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MEMORANDUM

ATTENTION Senate **DATE** November 18, 2020
FROM Dr. Jon Driver, Vice-President, Academic **PAGES** 1 of 1
 and Provost *pro tem*
RE: New Bullying and Harassment and revisions to SFU Policy GP-18 Human Rights

The university is committed to providing a healthy, safe and respectful learning, teaching, research and work environment in which bullying and harassment and discrimination are neither acceptable nor tolerated. To create a culture that values the rights of everyone, each member of the community must take responsibility for creating and maintaining a respectful working and learning environment.

Part of creating this culture is establishing clear policies that clarify the behaviours we expect and the consequences for not aligning to expectations. The feedback SFU has received from the community through different inputs, including the Diversity Meter Survey, tells us that SFU's policies must clarify the university's commitment to safety from discrimination, bullying and harassment.

In response to this input from the SFU community and to align with WorkSafe BC legislative requirements, the following actions are underway:

1. SFU's existing Human Rights policy (GP-18) is being amended as part of its 5-year review process to remove personal harassment.
 - The Human Rights policy will continue to protect students, faculty and staff from discrimination on the basis of a person's race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age and the university's Human Rights Office will continue to receive and address complaints about discrimination.
2. A new policy is being created to holistically address bullying and harassment and to establish a centralized reporting process for all students, faculty, and staff. The Bullying and Harassment policy provides clarity for the SFU community in four specific areas. The policy:
 - Defines s bullying and harassment in alignment with the *Workers Compensation Act* to eliminate confusion about what type of behaviour is prohibited
 - Establishes requirements for education and training
 - States the resources available to those who experience bullying and harassment
 - Outlines the process to report bullying and harassment and outlines how these issues are resolved

We are seeking input from the SFU community, with a closing date of December 10th. The policies and supporting Frequently Asked Questions will be posted on the Policies Consultation website (<http://www.sfu.ca/policies/draft.html>) for 3 weeks. Please submit your feedback to: pol_asst@sfu.ca by December 10, 2020.



Human Rights Policy

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures	April 26, 1988	GP 18
	Date of Last Review/Revision	Mandated Review
	<u>17.11.2020 – Discussion Draft</u>	2025

Policy Authority: University Secretary

Associated Procedure(s): *Human Rights Procedures*

Executive Summary

Pursuant the university’s obligations under the provincial *Human Rights Code*, GP 18 establishes the Human Rights Office (“HRO”) to provide education, advice and resources to members of the university community about the discrimination based on personal characteristics to contribute to the reduction and prevention of such discrimination. The procedures to the policy establish mechanisms for addressing concerns about discrimination:

1. **Informal Consultation** with the Director of the HRO.
2. **Filing a Complaint**
 - A. **Preliminary Review** for scope. If the complaint is rejected on a preliminary review, written reasons will be provided by the Director, which is appealable to the University Secretary.
 - B. If the Complaint is accepted:

Informal Resolution

- Begins with an Informal Inquiry where the Director has discussions with each party to resolute the dispute.

- May include **Mediation** which requires the consent of both parties, can be facilitated by the Director

Formal Resolution:

- Starts with a **Request for Investigation** which the HRO will direct it to the Responsible Office for the Respondent, for action.
- **Investigation** will follow the established processes of the Responsible Office and in accordance with procedural fairness requirements.
- **Corrective/Disciplinary Measures** are implemented in accordance with the university’s processes depending on the Responsible Office for the Respondent.

GP 18 establishes a Human Rights Policy Board which is advisory to the Director and has Terms of Reference at Appendix B to the Policy. The HRO will report annually through the President to the Board of Governors.

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1.0 PREAMBLE

1.1 Simon Fraser University (“the University”) promotes teaching, scholarship and research, and the free and critical discussion of ideas. The University is committed to providing a healthy, safe, and respectful learning, teaching, research, and work environment that allows for the full and free participation of all members of the University Community and in which Discrimination is neither acceptable nor tolerated.

- 1.2 The University acknowledges that power differences exist between or among faculty, staff, and students.
- 1.3 The University acknowledges the diversity of its members and recognizes that Discrimination, when it occurs, will impact each person differently, informed by social identities, vulnerabilities, and position within the university's structures and hierarchies. The University also recognizes that the integration of personal identities that are protected by the *Human Rights Code* with social identities and vulnerabilities that are not protected by the Code or this policy, such as migration status, linguistic identity, socio-economic status, and previous experiences of oppression and trauma, will necessarily make each person's experience of Discrimination unique.

2.0 PURPOSE

- 2.1 The purpose of this policy is to instill and cultivate institutional, collective, and individual responsibility for creating and maintaining a healthy, safe, and respectful learning, teaching, research, and work environment and, specifically to:
 - 2.1.1 increase awareness of Discrimination and to reduce or prevent its occurrence through education and training;
 - 2.1.2 establish informal processes for resolving Complaints; and
 - 2.1.3 assign responsibility for managing and responding to Complaints in a prompt, fair, and judicious manner.

3.0 SCOPE AND JURISDICTION

- 3.1 This policy applies to Discrimination by a member of the University Community against another member of the University Community, that it is reported to the Human Rights Office within one year of the last alleged incident of Discrimination, and that is alleged to have occurred:
 - 3.1.1 on any property that is controlled by the University and used for University purposes; or
 - 3.1.2 at a meeting or an event or during an activity sponsored by, or under the auspices of, the University or in furtherance of University business; or
 - 3.1.3 using the University's Information and Communications Technology resources; or
 - 3.1.4 when the Respondent was in a position of power or influence over the Complainant's academic or employment status at the time of the reported incident.
- 3.2 This policy is not to be interpreted or applied as derogating from the University's right as an employer to investigate and, where warranted, to take action against an employee for Discrimination against another member of the University Community, wherever it occurs, if there is a nexus to the workplace.

- 3.3 Within the limits of its legal right to do so, the University will endeavor to remove from University property any person who is not a member of the University Community who engages in Discrimination against a member of the University Community.
- 3.4 Retaliation, or invoking this policy or its procedures in bad faith, are prohibited conduct and will be treated as a serious matter which may result in corrective measures or disciplinary sanctions
- 3.5 Complainants who pursue redress or resolution under other internal University procedures such as a collective agreement, or through other University Policies such as the Sexual Violence and Misconduct Prevention, Education and Support Policy (GP 44) may not pursue the same matter under this policy.
- 3.6 This policy does not prevent a member of the University Community from filing a complaint with the British Columbia Human Rights Tribunal or pursuing a criminal, or civil, or other remedy.

4.0 DEFINITIONS

- 4.1 See Appendix A for definitions of words used in this policy and its associated procedures.

5.0 POLICY

- 5.1 All members of the University Community are responsible for establishing and maintaining a respectful working and learning environment. Discrimination is unacceptable and prohibited conduct.

Education and Prevention

- 5.2 The University will implement and actively promote education, awareness, and training to prevent and address Discrimination. Specifically, in collaboration with relevant partners, the Human Rights Office will:
 - 5.2.1 develop, coordinate, promote, implement, and oversee a proactive and sustained education plan for members of the University Community, designed to reduce and prevent Discrimination; and will provide education for the University Community about their responsibilities under this policy and the *Human Rights Code*, including the Duty to Accommodate;
 - 5.2.2 facilitate the inclusion of educational materials related to Discrimination in student and employee orientation;
 - 5.2.3 be a resource to individual faculty members, departments and faculties who are developing related course and program curriculum;
 - 5.2.4 strongly encourage all members of the University Community to be knowledgeable about and to contribute to the reduction and prevention of Discrimination, and to participate in the education and training offered; and
 - 5.2.5 act as an information office and resource for members of the University Community.

