Procedures for Reporting and Investigating Employee Complaints of Discrimination, Bullying & Harassment

Parent Policy:	*Employee Discrimination, Bullying & Harassment Policy*		
Procedure Reference:	DBPR_2208N_AD/PSV		
Procedure Sponsor:	Associate Vice President, People Services		
Procedure Contact:	Associate Vice President, People Services		
Stakeholders:	Employees and the Board of Governors		
Approved by:	President		
Effective Date:	September 28, 2022		
Last reviewed:	September 2023	Scheduled review date:	August 2027

1. Purpose

The purpose of this Procedure is to set out Okanagan College's process for receiving and investigating and responding to complaints of Discrimination, Bullying and Harassment concerning Employees.

2. Scope & Application

2.1 This Procedure applies to all Employees of the College while engaging in College-Related Activities.

2.2 If a Complaint made under this Procedure involves a bargaining unit Employee as either the Complainant or the Respondent, and if the terms of their collective agreement apply to the circumstances, the collective agreement provisions will prevail as appropriate, unless otherwise agreed by the College and applicable union.

3. Responsibility for the Processes

3.1 All Employees have a responsibility for ensuring that the College's working and learning environment is free from Discrimination, Bullying, and Harassment.

3.2 All Employees of the Okanagan College are expected to be aware of and follow this Procedure in the event of them experiencing or witnessing behaviour that they believe constitutes Discrimination, Bullying, or Harassment.

3.3 Leadership Council members bear the primary responsibility for maintaining a working and learning environment free from Discrimination, and Harassment. They are expected to act on this responsibility whenever necessary, whether or not they are in receipt of a formal Complaint, and take steps to prevent where possible, or minimize Discrimination, Bullying and Harassment.

3.4 The administration of this Procedure is the responsibility of the Associate Vice President, People Services. Any reference to a position in this Procedure includes any person that may be named as a designate to that position.

4. Reporting Discrimination, Bullying or Harassment

Reporting

4.1 Employees, including Student Employees, are required to report any unsafe or harmful conditions in the workplace affecting Employee safety. Discrimination, Bullying, and Harassment is serious conduct that impacts Employee health and safety. Accordingly, any Employee who experiences, observes or knows of conduct that places Employees at risk and contravenes the Policy must report that conduct.

4.2 Students reporting a complaint about an Employee should make the initial complaint through the Student Complaint Policy.

Informal Discussions

4.3 The formal Complaint reporting procedures set out below establish a process for making a formal Complaint of Discrimination, Bullying, or Harassment. They are not intended to replace informal discussion or the Joint Problem-Solving Process between parties, their supervisors, their constituency organizations, or College administrators.

Whom to Report To

4.4 A Complaint against another Employee should be directed to the Associate Vice President, People Services care of *complaintdisclosure@okanagan.bc.ca*.

4.5 A Complaint against the Associate Vice President, People Services should be directed to the President care of *complaintdisclosure@okanagan.bc.ca*.

4.6 A Complaint against the President or a member of the Board of Governors should be directed to the Board Chair, or to the Board Vice-Chair if the Complaint involves the Board Chair care of *complaintdisclosure@okanagan.bc.ca*.

Note: Neither the Board Chair, President or the Associate Vice President, People Services has access to this email inbox; the administrator ensures that complaints are forwarded to the appropriate individual.

What to Include in the Complaint:

4.7 A Complaint should be made in writing and must contain sufficient detail to allow the College to assess the Complaint and conduct an investigation if required. The Complaint should include the following specific information (may use *Complaint Form linked*):

a) the name of the Complainant;
b) the name of the Respondent, if known;
c) the date of the conduct/incident(s); and
d) a detailed description of the conduct/incident(s).

When to Report:

4.8 A Complaint should be made as soon as possible but must be made no later than 12 months after the last incident alleged in the Complaint. This time limit does not apply to complaints under the *Sexual Violence and Misconduct Policy*.

5. Procedures Following the Receipt of a Complaint

Initial Review of Complaint

5.1 After receiving the Complaint, the Associate Vice President, People Services will inform the Complainant of the procedures in this Policy.

5.2 The Associate Vice President, People Services will conduct an initial review to determine whether the Complaint includes all the required information and may ask the Complainant for further details.

5.3 If a student has made a complaint of Discrimination, Bullying or Harassment under the Student Complaint Policy, the applicable Associate Dean, Director, Dean, Registrar, Associate Vice President or Provost will make the initial assessment and will consult with the Associate Vice President, People Services as necessary. If the complaint cannot be resolved through the Student Complaint Policy, a decision may then be made to proceed with an investigation under this Procedure.

5.4 If the Complaint falls within a different policy, the Associate Vice President, People Services will guide the Complainant to the applicable policy.

5.5 If the Associate Vice President, People Services determines, after consultation, that the Complaint does not fall within the scope of the Employee Discrimination, Bullying and Harassment Policy, was filed beyond the time limit set out in the Policy, or is frivolous, vexatious, or brought in bad faith, then the Associate Vice President, People Services will advise the Complainant of this determination and the Complaint will be considered resolved.

5.6 The College's ability to act upon an anonymous Complaint is very limited. The College will consider anonymous Complaints for the purpose of determining whether there is evidence of a significant risk to the health or safety of Employees and whether an investigation is required and possible.

Interim Measures

5.7 It may be necessary for the College to take interim measures to mitigate risk or to mitigate the impact of the Respondent's alleged conduct while a Complaint is being considered, resolved, investigated, or determined. Such measures will be precautionary and are non-disciplinary.

