



<b>Title:</b>	<b>POLICY AND PROCESSES TO ADDRESS UNPROFESSIONAL BEHAVIOUR (INCLUDING HARASSMENT, INTIMIDATION) IN THE FACULTY OF MEDICINE</b>
<b>Approved:</b>	February 23, 2005
<b>Approved By:</b>	UBC Senate
<b>Audience:</b>	All Faculty of Medicine members
<b>Purpose:</b>	To provide a fair complaint resolution process that assures the rights of both the complainant and the respondent to dignity, safety and confidentiality.
<b>Contact:</b>	Dean's Office Faculty Affairs

**1.0 PROCESS TO BE FOLLOWED FOR BREACHES OF PROFESSIONAL STANDARDS (Appendix I):**

Definitions of intimidation, harassment and other terms related to this policy are found in Appendix II. Concerns about significant breaches in professional conduct will be treated confidentially, and a remedial solution will be sought as warranted. Resolution may include advice to the complainant, referral for counseling, referral to specific educational or awareness programs, or the use of relevant academic policies. The Associate Dean, Equity may be consulted at any stage in order to identify gaps in knowledge, skills or policy, and will receive [anonymous] information regarding all incidents for tracking purposes. Depending on the nature of the complaint, and the consent of the complainant, the Associate Dean, Equity or designate may meet with the respondent to discuss the concern and its impact on the complainant, with the intent being remediation of (often unintended) behaviour which adversely affects the learning or working environment.

**1.1 PROCESSES FOR LEARNERS TO ADDRESS CONCERNS IN LEARNERS OR FACULTY:**

**Learners** who have concerns about significant breaches of the professional standards by **Learners or Faculty** should, as soon as is reasonably possible, bring them to the attention of the **Associate Dean, Equity** or the most appropriate of the following:

**For learners within the medical program:**

**1.1.1 Undergraduate learners:**

Senior Faculty of the discipline in question  
Academic advisors  
Program Directors  
Associate Dean, Student Affairs  
Assistant Deans, Student Affairs, NMP, IMP (2005)  
Department Head  
Dean

**1.1.2 Postgraduate Learners (Residents and Fellows):**

Program Director/Site Director  
Associate Dean(s) Postgraduate  
Department Head  
Dean of Faculty

**1.1.3 Graduate Students and Post-Doctoral Fellows:**

Supervisor  
Graduate Advisor  
Assistant Dean, Graduate Education  
Department Head/Director of School  
Dean of Faculty  
Dean of Graduate Studies



**1.1.4 For learners within the School of Audiology and Speech Sciences:**

Faculty advisor or Research supervisor  
Graduate Advisor  
School Director  
Assistant Dean, Graduate Education  
Dean of Faculty  
Dean of Graduate Studies

**1.1.5 For learners within the School of Rehabilitation Sciences:**

**Throughout the entry-level programs of occupational therapy and physical therapy:**

Director of the School of Rehabilitation Sciences  
Head of the Division of Occupational Therapy  
Head of the Division of Physical Therapy  
Student Ombudsperson (Manager of Administration and Student Services)  
Faculty Advisor  
Fieldwork Coordinator when specific to fieldwork  
Course Instructor when specific to conduct in class

**For advanced graduate students:**

Co-ordinator, Advanced Graduate Programs  
Supervisor or Graduate Advisor  
Director of the School of Rehabilitation Sciences  
Head of the Division of Occupational Therapy  
Head of the Division of Physical Therapy  
Student Ombudsperson (Manager of Administration and Student Services)  
Course Instructor when specific to conduct in class

**1.1.6 For learners within the Division of Midwifery:**

Director of Midwifery  
Department Head, Family Practice  
Associate Dean, Equity  
Dean of Faculty

**1.2 PROCESSES FOR FACULTY TO ADDRESS CONCERNS IN LEARNERS:**

**Faculty members** who have concerns about significant breaches of the professional standards by **learners** will ideally provide remedial, constructive feedback in a confidential setting as soon as is reasonable after observing inappropriate conduct. They may also bring concerns to the attention of the relevant supervisor. The primary intent is to remediate breaches in professional conduct. There may be breaches in professional standards and in University policies where other actions may be warranted, including disciplinary action, e.g. scholarly misconduct. If repeated breaches of the standards occur and/or disciplinary action is being considered, the relevant Associate Dean or School Director shall be consulted to ensure appropriate process is followed.