Addressing Complaints – General Principles

- 5.3 All members of the University Community will be treated equitably under this policy.
- 5.4 Efforts at informal resolution and problem-solving will normally be made first when addressing a Complaint.
- 5.5 All Complaints will be addressed in a fair, unbiased, and timely manner, and in conformity with the principles of procedural fairness and natural justice. In particular:
 - 5.5.1 All parties will be informed of the provisions of this policy and of the procedures available to them under it.
 - 5.5.2 A Complainant who wishes the University to assist in the resolution of a Complaint must be prepared to be identified to the Respondent.
 - 5.5.3 A Respondent shall be informed of the Complaint and all parties must be given the opportunity to present evidence in support of their positions and to defend themselves.
 - 5.5.4 All parties may be represented or accompanied by a support person, and/or a representative of their Constituency Organization throughout the procedures under this policy.
- 5.6 This policy is not to be interpreted, administered, or applied in such a way as to detract from the rights and obligations of those in supervisory roles to take reasonable action to manage the workplace and the learning environment, and to direct employees and Students.
- 5.7 This policy is not to be interpreted, administered, or applied in such a way as to infringe upon the legitimate exercise of Academic Freedom by a member of the University Community. The frank discussion of controversial ideas, the pursuit and publication of controversial research, and the study and teaching of material with controversial content do not constitute Discrimination, but this does not authorize a person exercising their Academic Freedom to engage in an act that breaches the *Human Rights Code* or this policy.

6.0 ROLES AND RESPONSIBILITIES

- 6.1 All members of the University Community have responsibility to ensure that the University's working and learning environment is free from Discrimination.
- 6.2 All members of the University Community who are in supervisory positions, whether in academic or non-academic units, bear primary responsibility for maintaining a working and learning environment free from Discrimination. Deans, Chairs, Directors, and others in supervisory positions are expected and required to act on this responsibility, whenever necessary, and without regard to whether a complaint has been filed in the Human Rights Office. In fulfilling their responsibilities, those in supervisory positions are encouraged to consult with any one or more of

the following offices: Human Rights Office, Faculty Relations, Human Resources, and the Office of Student Support, Rights, and Responsibilities.

- 6.3 The Director is responsible for facilitating the implementation of this policy and the procedures under it and is responsible for supervising the Human Rights Office and its activities. The Director and the Human Rights Office will:
 - 6.3.1 implement and actively promote education, awareness, prevention, and training to address Discrimination;
 - 6.3.2 act as an information office and resource for members of the University Community;
 - 6.3.3 provide safe, timely, ongoing, and confidential assistance and support, referrals, and information to a member of the University Community who has been affected by Discrimination;
 - 6.3.4 receive Complaints;
 - 6.3.5 provide informal resolution processes, where appropriate, to resolve Complaints;
 - 6.3.6 facilitate, in accordance with the procedures under this policy, the University's response to Complaints that have not been resolved through informal resolution processes; and
 - 6.3.7 systematically collect data and maintain annual statistics, without identifying information, for the purposes of community education and for reporting to the University Community.
- 6.4 If either the Complainant or Respondent request an investigation, the Responsible Office will respond to the request and will oversee and manage all further steps in relation to the Complaint, as set out in the procedures to this policy.
- 6.5 The University Secretary is responsible for:
 - 6.5.1 determining whether a conflict of interest or reasonable apprehension of bias exists, where a party to a Complaint objects to the participation of any person in the administration of the policy or its procedures;
 - 6.5.2 determining an appeal of a decision made by the Director;
 - 6.5.3 appointing the members of the Human Rights Policy Board, after receiving the applications of interested individuals, consulting with Constituency Organizations, and taking into account the diversity of the University Community.
- 6.6 The Human Rights Policy Board is responsible for matters within its Terms of Reference, as set out in Appendix B.

7.0 REPORTING

- 7.1 The Human Rights Office will report annually through the President to the Board of Governors on the implementation of this policy.
- 7.2 The Director is responsible for collecting and aggregating data and preparing the annual report in consultation with the Human Rights Policy Board.
- 7.3 The annual report will include a summary of:
 - 7.3.1 the educational activities of the Human Rights Office,
 - 7.3.2 the number and types of Complaints made to the Human Rights Office and the method of resolution, and
 - 7.3.3 progress made towards achieving the objectives of this policy.

8.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

- 8.1 The legal and other University Policy authorities and agreements that may bear on the administration of this policy and may be consulted as needed include but are not limited to:
 - 8.1.1 *Human Rights Code*, R.S.B.C. 1996, c. 210
 - 8.1.2 *University Act*, R.S.B.C. 1996, c. 468
 - 8.1.3 *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165
 - 8.1.4 Bullying and Harassment Policy (new – TBA)
 - 8.1.5 Sexual Violence and Misconduct Prevention, Education, and Support Policy (GP 44)
 - 8.1.6 Response to Violence and Threatening Behaviour (GP 25)
 - 8.1.7 Student Conduct Policy (S 10.05)
 - 8.1.8 Collective agreements and relevant human resources policies

9.0 ACCESS TO INFORMATION AND PROTECTION OF PRIVACY

- 9.1 The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's *Freedom of Information and Protection of Privacy Act* and the University's Information Policy series.

10.0 RETENTION AND DISPOSAL OF RECORDS

- 10.1 Information and records made and received to administer this policy are evidence of the University's actions to respond to Complaints. Information and records must be retained and disposed of in accordance with a records retention schedule approved by the University Archivist.

11.0 POLICY REVIEW

- 11.1 This policy will be reviewed at least once every five years.

12.0 POLICY AUTHORITY

- 12.1 This policy is administered under the authority of the University Secretary.

13.0 INTERPRETATION

- 13.1 Questions of interpretation or application of this policy or its procedures shall be referred to the University Secretary and the University's General Counsel, who will jointly make a decision which shall be final.

14.0 PROCEDURES AND OTHER DOCUMENTS ASSOCIATED WITH THIS POLICY

- 14.1 *Appendix A* contains the definitions applicable to this policy and its associated procedures.
- 14.2 *Appendix B* contains the terms of Reference of the Human Rights Policy Board.
- 14.3 The procedures for this policy are: *Human Rights Procedures*.



Human Rights Procedures

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures	April 26, 1988	GP 18
	Date of Last Review/Revision	Mandated Review
	<u>17.11.2020 - Discussion Draft</u>	

Policy Authority: University Secretary

Parent Policy: *Human Rights Policy* (GP 18)

1.0 PURPOSE

- 1.1 These procedures establish the processes that will be followed to respond to a Complaint made under the *Human Rights Policy* (GP 18) (“the Policy”).

2.0 DEFINITIONS

- 2.1 See Human Rights Policy Appendix A for definitions of words used in the Policy and in these procedures.

3.0 GENERAL PRINCIPLES

- 3.1 All members of the University Community will be treated equitably under these procedures.
- 3.2 Complaints will be dealt with in a fair, unbiased, and timely manner, and in conformity with the principles of procedural fairness and natural justice. In particular:
- 3.2.1 All parties will be informed of the provisions of the Policy and of the procedures available to them under it.
- 3.2.2 A Complainant who wishes the University to assist in the resolution of a Complaint must be prepared to be identified to the Respondent.

3.2.3 A Respondent shall be informed of the Complaint and all parties must be given the opportunity to present evidence in support of their positions and to defend themselves.

3.2.4 All parties may be represented or accompanied by a support person, and/or a representative of their Constituency Organization, throughout the processes in these procedures.

4.0 INFORMAL CONSULTATION

4.1 A member of the University Community who believes that they may have experienced Discrimination may discuss the matter with the Director. The Director will inform the person of the Policy and these procedures.

4.2 If the matter proceeds beyond informal consultation, the Complainant must file a Complaint with the Human Rights Office in writing.

5.0 FILING A COMPLAINT

5.1 A Complainant must file a Complaint with the Human Rights Office within one year of the last alleged incident of Discrimination.

5.2 The Complaint must be in writing.

6.0 PRELIMINARY REVIEW OF COMPLAINT

6.1 The Director will consider the Complaint and, based on the information provided to the Director by the Complainant, may reject it on the grounds that:

- a. the Complaint lies outside the scope and jurisdiction of the Policy,
- b. the Complaint is beyond the time limits for filing a Complaint, or
- c. the Complaint appears to have been made in bad faith.

6.2 If the Complaint is rejected, the Director must inform the Complainant of the rejection in writing, normally within 30 calendar days, and must include written reasons for the Director's decision to reject the Complaint.

7.0 APPEAL OF DIRECTOR'S DECISION TO REJECT A COMPLAINT

7.1 The Complainant may appeal the Director's decision to reject the Complaint to the University Secretary within 30 calendar days of the Complainant receiving notification that their Complaint was rejected.

