



SUBJECT AMENDMENT TO POLICY 3 - DISCRIMINATION AND HARASSMENT

MEETING DATE NOVEMBER 26, 2018

Forwarded on the Recommendation of the President

APPROVED FOR SUBMISSION

Santa J. Ono, President and Vice-Chancellor

FOR INFORMATION

Report Date November 5, 2018

Presented By

Hubert Lai, Q.C., University Counsel Andrew Szeri, Provost and Vice-President Academic Deborah Buszard, Deputy Vice-Chancellor and Principal, UBC Okanagan

EXECUTIVE SUMMARY

The proposed amendments are intended to bring the policy into alignment with current practices relating to addressing matters of discrimination. This includes changing the names of certain positions and offices, as well as clarifying the responsibilities of the officials involved in addressing concerns relating to discrimination at both the informal, pre-complaint stage and formal complaint stage. Certain amendments are also proposed to bring consistency with other policies.

Attachments

1. A copy of the proposed policy
2. A blackline version comparing the proposed policy to the current policy.

A copy of the current policy is available at <https://universitycounsel.ubc.ca/policies/policy3.pdf>.

INSTITUTIONAL STRATEGIC PRIORITIES SUPPORTED

Learning Research Innovation Engagement (Internal / External) International
or Operational

DESCRIPTION & RATIONALE

Policy #3, Discrimination and Harassment, addresses the process by which concerns relating to matters of discrimination on the grounds protected by the BC *Human Rights Code* (“Code”) are addressed by the University. Policy #3 was created in January 1995. Revisions to the Policy were made in 2011 to reflect the practical experience of the (then) Equity Office and to simplify the process, with additional revisions made in 2013 to reflect organizational changes. Revisions were last made in 2016 to include “gender identity or expression” to reflect amendments to the Code that explicitly included those grounds among the protected grounds covered by the Code.

The following are the more significant proposed changes to the Policy:

Removing references to “harassment”: The Committee has changed the title of the Policy from “Discrimination and Harassment” to “Discrimination” and removed most references to “harassment” in the policy and procedures. Given that the Policy is only

intended to address discrimination on grounds protected by the Code, the inclusion of the word “harassment” in the Policy title has caused confusion because many types of harassment do not involve discrimination under the Code. While most references to “harassment” have been removed from the Policy, the definition of “discrimination” has been amended to clarify that harassment based on grounds protected by the Code constitutes discrimination and is within the scope of the Policy.

A related issue flagged by the Committee was whether a separate, standalone Board policy for workplace bullying and harassment (as required under workers compensation legislation) should at some point be pursued or whether that is adequately addressed by the inclusion of references to bullying and harassment in the UBC Statement on Respectful Environment for Students, Faculty and Staff. The Committee recommends that the Administration take this issue into consideration.

Updating names of offices and positions: The names of the offices and positions involved in the Policy have been updated (changing the Equity Office to the Equity & Inclusion Office, and changing Director, Equity Complaint Management to Director of Investigations). References to the Access & Diversity/Disability Resource Centre have also been deleted because they are out of date and/or do not play a significant role under the Policy.

Focussing the role of the Administrative Head of Unit (“AHOU”): The current Policy allows an AHOU to receive concerns as to discrimination, attempt to come to an informal resolution of the complaint, *and* also conduct a formal investigation of the complaint. The Committee heard that AHOU’s are not generally equipped with the expertise or training to address discrimination concerns, which are often factually and legally complex. The Equity & Inclusion Office possesses expertise in this area, including with respect to the University’s obligations under the Code, and regularly assists to resolve concerns before they turn into a complaint to the Director of Investigations. Accordingly, the Committee is proposing amendments that require the Equity & Inclusion Office to be involved in the informal resolution of concerns about discrimination.

Also, the Committee is of the view that many AHOU’s do not have the necessary procedural and legal expertise to manage the investigation and determination of complaints of discrimination. Accordingly, the Policy has been updated to provide the Director of Investigations with sole responsibility for investigating and determining complaints.

The revisions maintain an important role for the AHOU. The AHOU continues to have responsibility to ensure and maintain an environment free from discrimination. The Equity & Inclusion Office is now required to work with the AHOU when addressing or resolving concerns of discrimination. Most importantly, the AHOU continues to have ultimate authority to impose discipline and take other remedial action in relation to complaints of discrimination.

Clarifying the jurisdiction of the Director of Investigations to investigate complaints: The current Policy includes various, somewhat ambiguous, sections that address jurisdiction. The proposed revisions include an express jurisdiction section, which is modeled on the language in Policy #131, Sexual Assault and Other Sexual Misconduct.

Updating the privacy and confidentiality language to create consistency with other policies: The Committee has incorporated the privacy and confidentiality language contained in Policy #95, Investigations, and Policy #131 (with necessary amendments

to adapt it to this Policy). This language guides the disclosure of sensitive information related to the investigation.

Deleting the one-year limitation period to bring a complaint: The current Policy requires complaints to be made within one year, and only allows the Director, Equity Complaint Management to waive this deadline in exceptional circumstances. While the Code itself contains a six-month limitation period, the Committee felt that imposing a limitation period on complaints made under the Policy may be unfair to individuals who want to delay making their complaint for fear of retaliation by the Respondent. Under the recommended changes, the Director of Investigations still has the discretion to refuse to proceed with a complaint when, for example, the passage of time since the relevant event(s) makes it difficult to gather evidence or provide an effective remedy.

In addition to the above changes, the Committee identified an inconsistency in the treatment of faculty, staff and students following the investigation. Where the respondent is a faculty member, they are provided with a copy of the findings before discipline is imposed, which gives them an opportunity to make submissions to the employer (represented by the appropriate AHOU) with respect to any potential discipline being imposed based on the investigation’s findings. By contrast, where the respondent is a staff member, the findings are normally presented when discipline is issued and when the respondent is a student, they do not see the findings until after any discipline has been imposed. Some members of the Committee were concerned that this inconsistency could be perceived as unfair. However, this practice is not addressed in the current Policy and the Committee is not recommending any change to the Policy to address it, as it is a matter of administrative practice. The Committee understands that the Administration will be reviewing this issue over the coming months with a view to formulating recommendations, if appropriate, for changes to this practice.

