

Prevention of Discrimination, Harassment, and Bullying [DRAFT]

Policy No:	7507
Version:	6
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:	YYYY MMM DD [tbd]

Policy Statement

This Policy (7507) and the related Procedure (7507-PR-1) were developed in consultation with, and are endorsed by, the British Columbia General Employees' Union (BCGEU) Support Bargaining Unit, BCGEU Faculty Bargaining Unit, the BCIT Faculty and Staff Association (BCITFSA), and the BCIT Student Association (BCITSA).

The British Columbia Institute of Technology (BCIT) recognizes that the BCIT community comprises individuals from many backgrounds, abilities, experiences, and identities, each contributing uniquely to the richness and diversity of the BCIT community as a whole. In recognition of this, BCIT fosters a climate of collaboration, understanding, and mutual respect between all members of the community. To that end BCIT and the above-mentioned parties:

- acknowledge that BCIT campuses are located on unceded Indigenous land belonging to the Coast Salish peoples, including the territories of the x^wməθk^wəyəm (Musqueam), Səlílwətaʔ/Selilwitulh (Tsleil-Waututh), and Skwxwú7mesh (Squamish) Nations;
- are committed to providing a respectful, diverse, and inclusive learning and working environment free of Discrimination, Harassment, and Bullying (including retaliation as defined in this policy);
- champion diversity of experiences, ideas, cultures, and perspectives in a community of equity and inclusivity;
- expect all members of the BCIT community to contribute to a learning and working environment where the individuality of all students and employees is valued and respected; and,
- consider Discrimination, Harassment, and Bullying to be serious matters that undermine human dignity.

Purpose of Policy

The purpose of this Policy is to:

- communicate the importance of a respectful and inclusive learning and working environment, free of Discrimination, Harassment, and Bullying;
- define prohibited conduct;
- define the roles, rights, and responsibilities of all BCIT community members; and,

- establish education and prevention programs, and practices that support a respectful learning and working environment.

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Who This Policy Applies To

This Policy applies to all BCIT students, enrolment and employment applicants, 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; practicums; field schools; co-ops; conferences; and participation in clubs, teams, and Student Association events.

Related Documents and Legislation

Provincial Legislation

Apology Act, SBC 2006 c 19

College and Institute Act, RSBC 1996, c 52

Freedom of Information and Protection of Privacy Act, RSBC 1996, c 165

Human Rights Code, RSBC 1996, c 210

Labour Relations Code, RSBC 1996, c. 244

Sexual Violence and Misconduct Policy Act, SBC 2016, c 23

Workers Compensation Act, RSBC 2019, c 1

BCIT Policies

1000, Policy Development and Maintenance

1500, Code of Conduct

4501, Accommodation for Students with Disabilities

5102, Student Code of Conduct (Non-Academic)

6700, Freedom of Information and Protection of Privacy

7100, Safety and Security

7100-PR1, Response to Abusive or Threatening Behaviour Procedure

7103, Sexualized Violence

7150, Occupational Health and Safety

7511, Employment and Educational Equity

Definitions

The following definitions apply to this policy and its associated procedures:

“Complainant” means an individual who has filed a Formal Complaint under this Policy.

“Discrimination” refers to conduct - intentional or unintentional, individual or systemic – that:

- lacks bona fide justification and has the purpose or effect of causing an adverse impact (i.e., denial of an opportunity or imposition of a burden) to an individual or group on the basis of a Personal Characteristic (defined below); or,
- fails to provide reasonable accommodation (to the point of “undue hardship”) for needs related to a Personal Characteristic.

It is not discrimination or a contravention of this Policy to implement an employment equity or other program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups.

“Formal Complaint” means a written or otherwise documented statement provided in the manner required by the Procedure, alleging this Policy has been violated.

“Formal Resolution” means a voluntary agreement between parties to address concerns raised in a Formal Complaint filed under this Policy.

“Harassment” refers to conduct which meets any of the following definitions:

Discriminatory Harassment

Unwelcome, abusive, or demeaning behaviour, remarks, conduct or communications directed towards another person or persons that:

- include a direct or indirect reference to a Personal Characteristic; and,
- would be viewed by a reasonable person experiencing the behaviour as interfering with their participation in a BCIT-related activity, or, creating an intimidating, humiliating, or hostile environment.

Sexual Harassment

Unwelcome behaviour, remarks, conduct or communications of a sexual nature or due to a person’s sex or gender, by a person:

- who knows or ought reasonably to know that the behaviour is unwanted or unwelcome; and,
- which interferes with another person's participation in a BCIT-related activity; or,
- leads to or implies job- or academically-related consequences for the person harassed.

Bullying and Harassment

Any inappropriate conduct or comment by one person towards another that the person knew or reasonably ought to have known would cause the other person to be humiliated or intimidated; excluding reasonable actions by an employer, supervisor, faculty member, or other person relating to the management, direction, training, education, or evaluation of others.

Harassment can occur during one incident, or over a series of incidents that individually would not necessarily constitute harassment.