7.2 The University Secretary will consider and decide the Complainant's appeal. The University Secretary's decision shall be final and will be communicated to the Complainant in writing, with reasons.

8.0 PROCESSES FOR INFORMAL RESOLUTION

8.1 If the Complaint is accepted, the Director will inform the Complainant of internal University processes under these procedures for informal resolution of the Complaint.

8.2 Processes for informal resolution do not result in a determination of whether this policy has been violated. The focus is on finding a resolution to the Complaint. Examples of internal University processes for informal resolution of a Complaint are:

- a. an educational conversation with the Respondent;
- b. the Complainant communicating to the Respondent that the Respondent's behavior is unacceptable;
- c. a facilitated conversation between the Complainant and the Respondent;
- d. other forms of resolution that do not involve an investigation, such as a behavioral agreement;
or
- e. Mediation.

8.3 Every process for informal resolution begins with an informal inquiry. If a Complainant chooses to proceed, the Director will begin an informal inquiry.

8.4 Informal Inquiry

8.4.1 After obtaining the consent of the Complainant, the Director will discuss the Complaint with the Respondent to seek a mutually acceptable resolution. Upon request, the Director will provide the Respondent with a written summary of the Complaint. The Complainant will not necessarily be identified to the Respondent during an informal inquiry.

8.4.2 If no resolution is reached through an informal inquiry, the Director will identify options for proceeding further to both parties. The Complainant will normally be identified to the Respondent during this explanation and will be identified if the Complaint proceeds further.

8.4.3 The Director may provide further assistance to the parties in resolving the Complaint through a process for informal resolution, such as those described in s.8.2, including Mediation.

8.5 Mediation

8.5.1 Either party may make a written request for resolution through Mediation to the Director, who will convey the request to the other party. Mediation requires the agreement of both parties.

- 8.5.2 The Director will either act as mediator or will select another experienced mediator. The mediator will inform the parties of the procedures to be followed. Both the mediator chosen, and the format of the mediation, must be acceptable to both parties.
- 8.5.3 Mediation will normally begin within 30 calendar days of selection of the mediator.
- 8.5.4 Mediation proceedings are confidential. All communications made by each party during Mediation are made without prejudice.
- 8.5.5 A mediated resolution of the Complaint results in a written agreement setting out the terms of the resolution. If a proposed resolution involves the University, the University must also agree to the resolution.

9.0 REQUEST FOR INVESTIGATION

- 9.1 If an informal resolution process has not been attempted, or has failed, either party may make a written request to the University that the Complaint be investigated.
- 9.2 Even if the Complainant and Respondent have reached a resolution through an informal resolution process or mediation, the University may decide to assume the role of Complainant in order to initiate an investigation. This is normally intended for cases involving a Respondent who has previously been the subject of one or more substantiated Complaints.
- 9.3 A request for investigation must be submitted to the Director within 30 calendar days after the end of the most recent informal resolution process or within one year of the last incident of alleged Discrimination.
- 9.4 If a Complainant makes a request for investigation, the request will contain a full account of the alleged Discrimination. If the Respondent makes a request for investigation, the request must explain the reasons why the Respondent seeks an investigation.
- 9.5 Upon receipt of a request for investigation, the Director will send it, without recommendation, to the University administrative office responsible for overseeing and managing the University's response ("Responsible Office").

Request for Investigation of a Complaint about a Student

- 9.6 Where the request for investigation is about a Respondent who is a Student, the Office of Student Support, Rights and Responsibilities will respond to it in accordance with the *Student Conduct Policy* (S10.05) and associated procedures and will inform, consult, or involve the office responsible for the Complainant, as appropriate.
- 9.7 In cases where it is determined that a violation of this policy has occurred, the Respondent will be held accountable and any discipline will be imposed pursuant to the *Student Conduct Policy* (S10.05).

Request for Investigation of a Complaint about a Non-Student

- 9.8 The Responsible Office will notify the other party that a request for investigation has been received.
- 9.9 The Responsible Office will consider the request for investigation and, based on the information provided, will determine whether and how to investigate the Complaint, including whether to investigate it internally or whether the investigation will be undertaken by an external investigator. The Responsible Office will communicate its decision to both the Complainant and the Respondent in writing, with reasons.
- 9.10 If more than one Complaint has been made about a Respondent, the Responsible Office may decide that the Complaints will be investigated together.
- 9.11 All investigations under these procedures should:
- a. be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;
 - b. be fair and impartial to both the Complainant and the Respondent when evaluating the allegations;
 - c. comply with all relevant provisions in any applicable collective agreement or policy, including notice, timelines, and other process requirements;
 - d. be sensitive to the interests of all parties involved and maintain confidentiality to the extent possible under the circumstances; and
 - e. be focussed on finding facts and evidence, which includes interviewing the Complainant, the Respondent, and any witnesses, and reviewing any documents that the investigator considers may contain relevant information.
- 9.12 Upon the conclusion of an investigation, the investigator will prepare a written report (“Investigator’s Report”) in a manner that facilitates compliance with the access to information and protection of privacy provisions of the *Freedom of Information and Protection of Privacy Act* and submit it to the Responsible Office.

10.0 DECISION and DISCIPLINARY MEASURES

- 10.1 The Responsible Office will provide the Investigator’s Report to the Respondent’s Supervisor.
- 10.2 The Respondent’s Supervisor will read and consider the Investigator’s Report.
- 10.3 The Respondent’s Supervisor will determine whether the Policy has been violated and if so, whether disciplinary measures will be imposed. The Supervisor will determine the appropriate disciplinary measures.

10.4 Where the Respondent is covered by a collective agreement or other relevant employment policy, any discipline will be determined and imposed consistent with the terms of that agreement or policy.

11.0 INTERIM MEASURES

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

11.2 The Responsible Office or the Respondent's supervisor may initiate interim measures.

11.3 Interim Measures may include, but are not limited to, the following:

- a. the exclusion of individuals from all or any part of the University campuses;
- b. limiting proximity or contact to specific individuals;
- c. limiting participation in University activities;
- d. limiting the use of the University's information and communications technology; or
- e. requiring a person to meet regularly with designated members of the University Community.

12.0 CORRECTIVE MEASURES

12.1 In cases where it is determined that a violation of the Human Rights Policy has occurred, efforts will be made to mitigate the impact of the incident(s) by implementing actions to reduce the opportunity to recurrence and to restore the working and learning environment.

12.2 The Respondent's supervisor, or the Director, or both, in consultation with the Responsible Office, may recommend that corrective measures, such as changes in existing policies, procedures and practices, be put in place to avoid repetition of the breach.

13.0 COMPLAINTS MADE IN BAD FAITH

13.1 If the University determines that a Complaint was made in bad faith, the Responsible Office will, in consultation with the office responsible for addressing the conduct of the Complainant, consider disciplinary action.

14.0 CONFLICT OF INTEREST

14.1 Either party to a Complaint may object to the participation of a person in the administration of the Policy or these procedures on grounds of conflict of interest or reasonable apprehension of bias ("the Objection").

14.2 The Objection must be submitted in writing to the University Secretary within 14 calendar days of the potential conflict of interest or reasonable apprehension of bias becoming known.

14.3 The University Secretary will consider and decide the Objection. The University Secretary's decision shall be final and will be communicated in writing, with reasons.

14.4 Where the Objection relates to the participation of the University Secretary, the President will consider and decide the Objection. The President's decision shall be final and will be communicated in writing, with reasons.

15.0 ACCESS TO INFORMATION, CONFIDENTIALITY, AND PROTECTION OF PRIVACY

15.1 The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's *Freedom of Information and Protection of Privacy Act* and the University's Information Policy series. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable University's policies.

15.2 Complaints filed under this policy and addressed under these procedures may involve the collection, use, and disclosure of sensitive personal information. Confidentiality is required so that those who may have experienced discrimination will feel free to come forward. Confidentiality is also required so that the reputations and interests of those accused of discrimination are protected. However, either party may discuss the case in confidence with their supervisor, support person, and/or representative of their Constituency Organization.