<p>BENEFITS Learning, Research, Financial, Sustainability & Reputational</p>	<p>These amendments will bring the Policy into alignment with the University’s current practices, and more clearly identify and clarify the roles of those involved in receiving and responding to concerns as to discrimination. This includes centralizing the formal investigation and resolution of formal complaints, to ensure complaints are fairly and appropriately addressed. The amendments also clarify the scope of the Policy as relating to discrimination under the <i>Human Rights Code</i>.</p>
<p>RISKS Financial, Operational & Reputational</p>	<p>Without these proposed amendments to the Policy and Procedures, UBC is at risk of:</p> <ul style="list-style-type: none"> • continued ambiguity around the scope of the policy • non-compliance with legal obligations to address discrimination • not accurately reflecting UBC’s current approach to addressing discrimination concerns • not properly identifying the individuals who have had responsibility and accountability assigned to them
<p>SCHEDULE Implementation Timeline</p>	<p>Subject to any feedback from the Board of Governors, the proposed policy and procedures will be published with a call for comments from December 5, 2018 to February 1, 2019. The Policy Review Committee will review all comments received through this community consultation process and will develop a final proposal that is expected to be recommended to the Board of Governors for approval at its meeting in April 2019.</p>
<p>CONSULTATION Relevant Units, Internal & External</p>	<p>The University Counsel constituted a Policy Review Committee to consider and advise on proposed amendments to the Policy. The Committee is comprised of the following members:</p>

Constituencies


- Paul Hancock, Legal Counsel, Information and Privacy (Chair)
- Mark Hulstein, Legal Counsel (Secretary)
- Gillian Creese, Associate Dean, Faculty & Equity, Faculty of Arts
- Sara-Jane Finlay, Associate Vice President, Equity & Inclusion Office
- Lindi Frost, Director, Human Resources – Employee & Labour Relations
- Kennedy Gagnon, Vice President University Affairs, AMS Student Society of UBC Vancouver
- Gillian Henderson, Director, Human Resources – UBC Okanagan
- Max Holmes, Vice President Academic and University Affairs, AMS Student Society of UBC Vancouver
- Allison Matacheskie, Director, Faculty Relations
- Myrna McCallum, Director of Investigations, Independent Investigations Office
- Janet Mee, Director, Access & Diversity
- Shirley Nakata, UBC Ombudsperson for Students
- Roshni Narain, Human Rights Advisor, Equity & Inclusion Office
- Bryce Traister, Dean, Faculty of Creative and Critical Studies – UBC Okanagan

The proposed amendments are unanimously recommended by the members of the Committee.

Previous Report Date N/A

Decision None. This is an information item only.

Action / Follow Up The next step will be to post the proposed amendment of Policy #3 on UBC’s website for public comment by the University community. The Policy Review Committee will be asked to consider any comments received. If necessary, revisions may be made before a recommendation is then submitted to the Board to approve the proposed amendment of Policy #3.

 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: 3</p>	<p>Approval Date: January 1995</p> <p>Last Revision: [*2019]</p>
<p>Responsible Executive: Provost and Vice-President Academic (UBC Vancouver) Deputy Vice Chancellor and Principal (UBC Okanagan)</p>		
<p>Title: Discrimination</p>		
<p>Background & Purposes:</p> <p>The University of British Columbia has responsibility for and is committed to providing its students, staff and faculty with an environment dedicated to excellence, equity and mutual respect; one that is free of Discrimination; and one in which the ability to freely work, live, examine, question, teach, learn, comment and criticize is protected. Academic Freedom and freedom of thought, belief, opinion and expression carries with it the expectation that all Members of the UBC Community will conduct themselves in a responsible manner so as not to cause, condone or participate in the Discrimination of another person or group of persons. UBC's commitment to maintaining and respecting human rights at every level of the institution is central to this Policy.</p> <p>The fundamental objectives of this Policy are to prevent Discrimination on grounds protected by the BC <i>Human Rights Code</i>, and to provide procedures for handling complaints, remedying situations, and imposing discipline when such Discrimination does occur. Concerns regarding discrimination or harassment that do not involve any of the grounds prohibited by the BC <i>Human Rights Code</i> are not covered by this Policy. Such concerns may be addressed by other UBC policies or procedures, or the UBC Statement on Respectful Environment for Students, Faculty and Staff, and collective agreements, employee handbooks, and student codes of conduct, and should be taken to the appropriate Administrative Head of Unit, student or employee association, union or human resources office.</p>		

1. General

- 1.1 UBC and all Members of the UBC Community share responsibility for ensuring and maintaining an environment that is free from Discrimination. UBC regards Discrimination as a serious offence that is subject to a wide range of remedial or disciplinary measures, including dismissal or expulsion from UBC.
- 1.2 Concerns regarding Discrimination brought forward under this Policy must be referred to the Equity & Inclusion Office, which is responsible for:
 - 1.2.1 providing information, advice and assistance in a fair and impartial manner to Complainants, Respondents, or anyone else who has a concern about Discrimination related to UBC;
 - 1.2.2 working with the relevant Administrative Head of Unit to address or resolve concerns of Discrimination in an informal manner, where possible;

- 1.2.3 initiating formal complaints of Discrimination, where appropriate; and
- 1.2.4 providing education to Members of the UBC Community and other UBC offices on the prevention and remediation of Discrimination, and issuing guidance on the implementation and interpretation of this Policy and its Procedures.
- 1.3 The Director of Investigations is responsible for investigating formal complaints of Discrimination that are filed under the Procedures.
- 1.4 UBC will not tolerate any retaliation, directly or indirectly, against anyone who, in good faith, complains, gives evidence or otherwise participates in a process under this Policy. UBC considers retaliation to be a serious matter because it prevents potential complainants, witnesses, and administrators from acting on their concerns.
- 1.5 This Policy should not be interpreted, administered or applied to infringe on Academic Freedom. Academic Freedom is a fundamental tenet of UBC. Academic Freedom includes the right to engage in free and full discussion, not only of ideas that are safe and accepted, but of those which may be unpopular and even abhorrent, and to make statements, assign readings or use instructional techniques that challenge and may even offend the sensibilities, ideas and beliefs of others. Members of the UBC Community, in exercising Academic Freedom, shall comply with the *BC Human Rights Code*.

2. Scope

- 2.1 This Policy addresses Discrimination on grounds protected by the *BC Human Rights Code* and to the individual areas to which the particular grounds relate. Under the *BC Human Rights Code* everyone has the right to be free from Discrimination based on the following personal characteristics (current as of the date of approval of this Policy): age (actual or perceived), ancestry, colour, family status, marital status, physical or mental disability, place of origin, political belief, race, religion, sex, sexual orientation, gender identity or expression, and criminal conviction unrelated to employment. In the UBC context, this right applies in the areas of publications, public services, tenancy, employment advertisements, wages, and employment.
- 2.2 The prohibited grounds under this Policy will be interpreted in the same manner as they are interpreted by the BC Human Rights Tribunal.
- 2.3 Allegations of sexual assault are to be addressed under UBC Policy #131, Sexual Assault and Other Sexual Misconduct, and not this Policy. Allegations of sexual harassment will be reviewed by the Director of Investigations who will determine, based on the particular facts of the case and in consultation with the individual making the allegations, which policy is better suited to address the allegations.
- 2.4 Concerns that do not involve any of the grounds prohibited by the *BC Human Rights Code* are not covered by this Policy. Such concerns may be addressed by other UBC policies or procedures, or the UBC Statement on Respectful Environment for Students, Faculty and Staff, and collective agreements, employee handbooks, and student codes of conduct, and should be taken to the appropriate Administrative Head of Unit, student or employee association, union or human resources office.
- 2.5 Systemic discrimination is a form of Discrimination and, as such, a complaint of systemic Discrimination is to be made in the manner set out in the procedures to this Policy.

