

Title of Policy	Discrimination, Bullying and Harassment
Policy Number	4.8.6
Category	4 - Human Resources
Approval Body	College Policy Committee
Policy Sponsor	Executive Director, Human Resources
Operational Lead	Executive Director, Human Resources
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### **CONTEXT AND PURPOSE**

College of the Rockies (the “College”) is committed to providing a respectful learning and working environment that allows for full and free participation of all members of the college community. Discrimination, bullying and/or harassment undermine these objectives and violate the fundamental rights, personal dignity and integrity of individuals or groups of individuals. The College views discrimination, bullying and/or harassment as serious offenses that are not tolerated by the College, and violations of this policy may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal, or expulsion.

The College abides by the B.C. *Human Rights Code* and the B.C. *Workers Compensation Act*. The Discrimination, Bullying and Harassment Policy (the “Policy”) is intended to prevent discrimination, bullying and/or harassment. This policy provides procedures for reporting, investigating, and resolving incidents and complaints where this behaviour occurs, including discrimination-based harassment, sexual harassment, and workplace bullying and harassment.

### **SCOPE**

This Policy is intended to address and eradicate discrimination and harassment within the context of college activities, and which interferes with an individual’s employment or studies at the College. Allegations of discrimination and harassment by members of the College in their capacity as members of the College community shall be considered within the jurisdiction of the College to investigate, whether or not the alleged harassment occurred on campus, whether or not this occurred during studies or working hours, and whether or not the complainant is a member of the College community. Behaviour which occurs separate from any college activities, and which is unrelated to employment or studies at the College is not covered.

## **DEFINITIONS**

**Bad Faith, Malicious, Vexatious Complaints:** Intent to deceive or intend to do harm. Complaints of discrimination or bullying and harassment are serious matters. Any person who is found to have made a malicious or vexatious complaint in bad faith, may be subject to disciplinary measures.

**Balance of Probabilities:** The standard of proof used to determine findings of fact, requiring the evidence shows that the discrimination, bullying and/or harassment that is the subject of the formal complaint is more likely than not to have occurred.

**Bullying and Harassment (also known as Personal Harassment):** Includes any inappropriate conduct or comment towards a person that the person responsible for the conduct or comment, knew or reasonably ought to have known would cause the other person to be humiliated or intimidated but excludes:

- a. any reasonable action taken by the College, or by its employees in supervisory positions, relating to the management and direction of employees or the workplace;
- b. any reasonable action taken by the College, or by an instructor or person in a similar position, relating to the management and direction of students in the classroom, the management of student conduct or the management, direction, assignment or supervision of academic work.

Examples of conduct or comments that might constitute bullying and harassment include verbal aggression or insults, calling someone derogatory names, harmful hazing, or initiation practices, vandalizing personal belongings, ignoring, threats, isolating someone, freezing a person out, intimidation tactics, and spreading malicious rumours.

Personal harassment and bullying do not include:

- a. the exercise of appropriate managerial or supervisory direction, including appropriate performance management and the imposition of discipline;
- b. reasonable action taken by an instructor relating to management of the classroom and assignment of course work;
- c. constructive criticism;
- d. reasonable changes to assignments or duties;
- e. correction of inappropriate behaviour;
- f. instructional techniques such as using irony, conjecture, and refutation, or assigning readings or other instructional materials that advocate controversial positions; or
- g. respectful expression of differences of opinion.

**Complainant:** a non-member or member of the College community who has filed a formal complaint under this policy and its associated procedures.

**Confidential Information:** all information, oral or written, created, gathered, received, or compiled through the course of a complaint/investigation under this policy and associated procedure.

**Human Rights: Discrimination and Discriminatory Harassment** [BC Human Rights Code](#)

- a. **Discrimination:** In British Columbia, it is discrimination if you are treated badly or denied a benefit because of a personal characteristic protected under the BC Human Rights Code. Discrimination is the unfair differential treatment of an individual or group, whether intended or not, on the basis of race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, age or unrelated criminal conviction.
- b. **Discriminatory Harassment:** a form of discrimination and includes conduct or comments that one knows or ought to know is unwelcome, humiliates, insults, or demeans and is related to a protected personal characteristics. Discriminatory harassment creates an intimidating and hostile work environment and has the effect of interfering with a person's job or education related activities.

**Employee:** any person employed by the College.

**Harassment:** where it appears in this policy refers to behaviour that satisfies any one or more of the following as defined:

- a. "Bullying and Harassment"
- b. "Discrimination-based harassment"
- c. "Sexual harassment"

**Member of the College Community:** employees, students, agents, board members and volunteers.

**Prohibited Grounds:** the grounds protected against discrimination by the *B.C. Human Rights Code*. As of this date, prohibited grounds are: age, race, colour, Indigenous identity, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression and, in the case of employment, unrelated criminal conviction.