15.3 Subject to any limits or disclosure requirements imposed by law or by the policy or these procedures, any and all information, oral and written, created, gathered, received or compiled through the course of a Complaint is to be treated as confidential by both the Respondent and Complainant, their representatives, support persons, witnesses, and the officials designated by the Policy or these procedures.

15.4 Any person breaching confidentiality may be subject to disciplinary sanction or other appropriate action.

16.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

16.1 The legal and other University Policy authorities and agreements that may bear on the administration of this policy and may be consulted as needed include but are not limited to:

- a. *Human Rights Code*, R.S.B.C. 1996, c. 210
- b. *University Act*, R.S.B.C. 1996, c. 468
- c. *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165
- d. Bullying and Harassment Policy (new GP-TBA)
- e. Sexual Violence and Misconduct Prevention, Education, and Support Policy (GP 44)
- f. Response to Violence and Threatening Behaviour (GP 25)

- g. Student Conduct Policy (S 10.05)
- h. Collective agreements and human resources employment policies.



Appendix A – HUMAN RIGHTS POLICY - DEFINITIONS

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures	April 26, 1988	GP 18
	Date of Last Review/Revision	Mandated Review
	<u>17.11.2020 – Discussion Draft</u>	

Policy Authority: University Secretary

Parent Policy: *Human Rights Policy* (GP 18)

1.0 PURPOSE

- 1.1 The definitions in this Appendix define the words used in the Human Rights Policy (GP 18) (“the Policy”) and in these Human Rights Procedures.

2.0 BACKGROUND INFORMATION

- 2.1 British Columbia’s *Human Rights Code* (“Code”) lists the personal characteristics that the *Code* protects. The personal characteristics protected by the *Code*, and by this Policy, are: age, race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity, gender expression, and, in the case of employment, also includes unrelated criminal convictions and political belief. Any future legislative changes that add to or otherwise alter the prohibited grounds of discrimination in the *Code* shall automatically be incorporated into this Policy.
- 2.2 For the purposes of the Policy and these procedures, harassment related to a personal characteristic protected by the *Code* is a form of discrimination. Harassment is normally a series of incidents but can be one severe incident that has a significant and lasting impact on the person affected. Harassment is not:
- a. appropriate and authorized supervision;
 - b. imposition of appropriate discipline; or
 - c. occasional curtness or lack of friendliness.

- 2.3** For the purposes of the Policy and these procedures, sexual harassment is a form of discrimination. Sexual harassment may be physical or verbal, overt or subtle. **Examples** of behaviour that **might** constitute Sexual Harassment include:
- a. persistent sexual solicitations, flirtations, or advances;
 - b. sexually suggestive comments or gestures;
 - c. demeaning or degrading sexual comments or conduct, including remarks, taunting, jokes, or innuendos about a person's body, sexuality, sexual orientation, or sexual conduct;
 - d. display or transmission of a sexually explicit or otherwise sexually suggestive visual record when such display or transmission would not be viewed as having a legitimate purpose by a reasonable person in the situation of the observer or recipient;
 - e. repeated and unwanted demands for sexual favours;
 - f. persistent attention or requests for sexual contact after a consensual relationship has ended;
 - g. non-consensual touching or unwanted physical contact of a sexual nature; and
 - h. coerced consent to sexual contact, including misuse of position or authority to secure sexual favours.
- 2.4** Discrimination is prohibited by the Policy and, if found to have occurred, may result in corrective measures or disciplinary sanctions including, where appropriate, dismissal or permanent suspension.

3.0 DEFINITIONS

- 3.1 Academic Freedom** means the freedom to examine, question, teach, and learn, including the right to investigate, speculate, and comment without reference to prescribed doctrine as well as the right to criticize the University and society at large.
- 3.2 Complainant** means the person who seeks recourse under this Policy based on a belief that they have experienced conduct which is prohibited by this Policy. The University may also be a Complainant.
- 3.3 Complaint** means a statement of facts alleged by a Complainant seeking recourse under this Policy.
- 3.4 Constituency Organization** means the Administrative and Professional Staff Association (APSA), Canadian Union of Public Employees (CUPE 3338), Polyparty, Simon Fraser Student Society (SFSS), Graduate Student Society (GSS), Simon Fraser University Faculty Association (SFUFA), and the Teaching Support Staff Union (TSSU).
- 3.5 Director** means the Director of the University's Human Rights Office. The Director is not an advocate for either party to a Complaint.

- 3.6 Discrimination** means:
- a. intentional or unintentional differential treatment based on one or more of the personal characteristics protected by the British Columbia’s *Human Rights Code* (“*Code*”),
 - b. for which there is no *bona fide* and reasonable justification, and
 - c. which imposes burdens, obligations or disadvantages on specific individuals or groups.
- 3.7 Harassment related to a personal characteristic protected by the Code** is a form of discrimination under this Policy. It means behaviour directed towards another person or persons that is:
- a. abusive and demeaning, and
 - b. includes a direct or indirect reference to a prohibited ground of discrimination under the *Code*, and
 - c. would be viewed by a reasonable person experiencing the behaviour as an interference with their access to a university service or their participation in a University-related activity, or which leads to or implies job or academically related adverse consequences for the person harassed.
- 3.8 Sexual Harassment** means behaviour of a sexual nature directed toward another person or persons:
- a. by a person who knows or ought reasonably to know that the behaviour is unwanted or unwelcome, and
 - b. that results in adverse consequences for the person harassed, such as interference with their access to a university service or their participation in a University-related activity, or which leads to or implies job or academically related adverse consequences.
- 3.9 Duty to Accommodate** means the University’s legal duty to accommodate individuals or groups protected from discrimination under the *Human Rights Code*, unless doing so would create undue hardship to the University
- 3.10 Mediation** means a voluntary process in which the parties attempt to resolve the issue(s) that led to the Complaint through an agreement reached between the parties with the assistance of a neutral third party.
- 3.11 Respondent** means a person or persons against whom a Complaint has been made pursuant to this Policy.
- 3.12 Responsible Office** means the University administrative office designated in section 6.4 of the Policy, responsible for responding to a request for investigation and responsible for overseeing and managing all steps thereafter in relation to the Complaint. The Responsible Office is determined by the Respondent’s affiliation to the University. The Responsible Office is:

- a. Faculty Relations, for Complaints about members of the SFUFA bargaining unit;
- b. Human Resources, for Complaints about employees who are members of the APSA, CUPE, Poly Party, and TSSU employee groups;
- c. Human Resources, for Complaints about excluded employees and members of the University's Executive or senior administration, including Deans and Associate Deans;
- d. The Office of Student Support, Rights, and Responsibilities for Complaints about Students;
- e. The Office of General Counsel, for Complaints about members of the University Community whose affiliation with the University does not fall within (a) to (d).

3.13 Retaliation means an adverse action or threatened action, direct or indirect, taken or made through any means, against a person who invoked the Policy or its procedures in good faith, or against a person who participated or cooperated in good faith in a University process addressing a Complaint. Retaliation is prohibited conduct.

3.14 Student includes any of the following: an undergraduate who is enrolled at the University for one or more of the last three terms and is eligible to continue in a program of study; a graduate student who is enrolled at the University in the current term and is eligible to continue; a graduate student who is on leave and eligible to enrol at the University when the leave ends; a visiting or exchange or special audit student who has been formally admitted to the University for the purposes of taking courses or to take part in an approved research term; a graduate student who is enrolled in courses at the University as a qualifying student; or a person enrolled at the University in a non-credit program or course.

3.15 University Community means all students and employees of the University and all people who have a status at the University mandated by legislation or other University policies, including research assistants, post-doctoral fellows, members of Senate and the Board of Governors, volunteers, visiting and emeritus faculty, and visiting researchers. .

3.16 University-related activity means an event or activity sponsored by, or under the auspices of, the University. All activities on the University's campuses are University-related unless they are within the exclusive control of Constituency Organizations or an organization or group external to the University.



Appendix B - Human Rights Policy Board - Terms of Reference

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures	April 26, 1988	GP 18
	Date of Last Review/Revision	Mandated Review
	<u>17.11.2020 – Discussion Draft</u>	

Policy Authority: University Secretary

Parent Policy: *Human Rights Policy* (GP 18)

1.0 PURPOSE

1.1 This Appendix sets out the terms of reference and membership of the Human Rights Policy Board, established under the Human Rights Policy (GP 18) (“the Policy”).

