

## **Guide to UBC's Policy #3: Discrimination and Harassment**

UBC is committed to providing its students, staff, and faculty with the best possible environment for study and work. This includes an environment where all:

- have equitable access to work and study related opportunities,
- are treated with respect and dignity, and
- are free from discrimination and harassment.

These goals are reflected in the University's Policy #3 on Discrimination and Harassment. Policy #3 has two main objectives:

- to prevent discrimination and harassment on the 13 grounds set out in the B.C. *Human Rights Code*, and
- To provide fair procedures for handling complaints, remedying situations, and imposing discipline when discrimination and harassment do occur.

### **Accountability and Responsibility**

The Policy applies to all UBC students, staff and faculty. All members of the UBC community share in creating and maintaining a working and learning environment where human rights are respected and valued. In addition:

- Policy #3 identifies a central role for Administrative Heads of Unit (AHU's) in both promoting and maintaining a work and study environment free from discrimination;
- Department heads, faculty, managers, and administrative staff in supervisory roles have a heightened responsibility to take immediate and appropriate action to address incidents of discrimination brought to their attention or personally observed; and
- Staff, faculty, students and all other members of the University have a shared responsibility to ensure their interactions and practices comply with human rights standards.

Policy #3 procedures for handling complaints of discrimination offer an internal mechanism for complaint resolution that supplements other University and extra-University mechanisms, such as those procedures offered by employee associations and unions, the courts, the B.C. Human Rights Tribunal, and the B.C. Office of the Ombudsperson.

### **Definitions**

a. Discrimination means unjustified differential treatment of a person or a group of people which is based, in whole or in part, on one or more of the 13 grounds protected in the BC *Human Rights Code* and Policy #3. Discrimination, whether intentional or not, has an adverse impact on the person or group of people it is directed at and is prohibited by law.

b. Harassment means engagement in harmful comment, conduct or behaviour that is known or ought reasonably to be known, to be unwelcome. Harassment can be a single serious incident or a series of incidents. When the harassment is linked to, or specific to, one or more of the 13 grounds protected in the BC *Human Rights Code* and Policy #3, it is a form of unlawful discrimination.

## **Grounds Protected**

The BC *Human Rights Code* and Policy #3 identify thirteen grounds of prohibited discrimination. They are: age, ancestry, colour, place of origin, race, religion, family status, marital status, disability, political belief, sex, sexual orientation, and criminal conviction unrelated to employment. The interpretation and application of these grounds is based in legal precedent. Protection against sex discrimination includes protection for males, females and transgender people. It also includes protection against sexual harassment, pregnancy discrimination and discrimination on the basis of breastfeeding.

## **Complaint Resolution Options**

Any member of the University who believes they have experienced discrimination may consult with either the appropriate AHU or an Equity Advisor. Both AHU's and Equity Advisors have a responsibility to listen to the concerns brought forward and to consider the applicability of Policy #3 and other options. If the concern appears to fall under Policy #3 and the person bringing the complaint forward (the complainant) has consented, AHU's and Equity Advisors take steps to try to resolve the situation. What follows is a summary of the procedures available under Policy #3.

***Informal Resolution Process.*** An informal resolution is a resolution arrived at with the assistance of the appropriate AHU and / or an Equity Advisor, but without the use of either mediation or a formal investigation.

Informal resolutions do not result in legal determinations or findings of fact. Instead they aim to resolve concerns by using a problem-solving approach. AHU's and Equity Advisors usually work in tandem to address complaints by sorting through the issues and facts and finding workable solutions. This would include meeting with the person who the complaint is against (the respondent) to obtain their response, explaining the other party's perspective, gathering more information and facts when required, and determining best resolution options. Resolution may include imposing interim measures or discipline.

Equity Advisor's do not advocate for one party or another; but rather they advocate on behalf of a discrimination-free environment. AHU's, in keeping with their administrative duties take remedial and disciplinary action when and if warranted.

***Mediation.*** If informal resolution proves unsatisfactory, and both parties consent, the parties may ask the Equity Office to resolve their complaint through non-binding mediation. A request for mediation is made to the Associate Vice President Equity (AVP-Equity). A mediator will attempt to help the two parties come to an agreement that is satisfactory to both. Any agreement reached is recorded in a written document and signed by both parties and the mediator. If an agreement cannot be reached, the complaint may remain unresolved.

**Formal Investigation and Recommendation.** This process is typically used in cases where the concern is very serious, the facts remain in dispute, and/or an informal resolution or mediation is not appropriate. It is also used in cases where the resolution may involve disciplinary action. A request for a formal investigation can be made by the complainant at any time after a complaint is filed. The request must be made in writing and approved by the AVP-Equity before proceeding.

The respondent will be informed of the request and asked to respond in writing. If this written response is not satisfactory to the complainant, the AVP-Equity may appoint an independent investigator and a three-person panel. An investigator would typically interview all parties to a complaint, including witnesses and then present a written report to the panel. The panel may meet with the parties to examine the evidence in the investigator's report. The panel would then determine if a violation of Policy #3 occurred, and, if applicable, it would recommend a course of action to the appropriate AHU. Prior to deciding upon disciplinary and/or remedial measures, the respondent's AHU would typically meet individually with the complainant, the respondent, and the AVP-Equity.

## **Appeals**

If either party disagrees with the decision of the above resolution options, they may appeal the decision through grievance procedures established by collective agreements, or by the UBC Senate, and/or by agencies outside UBC, such as the provincial Ombuds Office or the B.C. Human Rights Tribunal. In addition, all students, staff members, and faculty can seek legal redress on their own behalf.

## **Confidentiality**

At all times, complainants, respondents, AHU's, and Equity Advisors have the responsibility to maintain confidentiality. Nonetheless, concerns for an individual's health, safety, and security may compel the University to disclose information about complaints. As well, other measures, such as arbitrations, court proceedings, or procedures under the Freedom of Information and Protection of Privacy Act may require the University to release information about complaints.

## **Further Information**

- Read UBC's Policy # 3, Discrimination and Harassment.
- Review detailed information on different forms and types of discrimination online at [www.equity.ubc.ca](http://www.equity.ubc.ca) or [www.ubc.ca/okanagan/hes](http://www.ubc.ca/okanagan/hes).
- Consult with your student association, employee association, union, or one of the following student service units: Access and Diversity Office, Disability Resource Centre, First Nations House of Learning, International Student Services, Student Health Services, or Student Resources Centre.
- Call the Equity Office in Vancouver (604-822-6353) or Human Rights and Equity Services in the Okanagan (250-807-9291) to make an appointment with an Equity Advisor.
- Discuss your concerns with your administrative head. Administrative heads include the following: Academic Department Head, Director, Principal, Dean, Associate Vice President, University Librarian, Registrar, Vice president, and President.