- 2.6 Neither this Policy in general, nor its definitions in particular, are to be 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.

3. Access to Other Processes and Multiple Complaints

- 3.1 The fact that a complaint is being pursued under this Policy does not preclude the Complainant from pursuing another UBC process, such as requesting an accommodation under Policy #73, Accommodation for Students with Disabilities, or a process outside of UBC, such as filing a complaint with the BC Human Rights Tribunal. If a complaint is being pursued under another process, the party conducting the process under this Policy may elect to continue with the process under this Policy or may elect to suspend the process until the outcome of the other process is determined.
- 3.2 Complainants who are members of faculty or staff unions may choose to proceed with a complaint under the provisions of their collective agreement rather than under this Policy. The Complainant may not concurrently pursue a complaint under both their collective agreement and this Policy.

4. Definitions

- 4.1 **Academic Freedom** is defined in the UBC Vancouver and UBC Okanagan calendars.
- 4.2 **Administrative Head of Unit** is any of the following: Director of a service unit; Head of an academic department; Director of a centre, institute or school; Principal of a college; Dean; Associate Vice President; University Librarian; Registrar; Vice President; Deputy Vice Chancellor & Principal; or President.
- 4.3 **Complainant** is an individual who has made a formal complaint of Discrimination under the Procedures.
- 4.4 **Discrimination** is intentional or unintentional conduct, which can be individual or systemic, that imposes burdens, obligations, or disadvantages on or limits access to opportunities, benefits and advantages to specific individuals or groups as defined by the BC *Human Rights Code* and for which there is no bona fide and reasonable justification. Harassment that is related to one or more of the prohibited grounds of discrimination set out in the *Human Rights Code* is Discrimination under this Policy. Discrimination can involve individuals or groups, and it can occur during one incident or over a series of incidents including single incidents, which, in isolation, would not necessarily constitute discrimination. It is the impact on the Complainant, subject to the reasonable person test, and not the intent of the Respondent that defines the treatment as Discrimination. The reasonable person test refers to an assessment of responsibility that takes into account not only what the Complainant and Respondent actually experienced, knew, or understood about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.
- 4.5 **Members of the UBC Community** are individuals who fall under one or more of the following categories:
- 4.5.1 students, defined as individuals enrolled at UBC, including co-op and exchange students;

4.5.2 employees, including faculty and staff members;

4.5.3 holders or teaching appointments;

4.5.4 post-doctoral fellows; and

4.5.5 anyone contractually obligated to comply with this Policy.

4.6 **Respondent** is the person against whom an allegation of Discrimination has been made.

PROCEDURES

Approved: January 1995

Revised: [*2019]

Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.

1. General

- 1.1 Individuals exercising their authority and discretion under these Procedures will do so in conformity with the principles of procedural fairness in the UBC context.
- 1.2 If an individual exercising authority and discretion under these Procedures has a real or apparent conflict of interest in a particular matter, or there is a reasonable apprehension of bias, then that individual will not continue their involvement in the matter and UBC will appoint an appropriate individual to act in that role for the purposes of that matter. For certainty, participation of the individual in any informal or consultation process does not, of itself, constitute a conflict of interest or a reasonable apprehension of bias.
- 1.3 The Complainant and the Respondent may have a representative or support person present at any time during the process outlined under these Procedures. Members of unions and employee associations have all rights to representation that their collective agreements confer.

2. Confidentiality and Privacy

- 2.1 In order to protect the integrity, fairness, and effectiveness of the process under the Policy and this Procedure and to ensure compliance with the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), all participants in the process must act in accordance with the requirements set out below.
- 2.2 Individuals, including the Complainant and the Respondent, who have obtained information about an identifiable individual ("Personal Information") through their participation in the process must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:
 - 2.2.1 any participants in the process from disclosing information about themselves, or information that they have obtained outside the process;
 - 2.2.2 UBC representatives from disclosing process-related information as authorized under section 2.3; or
 - 2.2.3 Complainants and Respondents from disclosing the information that they have received under sections 2.4 and 2.5.
- 2.3 UBC will not disclose any Personal Information related to the process except to the extent such disclosure is:
 - 2.3.1 expressly authorized by the affected individual;

- 2.3.2 to a UBC representative, if necessary for the performance of that individual's duties;
 - 2.3.3 to a Complainant, Respondent, witness, or other participant in the process, if necessary for the conduct of the process;
 - 2.3.4 to a Complainant or Respondent in accordance with sections 2.4 and 2.5;
 - 2.3.5 authorized by the University Counsel for compelling health or safety reasons;
 - 2.3.6 authorized by the University Counsel to correct misleading or inaccurate information if necessary to protect the integrity of the process or UBC's investigatory processes; or
 - 2.3.7 authorized or required under law, which for certainty shall include directions received from external agencies such as the BC Human Rights Tribunal.
- 2.4 To maintain the integrity of the process under this Policy, UBC must ensure that both Complainants and Respondents know the process findings and the evidence upon which these findings are based. The FIPPA may require UBC to remove Personal Information that is irrelevant to the process findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive information that is relevant to them.
- 2.5 Under the FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Counsel for compelling health or safety reasons. For example, UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.
- 2.6 Section 2.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 2.4 and 2.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim), and may wish to seek advice before doing so.

3. **Consultations and Informal Resolution**

- 3.1 Members of the UBC Community who have concerns about matters of Discrimination that relate to a Member of the UBC Community or to a UBC-sanctioned program, event or activity may consult with the Equity & Inclusion Office. Administrative Heads of Unit who become aware of such concerns should forward them to the Equity & Inclusion Office.
- 3.2 Such individuals may consult with the Equity & Inclusion Office anonymously. However, any information provided to this office anonymously or in a consultation-only capacity will not be independently substantiated, further investigated, or acted upon by this office unless the AVP, Equity & Inclusion determines that it would be appropriate to do so and initiates a complaint under section 4.2.3 below.
- 3.3 As part of this consultation process, the Equity & Inclusion Office may work with the relevant Administrative Head of Unit to resolve the concern informally. In doing so, this office should take into considerations all relevant factors, such as risks to health or safety, financial or logistical challenges, disruption of any collective agreements, and impact upon ability to deliver or meet requirements of the relevant course, program, or activity.