**1.3 PROCESSES FOR FACULTY TO ADDRESS CONCERNS IN FACULTY:**

**Faculty members** with concerns about **faculty members** who have breached the professional standards should, if possible, provide the faculty member with feedback directly in a constructive and remedial manner in a confidential setting. They may also bring concerns to the attention of the relevant Division or Department Head, confidentially. When appropriate, remedial feedback will be provided to the faculty member concerned by the Division/Department Head or Associate Dean, Equity. In the event that further



breaches of the standards occur despite remedial feedback, documentation of such breaches will occur and will form part of the annual review process. Significant breaches shall be brought to the attention of the relevant Department Head/School Director/Associate Dean, or the Associate Dean, Equity.

### **RESOURCE LIST OF FACULTY TO ADDRESS CONCERNS**

#### **1.3.1 For Faculty Within the medical program:**

- Division/Department Head
- Associate Dean, Clinical Faculty Affairs
- Associate Deans, Undergraduate
- Associate Deans, Postgraduate
- Associate Dean, Research
- Associate Dean, Equity
- Dean of Faculty

#### **1.3.2 For Faculty Within the School of Audiology and Speech Sciences:**

- Within the School of Audiology and Speech Sciences:
- School Director
- Associate Dean, Research
- Associate Dean, Equity
- Dean of Faculty

#### **1.3.3 For Faculty Within the School of Rehabilitation Sciences:**

- Director of the School of Rehabilitation Sciences
- Division Heads
- Associate Dean, Equity
- Dean of Faculty

#### **1.3.4 For Faculty Within the Division of Midwifery:**

- Director of Midwifery
- Department Head, Family Practice
- Associate Dean, Equity
- Dean of Faculty

### **POLICY TO ADDRESS HARASSMENT, INTIMIDATION AND UNPROFESSIONAL BEHAVIOUR IN THE FACULTY OF MEDICINE**

The Faculty of Medicine is collectively committed to creating a welcoming environment that is conducive to optimal education, research, and clinical care. This is sustained by a renewed commitment to the highest level of professionalism in all interactions with peers, supervisors, staff and other disciplines. (Professional Standards – Appendix I) Respect for every person is the value central to all encounters with learners, staff, teachers and patients. The Faculty is committed to the principle that all people are entitled to an academic, work and service environment that is free from conduct that in any way diminishes the safety or dignity of an individual. The Professional Standards (Appendix I) and this policy, addressing breaches in the Standards, apply anywhere that activities related to UBC Faculty of Medicine, and all of its associated programs, occur. (UBC Policy #3 addresses discrimination and harassment on grounds protected by the B.C. Human Rights Act)

This policy provides a fair complaint resolution process that assures the rights of both the complainant and the respondent to dignity, safety and confidentiality.

#### **PURPOSE**



### **2.0 Introduction**

This policy reflects the values of the Faculty of Medicine (FOM) in nurturing the intellectual and personal development of all learners and faculty members. It is important to recognize the inherent power imbalance in the teacher-learner relationship and to create a respectful, interactive environment suitable for learning. The FOM recognizes that unequal relations of power (both perceived and real) are part of the organizational environment, and that they can contribute to incidents of intimidation, discrimination and harassment. Additionally, there are power imbalances based on the differences between individuals, referred to as Protected Categories under the B.C. Human Rights Code. Although there is a necessary hierarchy of roles in the FOM, there is no hierarchy of rights. Under this Policy, the FOM strictly prohibits any form of discrimination or harassment including the abuse of power. The FOM strongly supports education as a valuable tool in the efforts to prevent as well as resolve incidents of unprofessional behaviour, intimidation, discrimination and harassment in order to create a learning and working environment that promotes the dignity and fair treatment of all.

To resolve concerns about discrimination and harassment in the FOM, informal procedures may first be used to improve communication and respect in the learning and working environment and to facilitate changes in an individual's conduct through education. The complaint resolution process is primarily remedial, but may involve progressive discipline.

