropriate justification, or ceases to participate, RDI will determine whether the Investigation will proceed without their further participation or be terminated.

(ii) *Investigation Report*

At the conclusion of the Investigation the Investigator will produce a Report containing:

- a. A summary of the Complainant's and Respondent's positions.
- b. Findings of fact and reasons for the findings.
- c. A determination as to whether the Policy was, on the balance of probabilities, breached and reasons for that finding.
- d. If applicable, mitigating or aggravating factors relevant to the determination of potential discipline or corrective action if the Investigator determines a breach of the Policy has occurred.
- e. If applicable, remedial suggestions regarding the specific circumstances of the Complaint and the maintenance of a respectful environment free of Discrimination, Harassment, and Bullying.

Copies of the Investigation Report will be provided to the Complainant and the Respondent. They may share it with their Representatives but with no one else, unless required by law.

(iii) *Breach of Policy and Discipline*

If the Investigation finds a breach of the Policy occurred, the Report will be forwarded to the appropriate Office to determine the next steps:

- If an employee is found to have breached the Policy, the Report will be forwarded to the Manager of Labour Relations for review:
  - The Manager of Labour Relations or their designate will follow established disciplinary processes in accordance with relevant collective agreements, policies, and legislation.
  - Employees have the right to grieve or contest discipline in accordance with applicable collective agreements, contracts, policies, and legislation.
- If a student is found to have breached the Policy, the report will be forwarded to the Senior Director of Student Success for review and to determine the appropriate outcome or discipline:
  - The Senior Director of Student Success, or their designate, will follow established disciplinary processes in accordance with relevant policies and legislation.
  - Students have the right to appeal discipline issued in accordance with the applicable policies (such as Policy 5102, Student Code of Conduct) and legislation.
- If the person who breached the Policy is neither a student nor employee RDI will determine what department should receive the Report to decide upon appropriate sanctions, if applicable.

In all cases where a violation of the Policy has occurred, BCIT will mitigate the impact of the incident by taking actions to restore a respectful working and learning environment and implementing measures to reduce the likelihood of recurrence.

A breach of confidentiality may result in referral to another department for further action.

### **3. Appeal to Board of Inquiry**

#### **(a) Requesting Appeal to Board of Inquiry**

- (i) Complainants or Respondents seeking to appeal Investigation findings to a Board of Inquiry (“applicant”) must submit a request in writing to RDI, setting out the reasons for an Appeal. The applicant must do so within 10 working days of receipt of the Investigation Report. They are also responsible for notifying their Representative of the request and disclosing a copy of the Investigation Report to them. In the case of excluded staff, they must notify the Manager of Labour Relations.
- (ii) The applicant’s Representative (or the Manager of Labour Relations) may notify RDI of the request in writing within 20 working days of receipt of the Report (or a longer period as mutually agreed by the Representatives of the Complainant and the Respondent) that an Appeal is being requested.
- (iii) If no such request (above) is received, the findings of the Investigator shall be determinative of the Complaint.
- (iv) Upon receipt of the Notice, the Head of RDI shall advise the President in writing that a Board of Inquiry is required.

#### **(b) Board of Inquiry**

- (i) Upon receipt of the Notice the Head of RDI will, within five working days, inform an available Arbitrator mutually agreed upon by the Representatives of the parties.
- (ii) The Arbitrator selected shall make every effort to convene a Board of Inquiry within 30 working days.
- (iii) The Board of Inquiry will conduct a hearing at which the Complainant, the Respondent, their Representatives, and BCIT are present. The Board of Inquiry hearing shall be conducted in a procedurally fair manner and held in private.
- (iv) The Board of Inquiry shall determine its own procedures and advise the parties of them before the Inquiry begins. The Board of Inquiry may consider any evidence it deems necessary or appropriate if the consideration of that evidence is consistent with procedural fairness.
- (v) The Board of Inquiry shall prepare a written decision within 10 working days of the conclusion of the hearing, summarizing the facts and evidence considered, the decision of the Board of Inquiry as to whether Discrimination, Harassment, or Bullying occurred, and the reasons for that determination.
- (vi) The Board of Inquiry may make any other order or any other recommendation it deems appropriate to correct the situation of Discrimination, Harassment, or Bullying, and that order shall form part of the written decision.
- (vii) The decision of the Board of Inquiry as to whether Discrimination, Harassment, or Bullying occurred, and including any orders that the Board of Inquiry makes to resolve or remedy the matter, shall be final and binding on BCIT, the Complainant, the Respondent,

and their Representatives.