4. **Making Formal Complaints**

- 4.1 Those with concerns relating to matters of Discrimination are strongly encouraged to consult with the Equity and Inclusion Office as set out in section 3.1 above prior to taking any other action under these Procedures. However, if the person with the concern believes that it was not satisfactorily addressed through consultation, or believes that consultation is not appropriate in the circumstances, that person may submit a formal complaint to the Director of Investigations. The Director of Investigations will provide a copy or summary of the complaint to the Equity & Inclusion Office.
- 4.2 Discrimination complaints may be made
 - 4.2.1 by any Member of the UBC Community who is directly affected by the conduct that forms the basis of the complaint;
 - 4.2.2 at the discretion of the Director of Investigations, by a non-Member of the UBC Community who is directly affected by the conduct that forms the basis of the complaint; and
 - 4.2.3 by the AVP, Equity & Inclusion.
- 4.3 If the AVP, Equity & Inclusion initiates a complaint under section 4.2.3, they will act as the Complainant in the complaint proceedings under these Procedures. In such cases, the person directly affected by the conduct that forms the basis of the complaint, and/or the person who is the subject of the complaint, may be called upon as witnesses in the proceedings.
- 4.4 Complaints must be made in writing.
- 4.5 Complainants may withdraw from the complaint proceedings at any time. However, UBC's responsibility to provide an environment free from Discrimination may obligate UBC to proceed regardless of the Complainant's withdrawal.
- 4.6 The Director of Investigations has jurisdiction to investigate complaints in the following circumstances:
 - 4.6.1 the complaint must have been made by an individual described in section 4.2;
 - 4.6.2 the complaint must be either a complaint of systemic Discrimination by UBC or a complaint about Discrimination by a Respondent who was a Member of the UBC Community at the time the alleged Discrimination occurred and at the time the complaint was submitted;
 - 4.6.3 the alleged conduct must fall within the definition of Discrimination; and
 - 4.6.4 the complaint must have a real and substantial connection to UBC, as that term has been interpreted under BC law.
- 4.7 If the Director of Investigations determines that there is jurisdiction to investigate a complaint, the Director of Investigations may do any one or more of the following:
 - 4.7.1 address the complaint under section 5 below; or

4.7.2 decline to proceed with the complaint.

4.8 If the Director of Investigations determines that there is no jurisdiction to investigate a complaint, the Director of Investigations will not accept the complaint and will take no further action under these Procedures.

4.9 Where the Director of Investigations makes a decision under sections 4.7.2 or 4.8, the Director of Investigations will provide written reasons to the Complainant.

5. **Managing Formal Complaints**

5.1 If the Director of Investigations decides to address the complaint, the relevant Administrative Head of Unit and the Equity & Inclusion Office will be notified and a copy or summary of the complaint will be provided to the Respondent, who will be invited to respond to the allegations contained in the complaint.

5.2 The Director of Investigations may manage the complaint using any means deemed appropriate in the circumstances, subject to the principles of procedural fairness in the UBC context. Such means may include, but are not limited to, the following:

5.2.1 suspending or discontinuing the proceedings;

5.2.2 consolidating multiple complaints so as to be addressed together;

5.2.3 recommending interim measures to preserve safety while a complaint is being investigated or resolved;

5.2.4 interviewing or requesting written submissions from the Complainant and/or the Respondent and/or any other individuals with information that may be useful;

5.2.5 consulting with other UBC offices or employees;

5.2.6 gathering documents relevant to the complaint; and/or

5.2.7 referring the matter for internal or external investigation, or mediation or other forms of alternative dispute resolution.

5.3 Both the Complainant and the Respondent are expected to participate in the complaint management process outlined above in a timely manner. In cases where the Complainant and/or the Respondent fails to participate within a reasonable time without appropriate justification, the process may proceed without their participation and an adverse inference may be drawn as a result of their failure to participate.

5.4 Except in exceptional circumstances, the complaint management process outlined above will be completed within 90 calendar days of the provision of the complaint to the Respondent. In the event that this timeline cannot be met, the Director of Investigations will contact the Complainant and Respondent as soon as possible to inform them of the revised timeline.

6. **Resolving Formal Complaints**


- 6.1 After addressing the complaint under section 5 above, the Director of Investigations may resolve the complaint and/or make recommendations as deemed appropriate in the circumstances. Such resolutions or recommendations may include, but are not limited to, the following:
 - 6.1.1 resolving the complaint by consent of the Complainant and the Respondent, through mediation or any other means;
 - 6.1.2 recommending such measures as may be appropriate to remedy the effects of Discrimination and restore the Complainant's and/or Respondent's unit to effective functioning;
 - 6.1.3 recommending such measures as may be appropriate to remove systemic barriers and/or prevent Discrimination;
 - 6.1.4 making findings about whether the Respondent or any other individual has violated this Policy or these Procedures;
 - 6.1.5 making findings about whether the Complainant made the complaint in bad faith or was frivolous, vexatious or malicious;
 - 6.1.6 recommending other remedies to the appropriate Administrative Head of Unit; and/or
 - 6.1.7 dismissing the complaint.
- 6.2 No resolution of a complaint that may adversely affect the academic, employment, professional, or other interests of a party shall proceed without giving that party the opportunity to fully respond to the complaint.
- 6.3 Where the Director of Investigations has referred a complaint for internal or external investigation, the Director of Investigations or their delegate will prepare a written report ("Investigative Report") for the appropriate Administrative Head of Unit and the AVP, Equity & Inclusion. The Investigative Report will normally include the following information:
 - 6.3.1 a summary of the evidence considered;
 - 6.3.2 any assessment of credibility that is required to render a determination;
 - 6.3.3 the findings of fact, and a determination as to whether, on a balance of probabilities, Discrimination has occurred; and
 - 6.3.4 any resolution or recommendations made under these Procedures.
- 6.4 In addition and as appropriate, the Director of Investigations may communicate any resolution and/or recommendations to the Complainant, Respondent and others whom the Director of Investigations determines ought to know under the circumstances.
- 6.5 The Administrative Head of Unit receiving the Investigative Report has the authority to determine the appropriate disciplinary and/or remedial measures needed to resolve or address the complaint, if any. The Administrative Head of Unit will provide a written report of the decision made and any measures taken to the Director of Investigations, the appropriate Dean and/or Head,

and the Respondent. Disciplinary actions will not be disclosed to Complainants except in the limited circumstances set out in section 2.5.

- 6.6 The Director of Investigations will conclude the investigatory process by ensuring all necessary communications are made to those responsible for implementing decisions, providing or adjusting support services and accommodations, providing education, or conducting administrative transactions.

7. Appeals

- 7.1 Students may appeal any discipline that is imposed under these Procedures through the UBC Vancouver Senate Student Appeals on Academic Discipline Committee or the UBC Okanagan Senate Appeals of Standing and Discipline Committee.
- 7.2 Staff or faculty may appeal any discipline that is made or imposed by the Administrative Head of Unit under these Procedures through the provisions of their collective agreements or their terms and conditions of employment.
- 7.3 The Complainant and/or the Respondent may also have recourse to processes outside of UBC, such as filing a complaint with the BC Human Rights Tribunal.