### **SCOPE**

This Policy and its procedures cover individuals and groups who are associated with the FOM workplace including, full time and clinical faculty, allied health professionals, trainees, and students. Staff and other employees within the faculty of medicine will be covered under a separate policy.

### **RELATIONSHIPS**

#### **2.1 Related Standards**

**UBC policies:** (see website: <http://www.universitycounsel.ubc.ca/policies/index.html>)

- #2 Employment Equity
- #3 Discrimination and Harassment
- #4 Acquired Immune Deficiency Syndrome (AIDS)
- #13 Serving and Consumption of Alcohol at University Events or on University Premises
- #65 Religious holidays
- #73 Academic Accommodation for Students with Disabilities
- #85 Scholarly Integrity
- #87 Research
- #88 Patents and Licensing
- #89 Research and other studies involving human subjects
- #95 Formal Investigations
- #97 Conflict of Interest
- #104 Responsible use of Information Technology Facilities and Services governing the medical, dental and allied staff and practice within the hospital,

#### **Canadian Association of Occupational Therapists Code of Ethics**

Canadian Association of Speech-Language Pathologists and Audiologists (CASLPA) "Canon of Ethics"  
<http://www.caslpa.ca/english/resources/ethics.asp>

#### **Canadian Medical Association Policy on Physicians and the Pharmaceutical Industry**

Canadian Medical Association Journal, 05/01/2001, Vol. 164 Issue 9, p1339, 3p  
Item: 4382488; Contents: [General principles](#) ; [Industry-sponsored research](#) ; [Industry-sponsored surveillance studies](#); [Continuing medical education / continuing professional development \(CME/CPD\)](#); [Clinical evaluation packages \(samples\)](#) ; [Other considerations: Medical students and residents](#)

#### **Canadian Physiotherapy Association Code of Ethics**

#### **College of Dental Surgeons of B.C. Code of Ethics**



### College of Midwifery of BC

### College of Occupational Therapists of BC

### College of Physical therapists of BC

### College of Physicians and Surgeons of Code of Ethics [www.cpsbc.ca/policymanual/code.htm](http://www.cpsbc.ca/policymanual/code.htm)

### Professional Association of Residents of B.C.

[www.par-bc.org](http://www.par-bc.org) (Policies Applicable to Residents)

- professional and ethical standards or codes of conduct that govern the conduct of health care providers and learners as well as staff in health care institutions, and
- collective agreements (including provisions for eliminating discrimination and harassment).

### Tri-council principles of research integrity ([http://www.nserc.ca/guide/sf/p9\\_e.htm](http://www.nserc.ca/guide/sf/p9_e.htm))

#### **2.2 Remedies through Other Agencies**

The FOM makes available the services of the Associate Dean, Equity to resolve concerns internally where possible, and to discuss other options.

This Policy and its procedures do not interfere with the rights of individuals to seek redress through for example, the Faculty Association, the UBC Equity Office\*, and/or externally through the BC Human Rights Tribunal and/or through the courts. (\*The UBC Equity Office typically addresses only concerns based on Protected Categories under the B.C. Human Rights Code and is a university wide resource. These types of concerns can be addressed by the Equity Office in the Faculty of Medicine.)

#### **2.3 Relationship with the Teaching Hospitals**

UBC FOM recognizes that some individuals working or studying on site are affiliated with teaching hospitals. For the purposes of this Policy, the Teaching Hospital and the University may, where appropriate, share all relevant information about the conduct of University-affiliated individuals, and jointly consider, investigate or determine any complaint brought before them.

## PROCEDURES

### **3.0 Introduction**

A member of the FOM who believes that he/she is being discriminated against, harassed or intimidated should bring this complaint to the attention of the immediate supervisor or the Associate Dean, Equity as soon as possible and, in any event, within one year of the most recent incident giving rise to the complaint. Complaints arising after the one year period may be accepted by the Associate Dean, Equity if circumstances warrant.

#### **3.1 Confidentiality**

No information disclosed during the Human Rights process will be shared with others except as dictated by law in the area of child abuse, subpoena, or perceived risk to others. A breach of confidentiality will be considered a violation of this Policy.