(viii) The Board of Inquiry shall deliver its written decision within ten working days of the conclusion of the hearing to the:

- Complainant;
- Respondent;
- President;
- Head of RDI;
- Manager of Labour Relations, where any party is an employee;
- Bargaining unit staff representative, where any party is a member of a bargaining unit;
- Senior Director Student Success, if any party is a student; and,
- the Registrar, if any party is a student.

#### **4. Appeal to Board of Governors**

(a) A student disciplined under this Policy has a right pursuant to Section 37(2) of the *College and Institute Act* to appeal to the Board of Governors. In such an appeal, a decision by the Board of Governors regarding the discipline is final and determinative. By electing to appeal to the Board of Governors, the student is precluded from review of the discipline by a Board of Inquiry.

(b) An employee suspended under this Policy has the right pursuant to Section 37(1) of the *College and Institute Act* to appeal to the Board of Governors. In such an appeal, a decision by the Board of Governors regarding the suspension is final and determinative. By electing to appeal to the Board of Governors, the employee is precluded from review of the suspension by a Board of Inquiry.

### **Other Information**

#### **1. Grievance and Arbitration**

(a) BCIT, the British Columbia General Employees' Union (BCGEU) Support Bargaining Unit, BCGEU Faculty Bargaining Unit, and the BCIT Faculty and Staff Association (BCITFSA), agree that the Complaint and Investigation processes provided in this Policy and Procedure constitute the grievance process for all complaints of Discrimination, Harassment, and Bullying on grounds included in this policy and involving employees who are members of bargaining units.

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

(b) The aforementioned parties further agree that the Board of Inquiry in this Policy and Procedure is a Board of Arbitration under the *Labour Relations Code* of British Columbia, which will render when required a final and binding determination in all Complaints of Discrimination, Harassment, and Bullying involving employees who are members of bargaining units.

**2. Conflict of Interest**

- (a) If, at the outset of a Formal Resolution or Investigation, the Complainant or Respondent or their Representative believe RDI to be in a conflict of interest, they will document their concern and advise RDI. A copy will be shared with the other party to the Complaint, who has the right to respond.
- (b) For the purposes of this Policy a conflict of interest exists when there is clear and convincing evidence that the RDI representative has a personal or professional interest which is sufficient to influence or appear to influence the objective exercise or proper discharge of their duties. A conflict of interest situation may arise even where there is no intention of acting unfairly or dishonestly. The fact that a conflict of interest is alleged does not in itself create such a conflict.
- (c) If the Head of RDI agrees there is a conflict of interest they will reassign the file. If they do not agree, the Resolution or Complaint process may proceed with the original file assignment.
- (d) If the Head of RDI is alleged to have a conflict of interest, but disagrees, the individual alleging the conflict may request the Steering Committee to consider whether a conflict of interest exists for the purpose of file reassignment.

**3. Withdrawal of Complaint**

A Complainant may withdraw their Complaint at any time by notifying RDI.

Withdrawal of a Complaint does not prevent a Respondent from filing a Complaint alleging the initial Complaint was frivolous, vexatious, malicious, or made in bad faith.

**4. Interim Measures**

- (a) If RDI determines that interim measures are appropriate to protect the health or safety, including psychological safety, of anyone involved; or to protect the integrity of an Investigation, they may require implementation of appropriate interim measures by persons with authority to do so.
- (b) Interim measures may require the sharing of information which would otherwise be considered confidential. Only information needed to protect safety will be shared.
- (c) Interim measures may include but are not limited to taking steps to prevent involved individuals from interacting with each other, such as by altering learning or working schedules or locations. Any interim measure will not impact the outcome of a complaint.

**Forms Associated with This Procedure**

None

**Amendment History**

		<u>Approval Date</u>	<u>Status</u>
Created:	7507 Procedure PR1 version 1	2009 May 01	Replaced
Revised:	7507 Procedure PR1 version 2	2010 June 29	Replaced
Revised:	7507 Procedure PR1 version 3	2014 July 22	Replaced
Revised:	7507 Procedure PR1 version 4	2025 Dec 03	In force

**Scheduled Review Date**

2030 December 3; or earlier, if regulatory or operational changes require review. The parties may at any time – by mutual agreement – initiate draft amendments for consideration by the Board for approval.