2.0 HUMAN RIGHTS POLICY BOARD

2.1 Appointment Process

2.1.1 The University Secretary will appoint the Human Rights Policy Board (“Board”) after receiving the applications of interested individuals, consulting with Constituency Organizations, and taking account of the diversity of the University Community.

2.2 Membership

2.2.1 The Human Rights Policy Board shall consist of the following members, appointed by the University Secretary:

- a. Chair, normally appointed for a 3-year term;
- b. Three faculty members, normally appointed for a 3-year term;
- c. Three staff members, normally appointed for a 3-year term;

- d. Four student members (at least one of whom is a member of the SFSS and one of whom is a member of the GSS) normally appointed for 1-year terms.

2.2.2 At the discretion of the University Secretary, the length of term may be modified to establish a rotation of members.

2.2.3 To provide for possible absence of its Chair, the Board will elect a Vice-Chair annually, for a term of one year.

2.3 Meetings and Quorum

2.3.1 The Board will meet once each semester and at the call of the Chair.

2.3.2 The quorum for the Board is four members.

2.4 Terms of Reference

2.4.1 The Board's terms of reference are:

- a. To provide advice to the University Secretary concerning the Policy and its associated procedures.
- b. To act as an advisory resource for the Director of Human Rights, including to provide advice and guidance in the development of an educational program.
- c. To review and comment on the annual report prepared by the Director of Human Rights.
- d. To participate in the mandated formal review of the Human Rights Policy every five years, or at such other time as the policy undergoes formal review.



Bullying and Harassment

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY
Policy and Procedures

Date

Number

17.11.2020

GP-TBA

**Date of Last
Review/Revision**

**Mandated
Review**

Discussion Draft

TBA

Policy Authority: Vice President, Finance and Administration and Vice President Academic and Provost

Associated Procedure(s): *Bullying and Harassment Procedures*

Executive Summary

This policy defines bullying and harassment and proscribes this behavior in accordance with the *Workers Compensation Act* and, in a consistent manner, more broadly to members of the University Community including students. The policy provides for education and prevention and informs university members of the supports and resources available to them if they experience bullying and harassment. The policy also establishes mechanisms for reporting and responding to bullying and harassment. To file a complaint, the policy establishes a central intake process based on a **Report Form** to Safety and Risk Services, who will direct it to the Responsible Office for the Respondent for action. This process for responding to the Report is not intended to replace informal discussions between the parties, the unions and university administrators however it establishes a clear process for making a Report for action. The Responsible Office will review the Report Form and is responsible for responding to the Report including, as appropriate:

1. **Informal Resolution** where the Responsible Office will work collaboratively with the Complainant and Respondent, their supervisors and union representatives, as appropriate, to determine an informal resolution to the Report.
2. **Investigations** where an investigator will undertake an investigation and find facts and evidence to produce an **Investigator's Report**, which will form the basis for a decision by the Respondent's Supervisor or the Student Support and Conduct Office, and the imposition of any **Disciplinary Measures** and/or **Corrective Measures**.

The Chief Safety Officer is responsible for aggregating data from various units, providing an annual report to the Board of Governors and reporting on compliance to *WorkSafeBC*.

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1.0 PREAMBLE

- 1.1 Simon Fraser University (“the University”) is committed to providing a healthy, safe, and respectful learning, teaching, research, and work environment in which bullying and harassment are neither acceptable nor tolerated.
- 1.2 The University acknowledges the diversity of its members and recognizes that bullying and harassment, when it occurs, will impact each person differently, and will be informed by social identities, vulnerabilities, and position within the University’s structures and hierarchies.
- 1.3 This policy sets out the University’s framework and strategy to address bullying and harassment.

2.0 PURPOSE

- 2.1 The purpose of this policy is to instill and cultivate institutional, collective, and individual responsibility for creating and maintaining a respectful working and learning environment and, specifically, to:
 - 2.1.1 increase awareness of bullying and harassment and to reduce or prevent its occurrence through education and training;
 - 2.1.2 establish a process for addressing incidents of workplace bullying and harassment, as defined in regulations under the *Workers’ Compensation Act*, and for addressing incidents of bullying and harassment between, by, and of members of the University Community; and

- 2.1.3 assign responsibility for addressing bullying and harassment when it occurs and for managing Reports about bullying and harassment in a prompt, fair, and judicious manner.

3.0 SCOPE AND JURISDICTION

- 3.1 This policy applies to bullying or harassment by a member of the University Community against another member of the University Community that is alleged to have occurred:
 - 3.1.1 On any property that is controlled by the University and used for University purposes; or
 - 3.1.2 At a meeting or an event or during an activity sponsored by, or under the auspices of, the University or in furtherance of University business; or
 - 3.1.3 Using the University’s Information and Communications Technology resources; or
 - 3.1.4 When the Respondent was in a position of power or influence over the Complainant’s academic or employment status at the time of the reported incident.
- 3.2 This policy is not to be interpreted or applied as derogating from the University’s right as an employer to investigate and, where warranted, to take action against an employee for bullying and harassment of a member of the University Community, wherever it occurs, if there is a nexus to the workplace.
- 3.3 Within the limits of its legal right to do so, the University will endeavor to remove from University property any person who is not a member of the University Community who engages in bullying and harassment of a member of the University Community.
- 3.4 Retaliation, or invoking this policy and its procedures in bad faith, are prohibited conduct and will be treated as a serious matter which may result in corrective measures or disciplinary sanctions.
- 3.5 This policy does not prevent a member of the University Community from exercising any rights they may have, including the right to file a complaint or claim with *WorkSafe BC* or with the British Columbia Human Rights Tribunal, or to pursue a criminal or civil remedy.

4.0 DEFINITIONS

- 4.1 See Appendix A for definitions of words used in this policy and its associated procedures.

5.0 POLICY

- 5.1 All members of the University Community are responsible for establishing and maintaining a respectful working and learning environment. Bullying and harassment are unacceptable and prohibited conduct.
- 5.2 All members of the University Community are expected to model respectful behaviour and must:

- 5.2.1 refrain from engaging in or condoning bullying and harassment; and
- 5.2.2 observe and comply with the University's policies, procedures, and processes for bullying and harassment.

Education and Prevention

- 5.3 The University will implement and actively promote education, awareness, and training to recognize, prevent, and address bullying and harassment.
 - 5.3.1 Safety and Risk Services will, in collaboration with Human Resources, Faculty Relations, and other relevant partners develop, coordinate, promote, implement, and oversee the Respectful Workplace Educational Component for all members of the University Community to whom the University's *WorkSafeBC* coverage applies, compliant with occupational health and safety standards and statutory requirements, and designed to recognize, reduce, prevent, and respond to bullying and harassment. The Respectful Workplace Educational Component will include education about rights and responsibilities under *WorkSafeBC* and under this policy.
 - 5.3.2 Student Services will, in collaboration with relevant partners, develop, coordinate, promote, implement, and oversee bullying and harassment awareness for Students.

Reporting and Responding to Bullying and Harassment – General Principles

- 5.4 The University will:
 - 5.4.1 establish a central intake process for reporting bullying and harassment;
 - 5.4.2 respond to incidents and Reports in a fair, unbiased, and timely manner and in accordance with relevant collective agreements or other applicable University policies and procedures, including notice requirements, timelines, and other process issues;
 - 5.4.3 take steps to address and resolve incidents and Reports through problem-solving and informal resolution processes whenever possible; and
 - 5.4.4 when bullying and harassment has occurred, take steps to restore a respectful working and learning environment.

6.0 ROLES AND RESPONSIBILITIES

- 6.1 All members of the University Community are responsible for establishing and maintaining a respectful working and learning environment free from bullying or harassment and for complying with the provisions of this policy and its associated procedures.
- 6.2 All members of the University Community to whom the University's *WorkSafeBC* coverage applies are responsible for completing the University's Respectful Workplace Educational Component as required by the *Workers Compensation Act* and associated occupational health and safety regulations.