**Reasonable Person Standard:** whether or not a reasonable person in roughly the same position as the complainant would judge discrimination to have occurred as a result of another person's behaviour or pattern of behaviour.

**Respectful Workplace** is characterized by:

- a. Inclusion of people with diverse ancestries, backgrounds, religions, cultures, sexual orientations, and abilities;
- b. Polite behaviour where people are courteous and considerate toward others;
- c. Freedom from disrespectful, discriminating, bullying and harassing behaviour;
- d. Constructive management and resolution of differences and where different perspectives and workplace conflict is recognized as natural and is managed through collaborative processes; and
- e. Support for individuals to learn and practice conflict resolution and respectful workplace skills.

**Respondent:** a member of the College community against whom a complaint of discrimination, bullying and/or harassment has been made under this policy and its associated procedure.

**Retaliation:** any adverse action taken against a person because that person reports or alleges a violation of a College policy, seeks advice on making a complaint, makes a complaint in good faith, or cooperates in a conflict resolution process, including an investigation. Retaliation is prohibited and may be subject to disciplinary measures.

**Sexual Harassment:** Inappropriate conduct or comments of a sexual nature that are unwelcome, and that detrimentally affect the work or learning environment or lead to adverse job or education related consequences. Sexual harassment includes:

- a. Conduct or comment of a sexual nature made by a person who knows or ought reasonably to know that such conduct or comment is unwelcome;
- b. Expressed or implied promise of a reward for complying with a request of a sexual nature;
- c. Actual reprisal or an expressed or implied threat of reprisal for refusal to comply with such a request; and
- d. Conduct or comment of a sexual nature which is intended to, or has the effect of, creating an intimidating, hostile or offensive environment.

**Student:** for the purpose of this policy means an individual enrolled in any course (credit or non-credit) at the College.

**College-Related Activity:** includes an activity or event conducted under the authority of the College at any location, on or off campus. All activities on the College's campuses are College-related unless they are conducted under the control of a person, organization, association, or group that is separate from the College.

## **POLICY STATEMENTS**

### **A. Roles and Responsibilities**

#### **A. 1 Members of the College Community**

- A. 1. 1 All members of the College community have a responsibility to ensure awareness of, and adherence to this policy, all other College policies and procedures, and all applicable laws. All members of the College community are integral to creating a respectful and safe environment and are expected to treat each other with dignity and respect, and must refrain from engaging in discrimination, bullying and/or harassment.
- A. 1. 2 Members of the College community must participate in any procedures taken under this policy. Failure to comply with the provisions or any resolution agreed upon or imposed as a result of this policy and its associated procedure may result in disciplinary action by the College.
- A. 1. 3 All members of the College community, including those in positions of authority, involved in a complaint have the obligation to respect and maintain the confidentiality of information as described in section E.

#### **A. 2 Individuals with Decision Making Power over Others**

- A. 2. 1 Individuals with decision making power over others are responsible for fostering and maintaining work and learning environments free from discrimination, bullying and/or harassment, and to take prompt remedial action should discrimination, bullying and/or harassment occur.
- A. 2. 2 Individuals with decision making power over others must address complaints promptly, confidentially, fairly, and seek advice from the Human Resources Department or Office of the Vice President Academic and Applied Research (“the Office of the VP Academic and Applied Research”) when appropriate.
- A. 2. 3 Individuals with decision making power over others must implement the recommendations (including disciplinary measures) when required as an outcome of the procedure of this policy.

### **B. Interim Relief**

The Human Resources or the Office of the VP Academic and Applied Research with College President’s approval, may take interim measures necessary to protect the College community or any of its members, pending the completion of an investigation of a discrimination or harassment complaint.

- B. 1 Such measures may include but are not limited to, ordering the complainant, respondent, witnesses, or other parties to cease and desist from engaging in a particular type of behaviour, and/or restraining access to a specific campus or specific areas of a college campus pending investigation.

B. 2 For just cause, the Human Resources or Office of the VP Academic and Applied Research with College President's approval, may suspend or engage in dismissal of an employee/student from the institution and deal summarily with the matter of discipline.

**C. Retaliatory Action**

Frivolous, vexatious, or malicious complaints of discrimination or harassment; breaches of confidentiality, and retaliation are not tolerated at the College. Such actions may result in discipline including termination of employment or expulsion of a student.

**D. Record**

D. 1 For every complaint, the incident will be recorded by the Human Resources Office (when involving employees) or Office of the VP Academic and Applied Research (when incidents are between students) as outlined in the "Investigation Procedures". If the complaint involves a student and an employee both HR and Office of the VP Academic and Applied Research need to be notified.