#### **3.2 Responsibilities**

Supervisory personnel including Department Heads/School Directors/ and Associate Deans share responsibility with the University for providing a work and service environment that is free from discrimination and harassment. Supervisors are expected to respond promptly and fairly to any complaints or concerns brought to their attention, or known to exist within their unit.. All individuals in the FOM are expected to maintain an academic, work and service environment free from discrimination and harassment.

#### **3.3.1 Complaint Intake Process**

1. Confidentiality:



All members of the University community involved in a case are expected to maintain confidentiality, particularly within the work or study area in question and in shared professional or social circles. These members include Associate Dean, Equity, support staff, Department Heads/heads of Schools/Associate Deans, and witnesses, as well as the respondent and the complainant. Although at times difficult to avoid, the breach of confidentiality undermines the provision of due process, and this provides a disservice to both the complainant and the respondent.

2. Confidentiality is not the same as anonymity: For a complaint to go forward to mediation or investigation and recommendation, the identity of the complainant and the details of the complaint must be made available to the Associate Dean, Equity, the respondent and those involved in the application of these procedures.
3. The University, through the Associate Dean, Equity may take necessary steps to ensure the health, safety and security of any member of the University community.
4. For educational purposes, the Associate Dean, Equity may discuss specific cases and their resolution without identifiers.
5. Confidentiality may not apply to persons subject to extra-University judicial processes.
6. Anyone who believes that they may have been subjected to unprofessional behaviour, including discrimination or harassment should, if reasonable and safe, attempt to address their problem directly with the individuals concerned, or consult with an appropriate supervisor or, the relevant Department Head/School Director/Associate Dean, or the Associate Dean, Equity. In addition, the presence of another support person for complainants or respondents is welcome during any stage.
7. In the event that either the complainant or the Associate Dean, Equity perceives a potential conflict of interest, an alternate to the Associate Dean, Equity, who may or may not be employed by UBC FOM, may be appointed. (For example, the Associate Dean, Equity may be the respondent.)
8. The complainant and the Associate Dean, Equity or other support person will initially review the origins of the concern, the current situation, and the impact on the complainant. The Associate Dean, Equity or support person will review the relevant faculty of medicine or UBC policy with the complainant, the definitions of discrimination and harassment, and the procedures available for addressing a complaint.
9. The Associate Dean, Equity may decide that it is not appropriate to continue with the process articulated in this policy. (ie. if the complainant is actively pursuing resolution through other processes and those other processes are not in abeyance) as this process cannot offer a parallel process.
10. In cases where a complainant does not come forward with a concern, witnesses who are aware of the situation may consult with the Associate Dean, Equity to generate creative options for addressing the situation. However, a third party complaint will not typically be carried forward without an identifiable complainant.

### **3.3.2 Informal Resolution Procedures**

1. If the complainant prefers to deal with the problem personally the complainant shall be offered advice on ways to handle the situation.
2. With the agreement of the complainant, the Associate Dean, Equity will contact the respondent to present the concerns of the complainant, provide an opportunity for the respondent to present his/her perspective, and explore ways of resolving the complaint. Prior to any substantive discussions, respondents will be informed of their right to have representation such as a support person. Furthermore, any information forthcoming during informal procedures cannot be used if a complaint proceeds to a formal investigation.
3. The complainant and Associate Dean, Equity may decide to involve the appropriate Department Head/School Director/ or Associate Dean, in the resolution process.



4. If the complainant and respondent agree, the Associate Dean, Equity will attempt to mediate the complaint. This process will be conducted in confidence by the Associate Dean, Equity and the information cannot normally be used in any subsequent formal procedures.
5. If an informal resolution is obtained that is acceptable to the complainant and the respondent, the Associate Dean, Equity will make note of the agreement. If requested by either the complainant or the respondent, the Associate Dean, Equity will prepare a written summary of the agreement with consideration given to the safety of both parties. This summary will be distributed to both the complainant and respondent. If a Department Head/School Director/ or Associate Dean is involved and has a role to play in the resolution, the specifics of the agreement will be discussed with that individual.
6. If informal resolution procedures do not result in resolution, then the complainant has the option of either withdrawing from the informal process or requesting a formal investigation and decision process.
7. A time frame will be agreed upon by the complainant and the Associate Dean, Equity factoring in the context of the concern (ex.: safety, morale, etc.). A verbal progress report will be given to the complainant within 30 days.
8. Whenever an Associate Dean or Department Head/Head of School is involved in an informal process, the Associate Dean, Equity will inform the Dean of the Faculty of Medicine.