 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: 3</p>	<p>Approval Date: January 1995</p> <p>Last Revision: [*2019]</p>
<p>Responsible Executive: Provost and Vice-President Academic (UBC Vancouver) Deputy Vice Chancellor and Principal (UBC Okanagan)</p>		
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1. ~~1.~~ **General**

1.1 ~~1.1~~ ~~The University~~UBC and all Members of the ~~University~~UBC Community share responsibility for ensuring ~~that the work and study~~maintaining an environment ~~at the University~~ that is free from Discrimination ~~and Harassment~~. ~~The University, UBC~~ regards Discrimination ~~and Harassment~~ as a serious ~~offenses~~offence that ~~are~~is subject to a wide range of remedial or disciplinary measures, including dismissal or expulsion from ~~the University~~UBC.

~~1.2~~ ~~Although concerns regarding Discrimination or Harassment can be brought to either Administrative Heads of Unit or to the University's Equity Office, Administrative Heads of Unit bear the primary responsibility for creating and maintaining a study and work environment free from Discrimination and Harassment. Administrative Heads of Unit have the authority and the responsibility to address concerns regarding Discrimination or Harassment, whether or not they are in receipt of specific~~

complaints. When addressing a concern or complaint, Administrative Heads of Unit are encouraged to consult with the University's Equity Office.

~~1.2~~ ~~1.3~~ The University's Equity Office is responsible for Concerns regarding Discrimination brought forward under this Policy must be referred to the Equity & Inclusion Office, which is responsible for:

~~1.2.1~~ providing information, advice and assistance in a fair and impartial manner to Complainants, Respondents, or anyone else who has a concern about Discrimination or Harassment related to the University, including those who may have experienced Discrimination and Harassment and those alleged to have perpetrated it. The Equity Office is also responsible for UBC;

~~1.2.2~~ working with the relevant Administrative Head of Unit to address or resolve concerns of Discrimination in an informal manner, where possible;

~~1.2.3~~ initiating formal complaints of Discrimination, where appropriate; and

~~1.2.4~~ providing education to Members of the University/UBC Community and other UBC offices on the prevention and remediation of Discrimination, and Harassment. issuing guidance on the implementation and interpretation of this Policy and its Procedures.

~~1.2.1.3~~ The Equity Office/Director of Investigations is also responsible for addressing concerns or investigating formal complaints of Discrimination or Harassment that have been made to it directly using the procedures set out under this Policy, and has the authority to initiate complaints itself/re filed under those procedures the Procedures.

~~1.3.1.4~~ ~~1.4~~ The University/UBC will not tolerate any retaliation, directly or indirectly, against anyone who, in good faith, complains, gives evidence or otherwise participates in a process under this Policy. The University/UBC considers retaliation to be a serious matter because it prevents potential complainants, witnesses, and administrators from acting on their concerns.

~~1.4.1.5~~ ~~1.5~~ This Policy should not be interpreted, administered or applied to infringe on Academic Freedom. Academic Freedom is a fundamental tenet of the University/UBC. Academic Freedom ensures/includes the right of all Members of the University Community to to engage in frank/free and full discussion of potentially controversial matters, not only of ideas that are safe and accepted, but of those which may be unpopular and even abhorrent, and to make statements, assign readings or use instructional techniques that challenge and may even offend the sensibilities, ideas and beliefs of others, provided that they conduct themselves in a manner that is consistent with the B.C. Human Rights Code. All. Members of the University/UBC Community, in exercising their Academic Freedom, shall respect the human rights of others and not engage in actions that would deny equality to, or harass, individuals or groups on grounds protected by the B.C. Human Rights Code. comply with the BC Human Rights Code.

2. 2.Scope

2.1 This ~~policy~~ Policy addresses Discrimination and Harassment on grounds protected by the B.C./BC Human Rights Code. The and to the individual areas to which the particular grounds currently are relate. Under the BC Human Rights Code everyone has the right to be free from Discrimination based on the following personal characteristics (current as of the date of approval of this Policy): age (actual or perceived) age, ancestry, colour, family status, marital status,

physical or mental disability, place of origin, political belief, race, religion, sex, sexual orientation, gender identity or expression, and criminal conviction unrelated to employment. In the UBC context, this right applies in the areas of publications, public services, tenancy, employment advertisements, wages, and employment.

2.2 The prohibited grounds under this Policy will be interpreted in the same manner as they are interpreted by the B.C./BC Human Rights Tribunal. ~~For example, the ground~~

2.2.3 ~~Allegations of “sex” has been interpreted sexual assault are to include be addressed under UBC Policy #131, Sexual Assault and Other Sexual Misconduct, and not this Policy. Allegations of sexual harassment, sexual assault and will be reviewed by the Director of Investigations who will determine, based on the actuality or possibility of pregnancy, breastfeeding and childbirth, particular facts of the case and will be so interpreted under this Policy in consultation with the individual making the allegations, which policy is better suited to address the allegations.~~

2.3.4 Concerns ~~regarding discrimination or harassment~~ that do not involve any of the grounds prohibited by the B.C./BC Human Rights Code are not covered by this Policy. Such concerns may be addressed by other University/UBC policies or procedures, ~~including or~~ the UBC Statement on Respectful Environment for Students, Faculty and Staff, and collective agreements, employee handbooks, and student codes of conduct, and should be taken to the appropriate Administrative Head of Unit, student or employee association, union or human resources office.

~~1.0—Addressing systemic issues of discrimination and harassment is a shared responsibility across the institution and may include addressing complaints that fall outside of the grounds prohibited by the B.C. Human Rights Code. Offices such as the Equity Office and Human Resources at UBC Vancouver and UBC Okanagan, Access & Diversity and The Office of the Ombudsperson for Students at UBC Vancouver, and the Disability Resource Centre and the AVP Students at UBC Okanagan, are positioned to provide leadership in identifying and addressing these issues.~~

~~1.0—Discrimination or Harassment can involve individuals or groups; can occur during one serious incident or over a series of incidents including single incidents, which, in isolation, would not necessarily constitute Discrimination or Harassment; and can occur on campus or off campus in a University related context, during working hours or not.~~

~~1.0—It is the impact of behaviour on the complainant, subject to the reasonable person test, and not the intent of the respondent that defines the comment or conduct as Discrimination or Harassment. The reasonable person test refers to an assessment of responsibility that takes into account not only what the complainant and respondent actually experienced, knew, or understood about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.~~

2.5 Systemic discrimination is a form of Discrimination and, as such, a complaint of systemic Discrimination is to be made in the manner set out in the procedures to this Policy.

2.9.2.6 Neither this Policy in general, nor its definitions in particular, are to be 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.

3. Access to Other Processes and Multiple Complaints

2.103.1 The fact that a complaint is being pursued under this Policy does not preclude the complainant/Complainant from pursuing another UBC process, such as requesting an

accommodation under Policy #73, Accommodation for Students with Disabilities, or a process outside of the University UBC, such as filing a complaint with the B.C. BC Human Rights Tribunal. If a complaint is being pursued outside of the University under another process, the party conducting the University process (the Administrative Head of Unit or the Equity Office) process under this Policy may elect to continue with the University process under this Policy or may elect to suspend the University process until the outcome of the other process outside of the University is determined.