D. 2 Incident or Injury records will be maintained within the Human Resources office and Office of the VP Academic and Applied Research.

**E. Confidentiality and Privacy**

E. 1 The College recognizes the protection of confidentiality is essential to the proper functioning and implementation of this policy and its associated procedure.

E. 2 Supervisors and managers involved in a complaint must keep all information confidential. All Confidential Information must be treated as confidential by both the respondent and complainant, their representatives, witnesses, officials designated by this policy, and members of the College community. Records are held in confidence to the extent allowed by or required by:

- a. This policy and its associated procedures;
- b. The law, including the *Freedom of Information and Protection of Privacy Act* (FIPPA). All recorded information will be treated as "supplied in confidence" for purposes of compliance with FIPPA and responding to access requests; and
- c. Judicial and quasi-judicial proceedings, including but not limited to proceedings before the BC Human Rights Tribunal and WorkSafeBC investigations.

E. 3 The President may authorize the disclosure of Confidential Information in any of the following circumstances:

- a. the person the information is about has consented in writing;
- b. disclosure of the information is necessary for the protection of health or safety; and/or
- c. disclosure of the information is otherwise authorized or required by law

## **F. Access to Other Procedures**

- F. 1 Members of the College community have the right to pursue criminal and/or civil legal remedies and exercise any other legal rights they may have, including the right to file a complaint with the BC Human Rights Tribunal or WorkSafeBC. The College may elect to suspend its process until the outcome of the process outside the College is determined.
- F. 2 This policy and its associated procedure are separate from any criminal or civil proceedings. The College is not responsible for determining violations of criminal or civil law.
- F. 3 The College will cooperate in any criminal investigation.
- F. 4 Collective Agreements
  - F. 4. 1 Both the faculty and CUPE collective agreements contain harassment provisions. Complainants who are members of the faculty or CUPE unions may choose to proceed under the provisions of their collective agreements rather than under this policy. A complainant may not concurrently pursue a complaint under both this policy and their respective collective agreement. An employee who commences a complaint under this policy and procedure shall not forfeit their entitlement to pursue a complaint through the grievance procedure under their respective collective agreement.

## **G. Complaints**

- G. 1 A member of the College community who believes that they have a complaint of discrimination, bullying and/or harassment is encouraged to make a direct request to the accused that the unwanted behaviour or action(s) cease. If their request is unsuccessful, or if they consider it inappropriate or uncomfortable to make such a request, the individual may seek assistance from their supervisor or manager, Human Resources, or union representative. Student complaints may be directed to Student Affairs. At the request of the employee/student, an Elder can be present when dealing with issues affecting Indigenous employees/students.
  - G. 1. 1 The filing of a complaint under this policy and associated procedure is the right of every member of the College community and may be exercised without fear of reprisal or retaliation.
  - G. 1. 2 The College will exercise care to protect and respect the rights of both the complainant and the respondent. The College will seek to achieve procedural fairness in dealing with all complaints, including the following:
    - a. Any complainant who wishes the College to conduct a formal investigation must be prepared to be identified to the respondent. The principles of confidentiality, as outlined in section E, will be followed.

- b. Respondents must be informed of a complaint made against them under this policy. Complainants and respondents must be given the opportunity to present evidence in support of their positions.
  - c. Those responsible for interpreting, administering, and applying this policy will use a reasonable person standard and will apply this policy in an unbiased, non-arbitrary manner.
  - d. Complaints made in good faith will be addressed in a timely manner without reprisal.
- G. 1. 3 If the matter becomes the subject of any other problem resolution procedure, including the subject of a charge laid pursuant to the Criminal Code of Canada, the College may elect not take any further action until the other process has been concluded and further action is requested by the complainant.
- G. 1. 4 If an individual, in good faith, makes a complaint but is not able to satisfy the balance of probabilities, the complaint may be dismissed. However, the complainant may still access support services including but not limited to Counselling and Learning Support, and the Employee and Family Assistance Plan.

## G. 2 Complaint Procedures

- G. 2. 1 The following procedures are in alignment with Investigation Policy 4.8.10 and “Investigation procedures”. They are aimed at providing a method for the resolution of harassment complaints which may occur at the College of the Rockies.
- G. 2. 2 An individual who believes they have been subjected to an incident of discrimination, bullying or harassment is encouraged to make their complaint as soon as possible to Human Resources (when involving employees) and/or the Office of the VP Academic and Applied Research (when involving students).
- G. 2. 3 If the applicable Human Resources or Office of the VP Academic and Applied Research delegate is the individual to have engaged in discrimination, bullying or harassment, then the conduct in question may be reported to the President or to another member of the Management.