### ***3.3.3 Formal Investigation and Recommendation:***

#### ***Request for Investigation and Recommendation***

9. At any time after the complaint has been made, if the complainant wishes to have the complaint investigated, the complainant has the right to file a written request for formal investigation and recommendation shall be made to the Associate Dean, Equity. Requests include detailed accounts of the conduct or comment on the part of the respondent that forms the basis of the complaint. All such requests and all written responses from either party may become part of the record.
10. Upon receiving a written request for formal investigation, the Associate Dean, Equity shall determine whether the allegations on which the complaint is based would fall within the definition of discrimination, harassment, sexual harassment, or personal harassment as defined in this Policy. If, in the opinion of the Associate Dean, Equity, the allegations would not constitute a violation of this Policy, the Associate Dean, Equity may decide not to investigate and will inform the complainant of this decision in writing.
11. Within five working days, the Associate Dean, Equity delivers a copy of a request for investigation to the respondent.
12. The Associate Dean, Equity shall notify the Dean of the request for a formal investigation.
13. The respondent has the right to respond to the request in writing, provided such right is exercised within ten working days from receipt of that request. The respondent may acknowledge or deny the validity of the complaint in whole or in part, provide new information, or propose a resolution of the complaint.
14. Within five working days from receipt of the respondent's written reply to a request for investigation and recommendation, the Associate Dean, Equity delivers a copy of that reply to the complainant and reviews it with the complainant.
15. On receipt of the respondent's written reply, the complainant can accept the written response as a full resolution of the complaint, propose a counter-resolution to be presented back to the respondent, or ask to proceed with the formal investigation and decision process.
16. If the respondent does not submit a response, the investigation and decision process will proceed.

#### ***Investigation***





17. The investigation will be conducted by an assigned Investigator who is external to UBC.
18. The purpose of the investigation is to provide information to Department Heads/School Directors/ or Associate Deans who are charged with making sound managerial decisions about issues under this policy.
19. The Investigator will apply appropriate procedures and practices to investigate and conduct interviews properly and confidentially, within the framework of natural justice. This will include each party's right to know and respond to all allegations. Without limiting the generality of the foregoing, the following guidelines are provided:
  - a. The Investigator shall provide an opportunity to both the complainant and the respondent to provide verbal and/or written information related to the allegations. All potential witnesses may be interviewed by the Investigator. The complainant and respondent will be provided an opportunity to respond to all relevant information provided by witnesses.
  - b. If more than one complaint has been lodged against the respondent, the complaints may be investigated together.
  - c. Typically within 30 days, the Investigator shall review all relevant information and make a determination whether or not there has been a violation of the Policy.
  - d. In complaints of sexual harassment that involve an allegedly coerced sexual relationship where the respondent had any control over the employment status of the complainant, the burden of proof that the relationship was consensual rests with the respondent. The burden of proof in all other allegations rests with the complainant.
10. The final report of investigation will contain the following information:
  - a. a summary description of the allegations ;
  - b. a summary of the testimony provided by witnesses and the respondent;
  - c. a determination as to whether or not the allegations have been proven on the balance of probabilities;
  - d. a determination as to whether or not this Policy has been violated;
  - e. if the allegations are supported, a determination as to whether the discrimination or harassment was intentional or unintentional;
  - f. if the complaint is not substantiated, a determination as to whether the complaint was vexatious and made in bad faith; and
  - g. mitigating or aggravating circumstances affecting either party.
  - h. recommendations for actions appropriate in resolution of the complaint
11. The Investigator examines the complainant, the respondent, and such other persons as she or he considers may have information pertaining to the complaint. The Investigator re-examines or seeks additional witnesses in order to confirm evidence or explore discrepancies. The Investigator prepares a written report that includes a judgment on both the applicability of the policy and the facts of the case, disputed and undisputed and recommendations on suitable remedies.
12. Interviews are private and held away from the work areas of those involved.
13. The Investigator formulates recommendations for the report on the following:
  - whether the policy applies in the circumstances;
  - whether on the balance of probabilities, and with the onus of proof being on the complainant, there has been a violation of the policy;
  - whether recommended discipline or remedies are appropriate.
14. In the event that the Investigator recommends that the complaint be upheld, the Investigator may recommend both a form of discipline for the respondent and a remedy for the complainant. The Investigator also may recommend any other measures considered appropriate in the circumstances. Such recommendations are made in writing and supported by reasons.





