

# Harassment, Bullying, and Discrimination Policy

Last revised: September 2024

## 1.0 Policy Statement

1.1 The VCCFA (FA) is committed to maintaining a respectful workplace and does not tolerate harassment, bullying and discrimination. The FA is committed to providing an environment that allows for the full and free participation of all union members in the activities of the union. The purpose of this policy is to assist in identifying, preventing and addressing discrimination, harassment and bullying, and to provide a procedure for handling and resolving complaints.

1.2 Any complaint involving a staff member of the FA office will be handled as per the requirements in the [MoveUP COPE 378 collective agreement](#).

1.3 This policy is not intended to be used in the case of discrimination, bullying or harassment allegations made in the workplace jurisdiction of the Employer.

## 2.0 Definitions

2.1 The **Protected Grounds** against harassment and discrimination by the [BC Human Rights Code \[RSBC 1996 c.210\]](#) are Indigenous identity, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person

2.2 **Harassment** is conduct or comments which ought reasonably to be known to be objectionable or unwelcome and serves no legitimate union-related purpose and which detrimentally affects people in the union environment; or has adverse union-related consequences and is based upon one of the grounds outlined in the [BC Human Rights Code \[RSBC 1996 c.210\]](#).

2.2.1 **Sexual Harassment** means conduct of a sexual nature by a person who knows or ought reasonably to know that such behaviour is unwanted or unwelcome, and which:

2.4.1 leads to or implies faculty association consequences for the person harassed; or

2.4.2 interferes with a person's participation in union-related activity; or

2.4.3 creates an intimidating, poisoned, hostile or offensive union environment.

2.3 **Bullying** is deliberate conduct or comment which a reasonable person would consider to be objectionable, directed towards a specific person, which serves no legitimate union, work or learning purpose and has the effect of creating an intimidating, humiliating, hostile or offensive union environment, and is not based upon one of the grounds set out in the Human Rights Code. Bullying will normally be repeated, continuous or persistent behaviour, although a single incident, if sufficiently egregious, will constitute Bullying.

2.4 **Discrimination** means any treatment or action (verbal or behavioural), covert or overt, intentional or unintentional, that has the purpose or effect of singling out an individual or group for differential treatment on a protected ground (e.g. discrimination against a deaf person based on audism), and that has no bona fide and reasonable justification.

### 3.0 Duties

3.1 It is the responsibility of the VCCFA Executive to take reasonable steps to prevent, where possible, or otherwise minimize or eliminate, union-related discrimination, bullying, and harassment.

3.2 Members engaged in carrying out roles and work of the FA must:

3.2.1 Not engage in discriminatory conduct, whether in design or effect, in their treatment of FA employees and members;

3.2.2 Not engage in bullying and harassment of FA employees and members;

3.2.3 Report any incidents of discrimination, bullying, and harassment they observe and report any incidents of discrimination, bullying, and harassment they experience if they feel able;

3.3 In addition, members of the FA Executive must:

3.3.1 Develop and implement procedures to report and deal with incidents or complaints of discrimination, bullying and harassment in the union-environment, keeping in mind any staff members of MoveUp COPE 378 have recourse to the relevant Article in their Collective Agreement;

3.3.2 Inform members engaged in carrying out roles and work in the FA of this policy and provide training on recognizing and responding to discrimination, bullying, and harassment.

## 4.0 Reporting

4.1 A complaint can be submitted to any member of the FA Executive. It must be made in writing and should include the names of the complainant and the respondent, a description of relevant facts (including dates, times and places), the names of any witnesses, and any remedy the complainant is requesting. Supporting documents (e.g. emails, photographs) may be included. Physical evidence, such as vandalized personal belongings may also be submitted.

4.2 The complaint is to be provided to at least two of the following: President, Vice President and/or Chief Steward, who will initiate this process.

4.3 Except in exceptional circumstances, a complaint must be filed within 12 months of the alleged contravention. If a continuing contravention is alleged in a complaint, the complaint must be filed within 12 months of the last alleged instance of the contravention.

4.4 If the named respondent is the President, Vice President or Chief Steward, that person will not be involved in initiating any parts of this process. The Executive will be informed within 2 business days that a complaint has been received regarding that person, but will not be provided any names or details. The Executive will ensure that the proper procedures are followed.

4.5 These procedures should not be used where a complainant has sought recourse under another process, such as filing a workplace, legal or criminal complaint, unless there is a distinct purpose for the union to investigate and resolve (such as the parties working together on a union committee).

## 5.0 Mediation

5.1 When a complaint is received by the FA, the parties may initiate a mediation procedure. All parties must agree to the process.