“Informal Resolution” means a voluntary agreement between parties to address concerns related to conduct under this Policy where no Formal Complaint has been filed.

“Investigation” means a systematic inquiry into a Formal Complaint, conducted in accordance with the Procedure, to determine whether this Policy has been contravened.

“Personal Characteristics” means the following characteristics as well as any others specified in the BC *Human Rights Code* as grounds of discrimination (“prohibited grounds”):

Race, colour, ancestry, Indigenous identity, place of origin, political belief (in employment), religion, marital status, family status, physical disability or mental

disability, sex, gender identity, gender expression, sexual orientation, age, criminal or summary conviction unrelated to employment (in employment).

“Respondent” means an individual named in a Formal Complaint as having allegedly breached this Policy.

“Retaliation” means any adverse or threatened action, direct or indirect, taken by an individual against another individual for:

- invoking this Policy in good faith; or,
- participating or cooperating in any Formal or Informal Resolution or Investigation or in any other process pursuant to this Policy.

Duties and Responsibilities

BCIT

BCIT is responsible for providing a respectful learning and working environment by:

- preventing and discouraging Discrimination, Harassment, and Bullying, including through the delivery of education and awareness programs making students and employees aware of prohibited conduct under this Policy, and of the harms of Discrimination, Harassment, and Bullying and how to address them;
- providing an internal complaint process to address concerns of Discrimination, Harassment, and Bullying; and,
- ensuring appropriate outcomes and corrective actions where a Formal Complaint under this Policy is substantiated.

Members of the BCIT Community

Every member of the BCIT Community is:

- responsible for not engaging in Discrimination, Harassment, and Bullying, or any conduct contrary to this Policy;
- expected to adhere to all provisions set out in this Policy and Procedure including cooperating with any prescribed processes;
- strongly encouraged to promptly report suspected or alleged violations of this Policy;
- required to maintain confidentiality in accordance with this Policy;
- encouraged to engage with the Respect, Diversity and Inclusion Office (“RDI”) at BCIT when addressing a concern or complaint.

The Steering Committee

The *Prevention of Discrimination, Harassment, and Bullying Steering Committee* (Steering Committee) comprises five members, with one representative from each of the following: BCIT; the BCGEU Support Bargaining Unit; the BCGEU Faculty Bargaining Unit; the BCITFSA; BCITSA.

The Steering Committee is responsible for:

- any revisions to this Policy and Procedure in accordance with the applicable Collective Agreements and BCIT Policy 1000;
- providing interpretations of this Policy and seeking external advice as needed to fulfill its responsibilities under the Policy;
- meeting at least twice annually or more often at the request of members;
- acting as the selection committee for RDI Advisors with the addition of the Head of RDI as a member of the selection committee;
- acting as the selection committee for the position of Head of RDI, with the addition of an RDI Advisor as a member of the selection committee;
- striving to reach consensus in any hiring decisions; and,
- creating and abiding by committee terms of reference.

The Respect, Diversity, and Inclusion Office (RDI)

RDI is responsible for:

- coordinating the development and delivery of appropriate education and awareness for employees and students related to the prevention of Discrimination, Harassment, and Bullying;
- providing confidential advisory services to any member of the BCIT community regarding any issues related to this Policy;
- facilitating the voluntary resolution of informal concerns and Formal Complaints under this Policy and Procedure;
- Administering the Investigation of Formal Complaints under this Policy and Procedure;
- acting as a resource to the Steering Committee; and,
- taking any other actions deemed appropriate by RDI to contribute to a respectful, diverse, and inclusive learning and working environment.

Consequences of Policy Violation

Any breach of this Policy may result in discipline up to and including termination of employment (for employees) or expulsion (for students).

Contractors, visitors to BCIT, and other third parties are expected to comply with this Policy. BCIT shall take reasonable action to address concerns related to conduct prohibited under this Policy, including denying or revoking access to BCIT property or events.

Other Information

1. Frivolous and Vexatious Complaints

Any person who makes a frivolous or vexatious complaint may be subject to disciplinary action. Frivolous or vexatious complaints may themselves be grounds for a complaint of Bullying and Harassment. Any complaint that is found to be frivolous, vexatious, malicious, or made in bad faith will constitute Bullying and Harassment under this Policy.

2. Time Limit

Anyone who believes this Policy may have been contravened is encouraged to raise their concern as soon as possible. For a Complaint to be accepted under this Policy, it should be filed within one year of the last incident of prohibited conduct. The Head of RDI may waive this time limit where extenuating circumstances prevented the Complainant from filing the Complaint in time. When considering whether to grant an extension, prejudice to the Respondent(s) will be considered, in addition to other factors.

If the request to file a Complaint beyond the one-year time limit is denied the Head of RDI will provide reasons for the denial, which may be appealed to the Board of Inquiry.

3. Multiple Proceedings

External Proceedings

Filing a Complaint under this Policy and Procedure does not preclude an individual from pursuing a complaint with the Human Rights Tribunal, WorkSafe BC, or other non-BCIT authority.