15. In the event that the Investigator recommends the complaint be dismissed, the Investigator may recommend counseling, support, education, and such other measures as are considered appropriate for the complainant and/or the respondent. The Investigator also may recommend such measures as are considered appropriate to restore the complainant's or respondent's unit to effective functioning. Such recommendations are made in writing and supported by reasons.

16. In the event that the Investigator recommends not only dismissal of the complaint but contemplates finding the complaint to have been made in bad faith, the Investigator shall meet with the complainant and provide an opportunity for the complainant to respond prior to making a recommendation. The Investigator may recommend both a form of discipline for the complainant and a remedy for the respondent. The Investigator also may recommend any other measures considered appropriate in the circumstances. Such recommendations are made in writing and supported by reasons.

17. The Investigator submits the report to the Dean. The Dean meets with the complainant and with the respondent to examine each on the evidence in the investigator's report and on related allegations. At the Dean's discretion, but especially in cases of relevant, new information arising that has not been explored with both the complainant and the respondent, the Dean may request supplementary reports from the Investigator or a history of any previous discipline. As well, the Dean may meet with anyone else deemed necessary.

18. The Dean distributes the report and its recommendations and reasons to the Department Head/School Director/ or Associate Dean with authority to receive the recommendation, the complainant and the respondent.

19. The final disposition of the complaint (i.e., remedial action for the complainant and/or respondent) will be determined by the appropriate Department Head/School Director/ or Associate Dean and the Dean. Decision-makers may consult with the Associate Dean, Equity to review guidelines and generate options for appropriate resolution.

20. The complainant has a right to withdraw the complaint at any stage. However, the Investigator may elect to continue the formal investigation and decision process in compliance with obligations to ensure an environment free from discrimination and harassment.

### **Recommendation**

21. For students, the person with authority to receive the recommendations is the Dean, who may forward it to the President's Advisory Committee on Student Discipline; for faculty, the authority may be either the President or the Dean/Department Head/School Director, depending on the nature of the discipline contemplated. The Collective Agreement with the Faculty Association on Conditions of Appointment states that only the President may discipline a faculty member by dismissal or suspension without pay. The individual receiving the Dean's recommendations meets with the complainant and with the respondent, confers with the Associate Dean, Equity and the Dean, and considers the recommendations.

22. The individual receiving the Dean's recommendations may take such disciplinary and remedial measures as he or she considers appropriate. A written report of measures taken with supporting reasons is distributed to the Associate Dean, Equity, the Dean, the complainant, the respondent and the investigator.



### ***Clinical Faculty***

23. In the event that the respondent is a member of Clinical Faculty who holds privileges in a health care institution, the Dean or Department Head shall forward the report of the Investigator to the Vice President, Medical Affairs (or equivalent).

### ***Appeal***

24. A learner (student) who denies that a violation of the policy took place or who disagrees with an imposed penalty has recourse through the Senate Committee on Appeals on Academic Discipline. (Students must first appeal to the President's Advisory Committee on Student Discipline) A member of the Faculty Association has recourse through the provisions of the collective agreement or terms and conditions of employment. To the extent provided for in collective agreements, complainants also may have recourse to appeal the decision. As well, the complainant and respondent may have recourse to extra-University processes including the B.C. Human Rights Tribunal, the Ombudsman of B.C. or the law courts.

### ***Interim Measures***

25. Interim measures may be imposed during the complaint resolution process to ensure the academic work environment is safe and the service of the involved unit is not compromised. These measures will be determined and implemented by the appropriate Department Head/School Director/ or Associate Dean in consultation with the Dean, the Associate Dean, Equity /Investigator, and other relevant parties (e.g., Human Resources, professional associations).