5.2 The following process will be used:

5.2.1 A VCCFA steward will be assigned to and approved by each respective party;

5.2.2 The stewards will discuss the nature of the complaint with the respective complainant and respondent and determine whether the parties agree to mediation;

5.2.3 The FA, the complainant and the respondent must agree on the mediator. The Labour Relations Board can be asked to propose a mediator or the FA can propose a mediator independently;

5.2.4 The mediation process will be without prejudice, and the process and resolution will be kept strictly confidential by all participants;

5.2.5 Where a resolution is reached, the complainant and the respondent must agree in writing to the resolution and the matter will then be considered concluded;

5.2.6 No record of the mediation except the written agreed resolution will be placed on file at the VCCFA office.

## 6.0 Investigations

6.1 Where either the complainant or respondent does not agree to mediation, or no resolution is reached during mediation, the complaint will be referred to an external investigator.

6.2 An investigator will normally be appointed by the President or designate within 10 working days of referral.

6.3 The referral should, where possible, include written statements from both the complainant and the respondent which outlines the issues in dispute. The referral will be assembled by the VCC President or designate and forwarded to the investigator, with a copy sent to the complainant and respondent.

6.4 The appointment of an investigator does not preclude an investigator from mediating the dispute where possible.

6.5 Any complaint will be kept confidential except as is necessary to investigate and resolve the issue. Investigators will stress the confidentiality of the investigation with all persons interviewed.

### 6.6 Terms of Reference of the Investigator

6.6.1 The purpose of the investigator will be to ascertain facts.

6.6.2 All persons quoted in the investigation will be named by initials.

6.6.3 The report of the investigator will be given, in confidence, to the President and other appropriate members of the FA Executive.

6.6.4 It is the responsibility of the FA to forward a copy of the report to the complainant and respondent.

6.6.5 The President, or other appropriate member of the Executive, will state, in a covering letter, that the report is confidential. The report should refer to individuals involved by initials or code. However, the key will be provided for internal use. This practice should be repeated at any subsequent proceeding.

6.6.6 The report will not be introduced as evidence or have legal effect in any arbitration or other legal procedure.

6.6.7 If the President is the respondent or complainant in a complaint, the FA Executive shall appoint a different member of the Executive to deal with the investigator and the report.

## 6.7 Reliance on Report of External Investigator

6.7.1 VCCFA may rely on the fact of mediation or the report of an external investigator as evidence that may mitigate liability in a proceeding that follows receipt of the external investigator's report.

6.7.2 VCCFA may rely on the investigator's report as evidence that it acted in good faith in any action that it undertook following receipt of the external investigator's report where the issue of good faith is raised by a member.

6.7.3 The investigator will not be compellable as a witness in any arbitration or other legal procedure which may result from the investigation.

6.7.4 The investigator will conclude their work within 10 working days of appointment and will render a report within a further five working days. These timelines may be extended if deemed appropriate by the President or delegate.

6.7.5 If requested by the investigator, the FA will provide meeting space and contact information about persons to be interviewed.

6.7.6 The investigator may, as part of their report, make recommendations for resolution of the complaint.

6.7.7 The investigator's report will not be shared in any way with the College.

## 7.0 Findings and Actions

7.1 The President or designate will make a written determination based upon the facts and/or recommendations, if any, within 10 working days of the receipt of the investigator's report.

7.2 The President may consult and seek advice from Vice President or Chief Steward.

7.3 If necessary, this timeline may be extended.

7.4 The determination will:

7.4.1 Make a recommendation to the FA Executive regarding action(s), if any, to be taken or required by VCCFA.

7.4.2 Include, where appropriate, a statement of exoneration.

7.5 Consideration by FA Executive

7.5.1 The Executive will be provided the investigator's report without identifying names and will consider the recommendations from the President or designate. The Executive will approve or reject the recommendations in an in-camera session.

7.5.2 If the approved recommendations include action against a member, then the President or designate shall inform the member of that recommendation and give the member an opportunity to meet with the President or designate, or the entire Executive, to address the findings of the report and recommendations.

7.5.3 The member shall have the right to be accompanied by a steward or other union representative of their choice.

7.6 Rights of the Parties

7.6.1 Should a complainant file a complaint under the provisions of the Human Rights Code, it is understood that the Human Rights Tribunal complaint will be set aside until such time as the procedures under this policy have been completed. Where an allegation includes both a complaint under the Human Rights Code and a complaint of personal harassment, VCCFA may agree to have the investigator investigate both of the complaints in order to relieve against expense and duality of process.

7.7 False complaints, breaches of confidentiality and retaliatory action

7.7.1 Frivolous, vexatious or malicious complaints, retaliation in response to a complaint, or breaches of confidentiality during the investigation of a complaint, may result in VCCFA taking action against a member.

7.7.2 Should retaliation be alleged following the filing of a complaint, the investigator may deal with that allegation and make a finding of fact about it in their report.

## 8.0 Record-keeping

8.1 The FA will keep copies of the mediation resolutions, investigator reports, findings, or letters of actions taken or sanctions imposed, in a confidential file.

8.2 Documents will be kept for at least one year after the completion of the mediation, investigation or any actions taken.

8.3 VCCFA will destroy or anonymize documents containing personal information once it is no longer necessary for legal or business purposes.