- 6.3 All University employees must, as required by legislation and occupational health and safety regulations, promptly report bullying and harassment they observe or experience.
- 6.4 All members of the University's executive and senior administration are responsible for:
 - 6.4.1 providing the leadership and management support necessary for the implementation of this policy within their areas of responsibility;
 - 6.4.2 monitoring and evaluating its implementation; and
 - 6.4.3 taking action, as needed, to prevent recurrences of bullying and harassment when it occurs.
- 6.5 All University employees in supervisory positions are responsible for:
 - 6.5.1 informing employees and others under their direct supervision of this policy and its associated procedures;
 - 6.5.2 educating themselves and those in their unit with respect to bullying and harassment;
 - 6.5.3 ensuring the employees under their direct supervision complete the University's Respectful Workplace Educational Component;
 - 6.5.4 taking steps, when they become aware of circumstances that present a risk of bullying and harassment, to minimize or prevent the risk;
 - 6.5.5 taking the initiative to seek appropriate advice and guidance to carry out their responsibilities with respect to bullying and harassment;
 - 6.5.6 addressing Reports promptly and fairly, in a timely manner, including notifying and consulting with the relevant University administrative office, as outlined in section 6.6, which is determined by the Respondent's affiliation to the University;
 - 6.5.7 imposing discipline, consistent with the terms of the relevant collective agreement, employment policy or contract; and
 - 6.5.8 implementing corrective or other measures to restore a respectful working and learning environment.
- 6.6 University administrative offices responsible for providing advice and support to Supervisors, for overseeing and managing the University's response to Reports, and for collecting and reporting data are:
 - 6.6.1 Faculty Relations, for Reports about members of the SFUFA bargaining unit;
 - 6.6.2 Human Resources, for Reports about employees who are members of the APSA, CUPE, Poly Party, and TSSU employee groups;

- 6.6.3 Human Resources, for Reports about excluded employees and members of the University's Executive or senior administration, including Deans and Associate Deans;
 - 6.6.4 The Office of Student Support, Rights, and Responsibilities for Reports about Students;
 - 6.6.5 The Office of General Counsel, for Reports about members of the University Community whose affiliation with the University does not fall within section 6.6.1 to 6.6.4.
- 6.7 The Chief Safety Officer is responsible for:
- 6.7.1 Developing, in consultation with Human Resources, Faculty Relations, and the University's Central Safety Committee, the University's Respectful Workplace Educational Component;
 - 6.7.2 Collecting and aggregating data;
 - 6.7.3 Preparing an annual report to the Board of Governors;
 - 6.7.4 Reporting on compliance with, and reporting to, *WorkSafeBC*; and
 - 6.7.5 Annual review of the University's bullying and harassment policy statement and procedures.

7.0 ANNUAL REPORT

- 7.1 The Chief Safety Officer, in collaboration with Human Resources, Faculty Relations, and Student Services will report annually through the President to the Board of Governors on the implementation of this policy. The Chief Safety Officer is responsible for preparing the annual report.
- 7.2 The annual report will include a summary of:
- 7.2.1 the educational activities of the University in relation to bullying and harassment,
 - 7.2.2 the number and types of Reports made under this policy and the method of resolution, and
 - 7.2.3 progress made towards achieving the objectives of this policy.
- 7.3 The Chief Safety Officer is responsible for fulfilling the University's reporting obligations to *WorkSafeBC*.

8.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

- 8.1 The legal and other University Policy authorities and agreements that may bear on the administration of this policy and may be consulted as needed include but are not limited to:

- 8.1.1 *University Act*, R.S.B.C. 1996, c. 468
- 8.1.2 *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 165
- 8.1.3 *Workers Compensation Act*, S.B.C. 2019, c.1
- 8.1.4 Occupational Health & Safety Regulations and WorkSafe BC policies and guidelines
- 8.1.5 University Health and Safety (GP 17)
- 8.1.6 Human Rights Policy (GP 18)
- 8.1.7 Response to Violence and Threatening Behaviour (GP 25)
- 8.1.8 Sexual Violence and Misconduct Prevention, Education, and Support Policy (GP 44)
- 8.1.9 Student Conduct Policy (S 10.05)
- 8.1.10 Collective agreements and human resources employment policies.

9.0 ACCESS TO INFORMATION AND PROTECTION OF PRIVACY

- 9.1 The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's *Freedom of Information and Protection of Privacy Act* and the University's Information Policy series.

10.0 RETENTION AND DISPOSAL OF RECORDS

- 10.1 The information and records made and received to administer this policy are evidence of the University's actions to address bullying and harassment. Information and records must be retained and disposed of in accordance with a records retention schedule approved by the University Archivist

11.0 POLICY REVIEW

- 11.1 This policy will be reviewed at least once every 5 years.
- 11.2 The policy statement, as set out in the procedures, will be reviewed annually.
- 11.3 The procedures will be reviewed annually.

12.0 AUTHORITY

- 12.1 This policy is administered under the authority of the Vice-President, Finance and Administration and the Vice-President, Academic and Provost.

13.0 INTERPRETATION

- 13.1 Questions of interpretation or application of this policy or its procedures shall be referred to the Vice-President, Finance and Administration and the Vice-President, Academic and Provost, who will jointly make a decision which shall be final.

14.0 PROCEDURES AND OTHER DOCUMENTS ASSOCIATED WITH THIS POLICY

- 14.1 Appendix A contains the definitions applicable to this policy and its associated procedures.
- 14.2 Appendix B contains the Guidelines for Investigations by External Investigators.
- 14.3 The procedures for this policy are: *Bullying and Harassment Procedures*



Bullying and Harassment Procedures

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures		
	Date of Last Review/Revision	Mandated Review
	<u>Discussion Draft – 17.11.2020</u>	

Policy Authority: Vice President, Finance and Administration and Vice President Academic and Provost

Parent Policy: Bullying and Harassment Policy (GP – XX)

1.0 POLICY STATEMENT

1.1 Simon Fraser University (“the University”) is committed to providing a healthy, safe, and respectful learning, teaching, research, and work environment in which bullying and harassment are neither acceptable nor tolerated.

2.0 PURPOSE

2.1 These procedures establish the processes that will be followed to respond, informally or formally, to a Report of bullying and harassment made under the Bullying and Harassment Policy (“the Policy”).

3.0 DEFINITIONS

3.1 See Bullying and Harassment Policy Appendix A for definitions of words used in the Policy and in these procedures.

4.0 GENERAL PRINCIPLES

- 4.1 The University will respond to a Report in a fair, unbiased, and timely manner and in accordance with relevant collective agreements or other applicable University policies and procedures, including notice requirements, timelines, and other process issues.
- 4.2 A Complainant or Respondent may be accompanied by a support person and/or a representative of their Constituency Organization throughout these procedures.
- 4.3 In responding to a Report, efforts at informal resolution will normally be made first.
- 4.4 In all cases, efforts will be made to mitigate the impact of a substantiated Report, such as mandating corrective action, implementing actions to reduce the opportunity for recurrence, and taking steps to restore the working and learning environment.

5.0 INTERIM MEASURES

- 5.1 It may be necessary to take interim measures to mitigate risk or to mitigate the impact of the Respondent's alleged conduct while a Report is being considered, resolved, investigated, or determined. Such measures will be precautionary and are expressly non-disciplinary.
- 5.2 The Respondent's Supervisor may impose interim measures on the Respondent and may consult with the Responsible Office for guidance prior to doing so.
- 5.3 Interim measures include, but are not limited to, the following examples:
 - a. the exclusion of individuals from all or any part of the University campuses;
 - b. limiting proximity or contact to specific individuals;
 - c. limiting participation in University activities;
 - d. limiting the use of the University's information and communications technology; or
 - e. requiring a person to meet regularly with designated members of the University Community.

6.0 HOW TO REPORT BULLYING AND HARASSMENT

Imminent Risk – Contact and Inform Campus Public Safety

- 6.1 Any member of the University Community who believes they are being bullied and harassed and has concerns about active or imminent acts or threats of violence, or concerns about safety, security, or emergency, should immediately contact and inform Campus Public Safety [link].

Notify the University by Completing the Report Form

- 6.2 Even if Campus Public Safety has been contacted and informed, any member of the University Community who believes they are being bullied and harassed must notify the University by completing the Bullying and Harassment Report Form [link] and submitting it to Safety & Risk Services so that appropriate action can be taken.