### ***General Provisions***

#### **Right of Parties to Support and Assistance**

26. The complainant and respondent are at all times during these procedures entitled to have a representative present.

27. Assistance will be offered to the complainant and respondent appropriate to the role and status of the individual within the University and dependent on available resources up to an amount pre-approved by the Dean.

28. Members of employee associations and unions, including the Faculty Association, have all the rights, including their right of representation, which are conferred by their collective agreements.

#### **Participation in the Process**

29. To ensure due process, both complainant and respondent are expected to participate and provide evidence in a timely manner. In cases where either the complainant or respondent does not participate or provide evidence within a reasonable time, the investigation and recommendation process nevertheless may proceed.

30. Any person whose willful actions or inactions obstruct the application of these procedures or who willfully breaks an undertaking or agreement shall be subject to discipline.



### **Interference or Retaliation**

31. Interference with the conduct of an investigation or retaliation against a complainant or witness, whether the complaint was substantiated or unsubstantiated, may itself result in disciplinary action by the FOM. Every member of the FOM has a right to bring forward a complaint of discrimination, intimidation or harassment. Interference or retaliation may take the form of direct contact between the parties or more subtle actions such as shunning, reassignment, spreading of rumors, and breaches in confidentiality, among others. It is the intention of these processes to protect the personal dignity of all parties.

### **Record of Investigation and Disposition**

32. The report and all written file material will be kept in confidence at the office of the external Investigator. No record of the complaint, investigation or decision will go in the complainant's personnel file, if the complaint was made in good faith. Any unfavourable work reviews or comments that were placed in the complainant's personnel file because of the discrimination or harassment will be removed from the file. If the investigation does not find evidence to support the complaint, there will be no documentation concerning the complaint placed in the respondent's personnel file. When the investigation reveals that discrimination or harassment occurred, the incident and the corrective action will be recorded in the respondent's personnel file. In the case of bad faith complaints or retaliation, the incident and the corrective action will be recorded in the complainant's personnel file.

### **Unsubstantiated or Vexatious Complaints**

33. If a person, in good faith, files a complaint that is not supported by the evidence gathered during the investigation, the complaint will be dismissed. In such cases, there will be no penalty to the complainant. Where the complaint was considered vexatious in nature and made in bad faith, the Dean will recommend appropriate action to the relevant Department Head, School Director or Associate Dean. This may lead to corrective action for the complainant. Corrective action for complaints made in bad faith will be the same as for discrimination or harassment. The complainant in a vexatious complaint would be dealt with following the principles of due process and natural justice. Compensation for a person falsely accused may include steps to restore lost reputation, and any of the remedies that would be available in the case of discrimination or harassment.

## **4.0 Disposition and Remedy**

The FOM will make every reasonable effort to remedy the effects of discrimination or harassment for the complainant, and provide corrective action for the respondent.

Faculty members, and learners found to be engaged in conduct constituting discrimination or harassment while in any setting where the activities are under the auspices of the University of British Columbia will be subject to remedy, including progressive discipline up to and including termination of employment or withdrawal of privileges. Any remedy, including discipline that results from a complaint of discrimination or harassment, will comply with standards of fairness and due process, and all aspects of the professional obligations that apply to health care providers will be considered.

## **5.0 Role of the Office of the Associate Dean, Equity**

The Office of the Associate Dean, Equity has responsibility for:

- providing advice and assistance to Department Heads, School Directors, Division Heads, Associate Deans, and others seeking direction in the handling of cases;
- advising and assisting those who bring forward complaints during all stages of the procedures, including the initiation of a complaint, as well as the undertaking of informal resolution, and arranging for mediation or investigation;
- ensuring that the policy and procedures in this document have been appropriately and effectively implemented;
- providing information and advice on the complaint process and limitations to confidentiality to any member of the University community;



- providing education to individuals and departments on the prevention and remediation of discrimination and harassment, including sexual harassment;
- publishing annually a report to The Dean and Faculty Executive statistical and summary reports on the number of complaints made, types of complaints, outcomes, educational activities, and an evaluation of this policy and its procedures.

(Modified from previously approved Human Rights policy from Children's and Women's Health Centre combined with procedure for formal investigation from UBC policy # 3)

**This policy will be reviewed regularly**

**(approved by UBC Senate, February 23<sup>rd</sup> 2005)**