3.2 3.—Complainants who are members of faculty or staff unions may choose to proceed with a complaint under the provisions of their collective agreement rather than under this Policy. The Complainant may not concurrently pursue a complaint under both their collective agreement and this Policy.

3.4. Definitions

3.14.1 3.1—Academic Freedom is defined in the UBC Vancouver and UBC Okanagan calendars.

3.24.2 3.2—Administrative Head of Unit is any of the following: Director of a service unit; Head of an academic department; Director of a centre, institute or school; Principal of a college; Dean; Associate Vice President; University Librarian; Registrar; Vice President; Deputy Vice Chancellor & Principal; or President.

4.3 3.3—Complainant is an individual who has made a formal complaint of Discrimination under the Procedures.

3.34.4 Discrimination is intentional or unintentional treatment conduct, which can be individual or systemic, that imposes burdens, obligations, or disadvantages on or limits access to opportunities, benefits and advantages to specific individuals or groups as defined by the B.C. Human Rights Code and for which there is no bona fide and reasonable justification BC Human Rights Code and for which there is no bona fide and reasonable justification. Harassment that is related to one or more of the prohibited grounds of discrimination set out in the Human Rights Code is Discrimination under this Policy. Discrimination can involve individuals or groups, and it can occur during one incident or over a series of incidents including single incidents, which, in isolation, would not necessarily constitute discrimination. It is the impact on the Complainant, subject to the reasonable person test, and not the intent of the Respondent that defines the treatment as Discrimination. The reasonable person test refers to an assessment of responsibility that takes into account not only what the Complainant and Respondent actually experienced, knew, or understood about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.

3.4 Harassment is comment or conduct that one knows or ought reasonably to know is unwelcome, that creates a negative impact for the recipient, and that is related to one or more of the prohibited grounds of discrimination as set out in the B.C. Human Rights Code.

3.5 Member of the University Community is a student, a member of faculty, or a member of staff.

~~3.6 **Systemic Discrimination** is any pattern of behaviour, policies or practices that are part of the structures of an organization, and that create or perpetuate disadvantage related to one or more of the prohibited grounds of discrimination as set out in the *B.C. Human Rights Code*.~~

4.5 **Members of the UBC Community** are individuals who fall under one or more of the following categories:

4.5.1 students, defined as individuals enrolled at UBC, including co-op and exchange students;

4.5.2 employees, including faculty and staff members;

4.5.3 holders or teaching appointments;

4.5.4 post-doctoral fellows; and

4.5.5 anyone contractually obligated to comply with this Policy.

4.6 **Respondent** is the person against whom an allegation of Discrimination has been made.

PROCEDURES

Approved: January 1995

Revised: ~~August 2013~~ [*2019]

Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.

1. General

~~1.1~~ These Procedures apply to concerns relating to matters of Discrimination or Harassment that are brought to the attention of the Equity and Inclusion Office, Access & Diversity, or the Director, Equity Complaint Management. Concerns brought to the attention of the Administrative Heads of Unit will be dealt with in accordance with the usual practices and procedures of the University.

1.1 ~~1.2~~ The Equity and Inclusion Office, Access & Diversity, and the Director, Equity Complaint Management will exercise Individuals exercising their authority and discretion under these Procedures will do so in conformity with the principles of procedural fairness in the ~~university~~ UBC context.

1.2 ~~1.3~~ The complainant and the respondent If an individual exercising authority and discretion under these Procedures has a real or apparent conflict of interest in a particular matter, or there is a reasonable apprehension of bias, then that individual will not continue their involvement in the matter and UBC will appoint an appropriate individual to act in that role for the purposes of that matter. For certainty, participation of the individual in any informal or consultation process does not, of itself, constitute a conflict of interest or a reasonable apprehension of bias.

~~1.2~~ 1.3 The Complainant and the Respondent may have a representative or support person present at any time during the process outlined under these Procedures. Members of unions and employee associations have all rights to representation that their collective agreements confer.

2. Confidentiality and Privacy

2.1 In order to protect the integrity, fairness, and effectiveness of the process under the Policy and this Procedure and to ensure compliance with the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), all participants in the process must act in accordance with the requirements set out below.

2.2 Individuals, including the Complainant and the Respondent, who have obtained information about an identifiable individual ("Personal Information") through their participation in the process must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

2.2.1 any participants in the process from disclosing information about themselves, or information that they have obtained outside the process;

2.2.2 UBC representatives from disclosing process-related information as authorized under section 2.3; or

2.2.3 Complainants and Respondents from disclosing the information that they have received under sections 2.4 and 2.5.

2.3 UBC will not disclose any Personal Information related to the process except to the extent such disclosure is:

2.3.1 expressly authorized by the affected individual;

2.3.2 to a UBC representative, if necessary for the performance of that individual's duties;

2.3.3 to a Complainant, Respondent, witness, or other participant in the process, if necessary for the conduct of the process;

2.3.4 to a Complainant or Respondent in accordance with sections 2.4 and 2.5;

2.3.5 authorized by the University Council for compelling health or safety reasons;

2.3.6 authorized by the University Council to correct misleading or inaccurate information if necessary to protect the integrity of the process or UBC's investigatory processes; or

2.3.7 authorized or required under law, which for certainty shall include directions received from external agencies such as the BC Human Rights Tribunal.

2.4 To maintain the integrity of the process under this Policy, UBC must ensure that both Complainants and Respondents know the process findings and the evidence upon which these findings are based. The FIPPA may require UBC to remove Personal Information that is irrelevant to the process findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive information that is relevant to them.

2.5 Under the FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Council for compelling health or safety reasons. For example, UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.

Section 2.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 2.41.4 — If the Director, Equity Complaint Management, the AVP, Equity and Inclusion, or a member of the Equity and Inclusion Office or of Access & Diversity acting under these Procedures, has a conflict of interest in a particular matter, or there is a reasonable apprehension of bias, then that person will not participate in the process any further. If an Administrative Head of Unit has a conflict of interest, or there is a reasonable apprehension of bias, then the person to whom that Administrative Head of Unit reports will act as the Administrative Head of Unit under these Procedures.

1.5 — The Equity and Inclusion Office, Access & Diversity, and the Director, Equity Complaint Management respect the sensitive nature of the information that individuals may provide. Such information will only be accessible by those within the University who need such information to properly deal with the matters raised under these Procedures, or if required to do so by external agencies such as the B.C. Human Rights Tribunal who are dealing with the matters raised by that individual. All records are maintained by the University in accordance with the B.C. Freedom of Information and Protection of Privacy Act and other applicable laws and orders of the Courts, and other bodies having jurisdiction over such matters.