- 6.3 The Report to the University should be made as soon as possible after the bullying and harassment occurred so that it can be addressed in a timely manner.

Summary of Steps

- 6.4 A member of the University Community who believes they are being bullied and harassed should take the following steps:
- 6.4.1 If there are imminent risk or concerns about safety, contact Campus Public Safety.
 - 6.4.2 Seek information and support from their Supervisor, their Constituency Organization, or if a Student, from the Ombudsperson or from the Office of Student Support, Rights and Responsibilities.
 - 6.4.3 If the person being bullied and harassed feels comfortable and safe doing so, and with the support of another person if required, inform the bully that their conduct is inappropriate and request that it stop immediately.
 - 6.4.4 Disclose the bullying and harassment to their Supervisor **and** complete the Report Form [link] **and** submit the form to Safety and Risk Services [link].
 - 6.4.5 If the Complainant's Supervisor is the bully, the Complainant should complete the Report Form [link] **and** submit the form to Safety and Risk Services [link] and, if comfortable doing so, disclose the bullying and harassment to the person to whom the Supervisor reports.

7.0 WHAT HAPPENS WHEN A REPORT ABOUT BULLYING AND HARASSMENT IS RECEIVED BY SAFETY & RISK SERVICES?

- 7.1 Safety and Risk Services will receive the Report and will forward it to the Responsible Office, for action.
- 7.2 The Responsible Office will review and assess the Report and, based on the information provided, take appropriate steps to respond to the Report.
- 7.3 The Responsible Office will inform the office responsible for the Complainant, based on the Complainant's affiliation with the University, that a Report has been received and will, when taking further steps to address the Report, inform, consult, or involve the office responsible for the Complainant as needed.
- 7.4 Where the Report appears to involve discrimination, the Responsible Office will consult with the University's Human Rights Office.

8.0 UNIVERSITY'S RESPONSE TO REPORTS ABOUT STUDENTS

- 8.1 Where the Report is about a Respondent who is a Student, the Office of Student Support, Rights and Responsibilities will respond to it in accordance with the *Student Conduct Policy* (S10.05)

and associated procedures and will inform, consult, or involve, as appropriate, the office responsible for the Complainant (based on the Complainant's affiliation with the University).

9.0 UNIVERSITY'S RESPONSE TO REPORTS ABOUT EMPLOYEES AND OTHER NON-STUDENTS

9.1 Where the Report is about an employee or other non-Student Respondent, the Responsible Office will:

- 9.1.1 Assess the risk to the Complainant, the Respondent, or any other member of the University Community, with reference to Policy GP 25 *Response to Violence and Threatening Behaviour*.
- 9.1.2 Assess the Report, to determine whether the alleged conduct meets the definition of bullying and harassment.
- 9.1.3 Inform the office responsible for the Complainant (based on the Complainant's affiliation with the University) that a Report has been received and will consult or involve that office in addressing the matter, as appropriate.
- 9.1.4 Inform the Respondent's Supervisor that a Report has been received.
- 9.1.5 Provide advice, guidance, and support to the Respondent's Supervisor in addressing the Report.
- 9.1.6 Directly, or through the office responsible for the Complainant:
 - a. acknowledge receipt of the Report;
 - b. advise the Complainant of their right to be accompanied by a support person and to have a member of the Constituency Organization present throughout all processes in these procedures; and
 - c. meet with the Complainant about the Report.
- 9.1.7 Directly, or through the Respondent's Supervisor:
 - a. advise the Respondent that a Report has been received;
 - b. advise the Respondent of their right to be accompanied by a support person and to have a member of their Constituency Organization present throughout all processes in these procedures; and
 - c. meet with the Respondent about the Report.

Informal Resolution

- 10.0** Where appropriate, directly or through the Respondent's Supervisor, the Responsible Office will work collaboratively with the Complainant, the Respondent, and their respective Supervisors, and in some cases their respective Constituent Organizations, to determine an informal resolution to the Report.
- 10.1 An informal resolution process does not result in a determination of whether the Policy has been violated. The focus is on finding a resolution to the Report. Examples of informal resolution include but are not limited to:
- 10.1.1 an educational conversation with the Respondent;
 - 10.1.2 the Complainant communicating to the Respondent that the Respondent's behaviour is unacceptable;
 - 10.1.3 a facilitated conversation between the Complainant and the Respondent.
- 10.2 If no resolution is reached through informal resolution processes, or where such processes are not appropriate, the Responsible Office may initiate an investigation.

Investigations

- 10.3 The Responsible Office will determine whether and how to investigate the Report, including whether to investigate it internally or whether the investigation will be undertaken by an external investigator.
- 10.4 Where more than one Report has been made about a Respondent, the Responsible Office may decide that the Reports will be investigated together.
- 10.5 All investigations under these procedures should:
- 10.5.1 be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;
 - 10.5.2 be fair and impartial to both the Complainant and the Respondent when evaluating the allegations;
 - 10.5.3 comply with all relevant provisions in any applicable collective agreement or policy, including notice, timelines, and other process requirements;
 - 10.5.4 be sensitive to the interests of all parties involved and maintain confidentiality to the extent possible under the circumstances; and
 - 10.5.5 be focused on finding facts and evidence, which includes interviewing the Complainant, the Respondent, and any witnesses, and reviewing any documents that the investigator considers may contain relevant information.

- 10.6 Upon the conclusion of an investigation, the investigator will prepare a written report (“Investigator’s Report”) in a manner that facilitates compliance with the access to information and protection of privacy provisions of the *Freedom of Information and Protection of Privacy Act*.
- 10.7 Where an external investigator conducts the investigation, the Guidelines in Appendix B will apply.

11.0 DECISION and DISCIPLINARY MEASURES

- 11.1 The Responsible Office will provide the Investigator’s Report to the Respondent’s Supervisor.
- 11.2 The Respondent’s Supervisor will read and consider the Investigator’s Report.
- 11.3 The Respondent’s Supervisor will determine whether the Policy has been violated and if so, whether disciplinary measures will be imposed. The Supervisor will determine the appropriate disciplinary measures.
- 11.4 Where the Respondent is covered by a collective agreement or other relevant employment policy, any discipline will be determined and imposed consistent with the terms of that agreement or policy.

12.0 CORRECTIVE MEASURES

- 12.1 In cases where it is determined that a violation of the Bullying and Harassment Policy has occurred, efforts will be made to mitigate the impact of the incident by implementing actions to reduce the opportunity for recurrence and to restore a respectful working and learning environment.
- 12.2 The Respondent’s Supervisor, alone or in consultation with the Responsible Office or others, may recommend that corrective measures, such as changes in existing policies, procedures, and practices, be put in place to avoid repetition of the breach.

13.0 REPORTS MADE IN BAD FAITH

- 13.1 If the University determines that a Report was made in bad faith, the Responsible Office will, in consultation with the office responsible for addressing the conduct of the Complainant, consider disciplinary action.

14.0 ACCESS TO INFORMATION, CONFIDENTIALITY, AND PROTECTION OF PRIVACY

- 14.1 The information and records made and received to administer the Policy and these procedures are subject to the access to information and protection of privacy provisions of British Columbia’s *Freedom of Information and Protection of Privacy Act* and the University’s Information Policy

series. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable University's policies.

- 14.2 Reports filed under the Bullying and Harassment Policy and addressed under these procedures may involve the collection, use, and disclosure of sensitive personal information. Confidentiality is required so that those who may have experienced bullying or harassment will feel free to come forward. Confidentiality is also required so that the reputations and interests of those accused of bullying or harassment are protected. However, either party may discuss the case in confidence with their supervisor, support person, and/or representative of their Constituency Organization.
- 14.3 Subject to any limits or disclosure requirements imposed by law or by the Policy or these procedures, any and all information, oral and written, created, gathered, received or compiled through the course of a Report is to be treated as confidential by both the Respondent and Complainant, their representatives, support persons, witnesses, and the officials designated by the Policy or these procedures.
- 14.4 Any person breaching confidentiality may be subject to disciplinary sanction or other appropriate action.