Internal Proceedings at BCIT

A Complainant may not initiate multiple proceedings at BCIT to deal with the same issue. The Head of RDI may decline to accept or may not proceed with all or part of a Complaint where it is fairly and adequately addressed by another BCIT proceeding, including but not limited to a grievance under a collective agreement or proceeding under BCIT's Student Code of Conduct (Non-Academic).

4. Representation

In all meetings or discussions with RDI, or other meetings or hearings in relation to an informal concern or Formal Complaint under this Policy and Procedure:

- Employees who are members of a bargaining unit have a right to have union representation present at all stages of the process. Representation shall be afforded to employee members in accordance with the policies and practices of the union.

- RDI will permit students involved to request and obtain representation by the BCIT Student Association. Representation shall be afforded in accordance with the policies and practices of the Student Association.
- Where a current or former excluded employee is involved, RDI will permit that individual to obtain representation by another BCIT excluded employee of their choosing.

5. Support Person

In meetings or discussions with RDI, or other meetings or hearings in relation to an informal concern or Formal Complaint under this Policy and Procedure, an individual may request that a “support person” attend. Permission to allow a support person to attend will not be unreasonably withheld by RDI.

A support person can include but is not limited to a union representative, Elder, counsellor, friend, or family member. The role of a support person is not to represent or to speak for the person. Rather, they may attend meetings to observe and provide emotional support. The support person is bound by confidentiality.

6. Procedural Fairness

The principles of procedural fairness shall be adhered to by all involved in the processes set out to deal with Discrimination, Harassment, or Bullying. All parties to the Discrimination, Harassment, or Bullying Complaint, including Complainants, Respondents, and witnesses, will be given the opportunity to fully explain what happened from their perspective, to have their explanations, evidence, and concerns fully and impartially considered, and to challenge any evidence being considered.

7. Cost Sharing

All costs arising in filing Formal Complaints with RDI shall be borne by BCIT.

Where the parties proceed to a Board of Inquiry, costs shall be shared by BCIT, the BCIT Faculty and Staff Association, the BCGEU Support Bargaining Unit, and the BCGEU Faculty Bargaining Unit as follows:

- BCIT always pays one-third of the total cost;
- BCIT also pays one-third of the total cost for each Complainant or Respondent who is either a management or excluded employee or a student;
- The bargaining unit shall pay one-third of the total cost for each Complainant or Respondent who is their member

Confidentiality

Personal information

In accordance with its obligations under *the Freedom of Information and Protection of Privacy Act* ("FIPPA") and Policy 6700, Freedom of Information and Protection of Privacy, BCIT will protect the privacy and confidentiality of staff, students, and other individuals involved in matters covered by this Policy. Personal information collected under this Policy will only be used and disclosed by BCIT as permitted or required under FIPPA and will be shared internally strictly on a need-to-know basis.

Complaints

Complaints filed under the Policy and addressed under the Procedures may involve the collection, use, and disclosure of sensitive personal information. Confidentiality is required so that those who may have experienced Discrimination, Harassment, or Bullying feel free to report it. It is also required for the protection of the reputations and interests of those accused of Discrimination, Harassment, or Bullying. However, any party may discuss the case in confidence with their supervisor, support person, or representative.

Subject to any limits or disclosure requirements imposed by law or by this Policy and Procedure, all information created, discovered, and collected through a Complaint in any form is to be treated as confidential by the Respondent and Complainant, their representatives, support persons, witnesses, and those administering the Policy.

Requests for RDI advice or information

Requests to RDI for advice or information related to matters under this Policy will be held in confidence, and RDI will limit access to Complaint files and related information and maintain them securely. Such information and documentation will only be released or disclosed by BCIT or by RDI on a need-to-know basis and as permitted by FIPPA or required by law, including:

- to address the emotional, psychological, or physical safety of any individual;
- to implement interim steps pending the outcome of an Investigation;
- to resolve and implement a voluntary Resolution;
- to conduct an Investigation;
- after a formal finding that the Policy has been breached.

Procedures Associated with This Policy

Prevention of Discrimination, Harassment, and Bullying Procedure – PR1

Forms Associated with This Policy

None

Amendment History

	<u>Approval Date</u>	<u>Status</u>
Created: 7507, Harassment & Discrimination version 1	1993 Nov 23	Replaced
Revised: 7507, Harassment & Discrimination version 2	2002 Jan 31	Replaced
Revised: 7507, Harassment & Discrimination version 3	2009 May 03	Replaced
Revised: 7507, Harassment & Discrimination version 4	2010 June 29	Replaced
Revised: 7507, Harassment & Discrimination version 5	2014 July 22	In Force
Revised: 7507, Prevention of Discrimination, Harassment & Bullying version 6 [draft]	tbd	In review

Scheduled Review Date

TBD - approval date + 5 years [yyyy mmm dd]; or earlier if regulatory or operational changes require it. By mutual agreement, the parties may at any time develop and propose amendments to the Policy or the Procedures for review and approval by the Board of Governors.