~~1.6 Members of the University Community involved in a case are expected to maintain confidentiality, particularly within the work or study area in question and in shared professional or social circles.~~

~~1. Consultations~~

~~2.1 Faculty or staff, or others with concerns relating to a Member of the University Community or to a University sanctioned program, event or activity, may consult with the Equity and Inclusion Office for information, advice, support and referrals relating to matters of Discrimination or Harassment. Students with concerns relating to a Member of the University Community or to a University sanctioned program, event or activity may consult with Access & Diversity for information, advice, support and referrals relating to matters of Discrimination or Harassment.~~

~~2.6 2.2— and 2.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim), and may wish to seek advice before doing so.~~

~~3. Consultations and Informal Resolution~~

~~3.1 Members of the UBC Community who have concerns about matters of Discrimination that relate to a Member of the UBC Community or to a UBC-sanctioned program, event or activity may consult with the Equity & Inclusion Office. Administrative Heads of Unit who become aware of such concerns should forward them to the Equity & Inclusion Office.~~

~~1.33.2~~ Such individuals may consult with ~~these offices—the Equity & Inclusion Office~~ anonymously. However, any information provided to ~~these offices~~this office anonymously or in a consultation-only capacity will not be independently substantiated, further investigated, or acted upon by ~~these offices~~this office unless the AVP, Equity ~~and~~& Inclusion determines that it would be appropriate to do so and initiates a complaint under section 4.2.3-~~3.4~~ below.

~~3.3 As part of this consultation process, the Equity & Inclusion Office may work with the relevant Administrative Head of Unit to resolve the concern informally. In doing so, this office should take into considerations all relevant factors, such as risks to health or safety, financial or logistical challenges, disruption of any collective agreements, and impact upon ability to deliver or meet requirements of the relevant course, program, or activity.~~

~~2.4. Making Formal Complaints~~

~~2.14.1 3.1—~~Those with concerns relating to matters of Discrimination ~~or Harassment~~ are strongly encouraged to consult with the ~~appropriate office—Equity and Inclusion Office~~ as set out in section 3.1~~2.1~~ above prior to taking any other action under these Procedures. However, if the person with the concern believes that it was not satisfactorily addressed through consultation, or believes that consultation is not appropriate in the circumstances, that person may ~~initiate~~submit a formal complaint ~~with~~to the Director, of Investigations. The Director of Investigations will provide a copy or summary of the complaint to the Equity Complaint Management, with a copy to the AVP, Equity and Inclusion— Office.

~~3.2—Complaints made to the Director, Equity Complaint Management relating to matters of Discrimination or Harassment pertaining to University work, studies or participation in life on campus may be lodged~~

~~by any Member of the University Community against other Members of the University Community and/or the University.~~

~~4.2 3.3~~ Non-Members of the University Discrimination complaints may be made

~~4.2.1~~ by any Member of the UBC Community who are~~is~~ directly affected by the conduct or comment that forms the basis of the complaint ~~may lodge a complaint against any Member of the University Community and/or the University;~~

~~2.1.14.2.2~~ at the discretion of the Director, Equity Complaint Management, of Investigations, by a non-Member of the UBC Community who is directly affected by the conduct that forms the basis of the complaint; and

~~3.4~~ Complaint proceedings may also be initiated by the AVP, Equity and Inclusion based on information that has been given to the Equity and Inclusion Office or to Access & Diversity, or that the Equity and Inclusion Office becomes aware of, if the AVP, Equity and Inclusion determines that it is appropriate to do so in the circumstances. In such cases, the AVP, Equity and Inclusion will act as the complainant.

~~3.5~~ Complaints must be made within one calendar year of the date that the conduct or comment that forms the basis of the complaint occurred or, in the case of a series of events, within one calendar year of the date that the last event in the series occurred. The Director, Equity Complaint Management has the discretion in exceptional circumstances to extend this one year time limit.

~~3.6~~ Complaints must be made in writing, although the Director, Equity Complaint Management has the discretion in exceptional circumstances to waive or defer this requirement.

~~4.2.3 3.7~~ An Administrative Head of Unit who by the AVP, Equity & Inclusion.

~~2.24.3~~ If the AVP, Equity & Inclusion initiates a complaint under section 4.2.3, they will act as the complainant Complainant in the complaint proceedings under these Procedures. In such cases, the person directly affected by the conduct ~~or comment~~ that forms the basis of the complaint, and/or the person who is the subject of the complaint, may be called upon as witnesses in ~~any subsequent~~ the proceedings.

~~4.4 3.8~~ Complaints must be made in writing.

~~2.34.5~~ Complainants may withdraw from the complaint proceedings at any time. However, the University's UBC's responsibility to provide an environment free from Discrimination ~~and Harassment~~ may obligate the University UBC to proceed regardless of the ~~complainant's~~ Complainant's withdrawal.

~~4.6 3.9~~ At any time, the The Director, Equity Complaint Management may take any action deemed appropriate of Investigations has jurisdiction to investigate complaints in the following circumstances;

~~4.6.1~~ the complaint must have been made by an individual described in section 4.2, including staying or terminating;

~~2.3.14.6.2~~ the proceedings, or taking interim measures to preserve safety or efficiency while complaint must be either a complaint is being investigated or resolved of systemic Discrimination by UBC or a complaint about Discrimination by a Respondent who was a Member of the UBC Community at the time the alleged Discrimination occurred and at the time the complaint was submitted;

~~4.6.3~~ ~~3.10~~ When a written complaint is received by the alleged conduct must fall within the definition of Discrimination; and

~~4.6.4~~ the complaint must have a real and substantial connection to UBC, as that term has been interpreted under BC law.

~~2.4.4.7~~ If the Director, ~~Equity Complaint Management~~ and it is determined that the Policy applies of Investigations determines that there is jurisdiction to investigate a complaint, the Director, ~~Equity Complaint Management~~ will review the written complaint and ~~of Investigations~~ may do any one or more of the following:

~~3.10.1~~ refer all or part of the complaint to the unit involved for internal investigation and resolution, including a referral to the appropriate Administrative Head of Unit;

~~2.4.14.7.1~~ ~~3.10.2~~ address the complaint under section 54 below; or

~~2.4.24.7.2~~ ~~3.10.3~~ dismiss or decline to proceed with the complaint.

~~2.54.8~~ ~~3.11~~ If it is determined that the Policy does not apply, the complaint If the Director of Investigations determines that there is no jurisdiction to investigate a complaint, the Director of Investigations will not accept the complaint and will not be accepted by the Director, ~~Equity Complaint Management~~ and take no further action will be taken under these Procedures.

Where the Director of Investigations makes a decision under sections 4.7.2 or 4.84. **Complaint Management**

~~4.9~~ ~~4.1~~, the Director of Investigations will provide written reasons to the Complainant.

5. Managing Formal Complaints

~~2.65.1~~ If the Director, ~~Equity Complaint Management~~ of Investigations decides to address the complaint, the relevant Administrative Head of Unit and the Equity & Inclusion Office will be notified and a copy or summary of the complaint will be provided to the ~~respondent~~ Respondent, who will be invited to respond to the allegations contained in the complaint.