5.8 Interim measures may include, but are not limited to, the following:

a) the exclusion of individuals from all or any part of the College campus;
b) limiting proximity or contact to specific individuals;
c) limiting participation in College activities;
d) limiting the use of the College's information and communications technology;
e) requiring a person to meet regularly with designated College administrators;
f) assigning supervisory responsibilities to another Employee; or
g) any other interim measure as may be determined by the College.

College Investigation

5.9 The College will initiate an investigation appropriate to the circumstances upon receipt of a Complaint of Discrimination, Bullying or Harassment that falls within the scope of the Policy.

5.10 Complaints of Discrimination will be assessed by the College and investigated by the College as appropriate.

5.11 The Complaint may be investigated internally, or the College may engage an external investigator in circumstances deemed appropriate by the College.

5.12 The College may unilaterally proceed with an investigation even where a Complainant elects not to proceed with a Complaint, or where the parties have reached a resolution through the Joint Problem-Solving Process.

5.13 The College may also initiate an investigation where it is concerned about a potential situation of Discrimination, Bullying, or Harassment.

Investigation Process

5.14 Investigations will adhere to the principles of natural justice and procedural fairness and will:

a) be undertaken promptly and diligently;
b) be fair and impartial;
c) be sensitive to the interests of all parties involved; and
d) maintain confidentiality to the extent reasonably possible.

5.15 The Associate Vice President, People Services will provide notice to both the Complainant and Respondent that an investigation is to be conducted.

5.16 The Respondent will be given sufficient information to understand the nature of the Complaint and will be given a fair opportunity to respond to the Complaint.

5.17 The investigator will normally interview the Complainant, the Respondent, and such other persons who may have information relevant to the Complaint.

5.18 The investigator will review materials, documents, or other evidence that the investigator determines to be relevant.

5.19 All individuals interviewed during the investigation process may have an appropriate support person present at the interview, such as a union representative, or an impartial family member or friend, but the individual must provide their own evidence. The support person must not be in a position of apparent or actual conflict of interest and must agree to keep confidential the information disclosed during the interview.

5.20 The investigation and complaint resolution process is often complex and time consuming. The College will act diligently with the goal of reaching a resolution as early as possible, with the understanding that some investigations and complaint resolution processes will take longer to conclude.

Investigator's Report

5.21 After the investigation is concluded, the investigator will submit to the Associate Vice President, People Services a final report that includes the following:

a) a description of the incident(s)/conduct;
b) a summary of the investigator's process, analysis and findings; and
c) the investigator's opinion as to whether, on a balance of probabilities, there has been a violation of the Policy.

5.22 The Associate Vice President, People Services will review the report and make recommendations to the Vice President or designate responsible for the area where the Respondent works.

5.23 That Vice President will review the report and recommendations and will determine what actions, sanctions or corrective measures, if any, should be implemented.

5.24 The College's decision on whether the Policy has been violated will be communicated to the Complainant and Respondent after the College has reviewed and considered the investigator's report.

5.25 The Complainant is not entitled to know the details of the disciplinary action, if any, taken because of the investigation.

5.26 The investigation report is confidential and will not normally be released by the College except as required by law.

Corrective Measures

5.27 If there is a finding that the Policy has been violated, the Associate Vice President, People Services along with the Employee's supervisor, will act promptly to ensure that the Discrimination, Bullying, or Harassment ceases and to prevent future occurrences of similar activity.

5.28 Such actions may include disciplinary sanctions against the Respondent, up to and including suspension or termination of employment, training, and imposing arrangements that minimize the risk of future Discrimination, Bullying, and Harassment.

5.29 Any corrective measures will be documented and retained by the Associate Vice President, People Services and the Employee's Supervisor.

Other Dispute Resolution Mechanisms

5.30 Nothing in this Procedure precludes an individual from seeking a remedy available to them under any applicable law.

5.31 If a Complaint is being pursued outside of the College, the College may elect to continue with the College process, may apply applicable processes to have the outside process deferred or dismissed, or may elect to suspend the College process until the outcome of the process outside of the College is determined.

5.32 The College will cooperate with any criminal investigation.

Joint Problem-Solving Process (Informal)

5.33 At any time, the College may propose, or a party to a Complaint may request, the initiation of a Joint Problem-Solving Process. A Joint Problem-Solving Process is an informal process with a goal of achieving a resolution satisfactory to the Complainant, Respondent, and the College.

5.34 Options under the Joint Problem-Solving Process include, but are not limited to, facilitated discussion or mediation. All parties and the College must consent to participate in a Joint Problem-Solving Process.

5.35 The College may still be obligated to investigate a Complaint even if the parties have consented to a Joint Problem-Solving Process, and/or reached a satisfactory resolution.

5.36 If a resolution is achieved, the parties will sign a statement setting out the terms of the resolution. No resolution may impose obligations on the College without the College's consent.

6. Related Acts and Regulations

College and Institute Act
Freedom of Information and Protection of Privacy Act
Sexual Violence and Misconduct Policy Act
Workers Compensation Act

7. Supporting References, Policies, Procedures and Forms

Student Complaint Policy

History / Revisions

Date	Action
2022-09-20	*Approved by OC Executive Team:*
2022-08-17	*Following approval of parent policy by Board Governance Committee: 2022-09-20:* Procedures for Reporting and Investigating Employee Complaints of Discrimination, Bullying and Harassment