## G. 3 Complaint Process

- G. 3. 1 The Complainant may withdraw the complaint during either the informal Alternative Disputes Resolution Process or the formal investigation processes.



G. 3. 2 Individual (Complainant)

An individual who believes they has been subjected to harassment or discrimination is encouraged to go directly to the person to resolve their concerns, and request that the behaviour cease.

G. 3. 3 The individual/complainant may initiate their complaint with the Human Resources Department or Office of the VP Academic and Applied Research if:

- a. Their efforts to resolve the concerns and/or request for the behaviour to cease is unsuccessful, and/or
- b. the complainant feels uncomfortable making such a request, and/or
- c. the complainant needs further guidance and information.

G. 3. 4 If the complainant is not able to resolve the issue as per G2, the process shall move to the Informal and/or Formal complaint process whereby the complainant will arrange a meeting with the Human Resources Office or Office of the VP Academic and Applied Research.

G. 3. 5 The Human Resources Office or Office of the VP Academic and Applied Research, as appropriate will preliminarily hear the circumstances and review the policy with the complainant, specifically:

- clarify what constitutes harassment and/or discrimination
- request records of the incident(s) including details of the alleged harassment including date(s), time(s), place(s), name(s) or individual(s) involved in the incident(s), name(s) of witness(es), etc.
- review informal and formal options
- approach the respondent to resolve concerns and/or ask that the harassment cease

This initial meeting will be followed by an additional meeting, to conclude if the complainant would like to proceed informally or formally.

**H. Informal – Alternative dispute resolution process (ADR)**

H. 1 Consensual mediation, facilitated discussion, conflict coaching will require the agreement of the complainant and the respondent to use the following process:

H. 1. 1 The complainant will communicate verbally or in writing, details of the alleged harassment and/or discrimination including date(s), time(s), place(s), name(s) or individual(s) involved in the incident(s), name(s) of witness(es), etc.

H. 1. 2 The Human Resources Office (complaints involving employees) or Office of the VP Academic and Applied Research (complaints involving students) will advise the respondent and complainant that the alternative dispute resolution (ADR) process will proceed, the nature of the complaint, and who will conduct the process.

a. If an external ADR provider is arranged, both parties may have an introductory meeting with the ADR provider prior to mediation/facilitation/conflict coaching, if so desired

b. The ADR process will occur in a timely manner. Ideally within 10 working days after an external mediator/facilitator has been contacted, or sooner if conducted internally.

H. 1. 3 All participants will keep the process and resolution strictly confidential. Taking notes is permitted however recordings of this process are not permitted.

H. 1. 4 Where a solution is reached, the complainant and the respondent must agree in writing to the resolution and the matter will then be considered concluded. A copy of the resolution will be filed in the office of Human Resources and/or the Office of the VP Academic and Applied Research, as appropriate.

H. 2 If the dispute is not resolved through the Informal ADR process, then the complainant may proceed to Investigation.

**I. Formal Investigative Process**

I. 1 Where either the complainant or respondent does not agree to an ADR process or no resolution is reached during ADR, the Human Resources Office or Office of the VP Academic and Applied Research may proceed with an investigation pursuant to policy 4.8.10 Investigations and the corresponding procedures.

**J. Time Limitation**

J. 1 For a complaint to be considered under this policy, it must be filed within one year of the last incident of discrimination, bullying or harassment. The College has the discretion to waive the requirement when there are extenuating circumstances that prevented the complaint from being brought forward in the time frame.

## **RELATED POLICIES AND SUPPORTING DOCUMENTS**

[1.1.5 Code of Ethics](#)

[2.4.4 Student Conduct - Policy](#)

- [2.4.4 Student Conduct - Procedures - Academic Conduct Report Procedure](#)
- [2.4.4 Student Conduct - Procedures - Appendix B Student Misconduct Report FILLABLE](#)

[4.8.8 Sexualized Violence Prevention and Response](#)

[4.8.10 Investigation Policy](#)

[4.8.10 Investigation - Procedures](#)

[FPSE Common Agreement](#)

[CORFA Collective Agreement](#)

[CUPE Collective Agreement](#)

[2.4.9 Student Feedback and Concerns - Policy](#)

- [2.4.9 Student Feedback and Concerns - Procedures - Employee Guidelines](#)
- [2.4.9 Student Feedback and Concerns - Procedures - Formal Complaint Form](#)
- [2.4.9 Student Feedback and Concerns - Procedures - Student Guidelines](#)

[WorkSafeBC](#)

[BC Human Rights Code](#)