~~2.75.2~~ ~~4.2~~ The Director, ~~Equity Complaint Management~~ of Investigations may manage the complaint using any means deemed appropriate in the circumstances, subject to the principles of procedural fairness in the ~~university~~ UBC context. Such means may include, but are not limited to, the following:

~~2.7.1~~ ~~4.2.1~~—~~suspending or discontinuing the proceedings;~~

~~2.7.2~~ ~~consolidating multiple complaints so as to be addressed together;~~

~~2.7.3~~ ~~recommending interim measures to preserve safety while a complaint is being investigated or resolved;~~

~~2.7.4~~~~2.7.5~~~~2.4~~ ~~interviewing or requesting written submissions from the ~~complainant~~Complainant and/or the ~~respondent~~Respondent and/or any other ~~parties~~individuals with information that may be useful;~~

~~2.7.2~~~~2.5~~~~2.5~~ ~~4.2.2~~—~~consulting with other ~~University~~UBC offices or employees;~~

~~2.7.3~~~~2.6~~ ~~4.2.3~~—~~gathering documents relevant to the complaint; and/or~~

~~2.7.4~~~~2.7~~ ~~4.2.4~~—~~referring the matter for internal or external investigation, or mediation or other forms of alternative dispute resolution.~~

~~2.8~~~~5.3~~ ~~4.3~~—Both the ~~complainant~~Complainant and the ~~respondent~~Respondent are expected to participate in the complaint management process outlined above in a timely manner. In cases where the ~~complainant~~Complainant and/or the ~~respondent~~Respondent fails to participate within a reasonable time without appropriate justification, the process may proceed without their participation and an adverse inference may be drawn as a result of their failure to participate.

~~5.~~ Resolution

~~5.4~~ ~~5.1~~—~~Except in exceptional circumstances, the complaint management process outlined above will be completed within 90 calendar days of the provision of the complaint to the Respondent. In the event that this timeline cannot be met, the Director of Investigations will contact the Complainant and Respondent as soon as possible to inform them of the revised timeline.~~

6. Resolving Formal Complaints

~~2.9~~~~6.1~~ ~~4.5~~ After addressing the complaint under section ~~4.5~~ above, the Director, ~~Equity Complaint Management of Investigations~~ may resolve the complaint and/or make recommendations as deemed appropriate in the circumstances. Such resolutions or recommendations may include, but are not limited to, the following:

~~2.9~~~~6.1.1~~ ~~5.1.1~~—resolving the complaint by consent of the ~~complainant~~Complainant and the ~~respondent~~Respondent, through mediation or any other means;

~~2.9.26.1.2~~ 5.1.2—recommending such measures as may be appropriate to remedy the effects of ~~discriminatory conduct~~Discrimination and restore the ~~complainant's~~Complainant's and/or ~~respondent's~~Respondent's unit to effective functioning;

~~2.9.36.1.3~~ 5.1.3—recommending such measures as may be appropriate to remove systemic barriers and/or prevent ~~discriminatory conduct~~Discrimination;

~~6.1.4~~ 5.1.4—recommending to ~~making findings about whether~~ the ~~appropriate Administrative Head of Unit~~Respondent or any other individual has violated this Policy or these Procedures;

~~2.9.46.1.5~~ making findings about whether the ~~imposition of discipline on the respondent or, in cases where the Director, Equity Complaint Management determines that~~Complainant made the complaint ~~was made~~ in bad faith or was frivolous, vexatious or malicious, ~~on the complainant~~;

~~2.9.56.1.6~~ 5.1.5—recommending other remedies to the appropriate Administrative Head of Unit; and/or

~~2.9.66.1.7~~ 5.1.6—dismissing the complaint.

~~5.2—The Director, Equity Complaint Management will communicate in writing any resolution and/or recommendations made under these Procedures to the appropriate Administrative Head of Unit and to the AVP, Equity and Inclusion. Where appropriate, the communication will include a finding whether on the balance of probabilities there has been a violation of the Policy, and reasons. In addition and as appropriate, the Director, Equity Complaint Management may communicate any resolution and/or recommendations with others whom the Director, Equity Complaint Management determines ought to know under the circumstances.~~

~~5.3—The Administrative Head of Unit receiving the communication has the authority to determine the appropriate disciplinary and/or remedial measures needed to resolve or address the complaint, if any. The Administrative Head of Unit will provide a written report of the decision made and any measures taken to the Director, Equity Complaint Management, the appropriate Dean and/or Head, and the complainant and the respondent.~~

~~2.106.2~~ 5.4—No resolution of a complaint that may adversely affect the academic, employment, professional, or other interests of a party shall proceed without giving that party the opportunity to fully respond to the complaint.

~~6.3~~ 6.—Where the Director of Investigations has referred a complaint for internal or external investigation, the Director of Investigations or their delegate will prepare a written report (“Investigative Report”) for the appropriate Administrative Head of Unit and the AVP, Equity & Inclusion. The Investigative Report will normally include the following information:

6.3.1 a summary of the evidence considered;

6.3.2 any assessment of credibility that is required to render a determination;

6.3.3 the findings of fact, and a determination as to whether, on a balance of probabilities, Discrimination has occurred; and

6.3.4 any resolution or recommendations made under these Procedures.

6.4 In addition and as appropriate, the Director of Investigations may communicate any resolution and/or recommendations to the Complainant, Respondent and others whom the Director of Investigations determines ought to know under the circumstances.

6.5 The Administrative Head of Unit receiving the Investigative Report has the authority to determine the appropriate disciplinary and/or remedial measures needed to resolve or address the complaint, if any. The Administrative Head of Unit will provide a written report of the decision made and any measures taken to the Director of Investigations, the appropriate Dean and/or Head, and the Respondent. Disciplinary actions will not be disclosed to Complainants except in the limited circumstances set out in section 2.5.

6.6 The Director of Investigations will conclude the investigatory process by ensuring all necessary communications are made to those responsible for implementing decisions, providing or adjusting support services and accommodations, providing education, or conducting administrative transactions.

3.7. Appeals

3.17.1 ~~6.1~~—Students may appeal any discipline that is imposed under these Procedures through the UBC Vancouver Senate Student Appeals on Academic Discipline Committee or the UBC Okanagan Senate Appeals of Standing and Discipline Committee.

3.27.2 ~~6.2~~—Staff or faculty may appeal any ~~decision or~~ discipline that is made or imposed by the Administrative Head of Unit under these Procedures through the provisions of their collective agreements or their terms and conditions of employment.

3.37.3 ~~6.3~~—The ~~complainant~~ Complainant and/or the ~~respondent~~ Respondent may also have recourse to processes outside of ~~the University~~ UBC, such as filing a complaint with the ~~B.C.~~ BC Human Rights Tribunal.