15.0 AGGREGATED DATA FOR ANNUAL REPORT

- 15.1 For the purposes of the Annual Report, as outlined in section 7 of the Bullying and Harassment Policy, each Responsible Office must inform the Chief Safety Officer, or designate, of the number and types of Reports made under the Policy and the method of resolution.

16.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

- 16.1 The legal and other University Policy authorities and agreements that may bear on the administration of the Bullying and Harassment Policy or these procedures, and may be consulted as needed, include but are not limited to:
 - 16.1.1 *University Act*, R.S.B.C. 1996, c. 468
 - 16.1.2 *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 16
 - 16.1.3 *Workers Compensation Act*, S.B.C. 2019, c.1
 - 16.1.4 Occupational Health & Safety Regulations and WorkSafe BC policies and guidelines
 - 16.1.5 University Health and Safety Policy (GP 17)
 - 16.1.6 Human Rights Policy (GP 18)
 - 16.1.7 Response to Violence and Threatening Behaviour (GP 25)
 - 16.1.8 Sexual Violence and Misconduct Prevention, Education, and Support Policy (GP 44)

16.1.9 Student Conduct Policy (S 10.05)

16.1.10 Collective agreements and human resources employment policies.



Appendix A – BULLYING AND HARASSMENT POLICY DEFINITIONS

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures		GP-TBA
	Date of Last Review/Revision	Mandated Review
	<u>17.11.2020</u>	

Policy Authority: Vice-President, Finance and Administration and Vice-President, Academic and Provost

Parent Policy: *Bullying and Harassment Policy* (GP-TBA)

1.0 PURPOSE

1.1 The definitions in this Appendix define the words used in the Bullying and Harassment Policy (GP-TBA) and in the Bullying and Harassment Procedures.

2.0 DEFINITIONS

- 2.1 **Bullying and Harassment** (“bullying and harassment”) includes any inappropriate conduct or comment by a person towards a member of the University Community that the person knew or reasonably ought to have known would cause the member of the University Community to be humiliated or intimidated, but excludes:
- any reasonable action taken by the University or a Supervisor relating to the management and direction of employees or the workplace;
 - any reasonable action taken by the University or an instructor, faculty member, or Supervisor relating to the management and direction of Students in the classroom or to the management, direction, assignment, or supervision of research or academic work.

Examples of conduct or comments that might constitute bullying and harassment include verbal aggression or insults, uttering derogatory names, vandalizing personal belongings, and spreading rumours.

- 2.2 **Complainant** means the person who seeks recourse under this policy based on a belief that they have experienced conduct which is prohibited by this policy. The University may also be a Complainant.
- 2.3 **Constituency Organization** means the Administrative and Professional Staff Association (APSA), Canadian Union of Public Employees (CUPE 3338), Polyparty, Simon Fraser Student Society (SFSS), Graduate Student Society (GSS), Simon Fraser University Faculty Association (SFUFA), and the Teaching Support Staff Union (TSSU).
- 2.4 **Report** means a statement of facts alleged by a Complainant seeking recourse under the Bullying and Harassment Policy. A Report is made by completing the Bullying and Harassment Report Form [link] and submitting it to Safety and Risk Services.
- 2.5 **Respectful Workplace Educational Component** means the University’s mandatory education and training for members of the University Community to whom the University’s *WorkSafeBC* coverage applies, as required by the *Workers Compensation Act*, and associated occupational health and safety regulations.
- 2.6 **Respondent** means a person or persons against whom a Report has been made under the Bullying and Harassment Policy.
- 2.7 **Responsible Office** means the University administrative office designated in section 6.6 of the Bullying and Harassment Policy, responsible for providing advice and support to Supervisors and for overseeing and managing the University’s response to Reports. The Responsible Office is determined by the Respondent’s affiliation to the University. The Responsible Office is:
- a. Faculty Relations, for Reports about members of the SFUFA bargaining unit;
 - b. Human Resources, for Reports about employees who are members of the APSA, CUPE, Poly Party, and TSSU employee groups;
 - c. Human Resources, for Reports about excluded employees and members of the University’s Executive or senior administration, including Deans and Associate Deans;
 - d. The Office of Student Support, Rights, and Responsibilities for Reports about Students;
 - e. The Office of General Counsel, for Reports about members of the University Community whose affiliation with the University does not fall within sections a. to d.
- 2.8 **Retaliation** means an adverse action or threatened action, direct or indirect, taken or made through any means, against a person who invoked this policy or its procedures in good faith, or against a person who participate or cooperated in good faith in a University process addressing a Complaint. Retaliation is prohibited conduct.
- 2.9 **Student includes** any of the following: an undergraduate who is enrolled at the University for one or more of the last three terms and is eligible to continue in a program of study; a graduate student who is enrolled at the University in the current term and is eligible to continue; a graduate student who is on leave and eligible to enrol at the University when the leave ends; a visiting or exchange or special audit student who has been formally admitted to the University for the purposes of taking

courses or to take part in an approved research term; a graduate student who is enrolled in courses at the University as a qualifying student; or a person enrolled at the University in a non-credit program or course.

2.10 **Supervisor*** means any person with supervisory responsibilities who instructs, directs, or controls employees in the performance of their duties, and includes a faculty member or instructor who directs, instructs, controls, or supervises employees or students conducting research or academic work.

2.11 **University Community** means all students and employees of the University and all people who have a status at the University mandated by legislation or other University policies, including research assistants, post-doctoral fellows, members of Senate and the Board of Governors, volunteers, visiting and emeritus faculty, and visiting researchers.

***Please note:** We acknowledge the need to further refine the definition of Supervisor before the Policy is finalized, to ensure it does not have an unintended consequence (for example, a sessional instructor making disciplinary decisions about a TA).



Appendix B – Bullying and Harassment: *Guidelines for Investigations by External Investigators*

DISCUSSION DRAFT FOR COMMUNITY INPUT

SIMON FRASER UNIVERSITY	Date	Number
Policy and Procedures	<u>Discussion Draft</u>	GP-TBA
	Date of Last Review/Revision	Mandated Review
	<u>17.11.2020</u>	

Policy Authority: Vice-President, Finance and Administration and Vice-President Academic and Provost

Parent Policy: *Bullying and Harassment Policy* (GP-TBA)

PURPOSE

1.1 This Appendix provides general guidelines for investigations under the Bullying and Harassment Policy (“Policy”) that are conducted by an external investigator (see section 10.7 of the Policy).

INVESTIGATIONS

- 2.1 The external investigator must be impartial and appropriately qualified.
- 2.2 The investigation must comply with all relevant provisions in any applicable collective agreement or policy, including notice, timelines, and other process requirements.

INVESTIGATOR’S TERMS OF REFERENCE AND INVESTIGATION PROCEDURES

- 3.1 The Responsible Office will provide the investigator with terms of reference for the investigation, a protocol for conducting the investigation, and a timeline for completing the investigation and preparing the Investigator’s Report.
- 3.2 The investigator will adhere to the terms of reference and the protocol and timelines for conducting the investigation. Within those parameters, the investigator has the discretion to conduct the

investigation in the manner they deem most appropriate in the circumstances, but always in accordance with the principles of procedural fairness, including that:

- a. the Complainant and the Respondent shall each be advised of the procedures that will be followed; and
- b. the Respondent shall be advised of the allegations in the Report and shall be given an opportunity to respond.

3.3 The investigator will normally interview the Complainant, Respondent, and such other persons who the investigator determines might have relevant information. The investigator will also review documents that the investigator considers may have or contain relevant information pertaining to the Report.

3.4 If the Complainant or Respondent or any other person who may have relevant information refuses to cooperate or to participate in the investigation, the investigator may proceed with the investigation in their absence.

INVESTIGATOR'S REPORT

4.1 Upon conclusion of the investigation, the investigator will prepare the Investigator's Report in a manner that facilitates compliance with the access to information and protection of privacy provisions of the *Freedom of Information and Protection of Privacy Act*.

4.2 The Investigator's Report will include investigator's findings of fact in the case, disputed and undisputed, and when requested by the University, whether on a balance of probabilities, there has been a violation of the Bullying and Harassment Policy.

4.3 The investigator will submit the Investigator's Report to the Responsible Office.