

## 3.3.1 Discrimination, Bullying, and Harassment Prevention and Redress

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### 1. Policy Statement

- 1.1. The FSA is committed to maintaining a respectful workplace, and does not tolerate discrimination, bullying, and harassment in the workplace, including the use of discriminatory language. 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.

### 2. Application

- 2.1. This policy covers allegations of workplace discrimination, bullying, and harassment at the FSA, whether in the workplace or off-campus at workplace related events, and includes discrimination, bullying, and harassment via digital and other communications. This policy applies to FSA employees (including permanent, temporary, casual, contract, excluded and student workers) as well as FSA Board Directors (including other elected or appointed officers and officials), and members engaged in carrying out roles and work of the FSA.
- 2.2. The FSA recognizes that FSA employees may be subjected to workplace discrimination, bullying, and harassment by BCIT employees, including FSA members, and outside stakeholders or volunteers; in those circumstances, the FSA acknowledges its responsibility to investigate such allegations with the objective of stopping the discrimination, bullying, and harassment, and will also support and assist employees subjected to such behaviour.
- 2.3. Definitions
  - 2.3.1. Bullying and Harassment includes any inappropriate conduct or comment by a person towards an employee that a reasonable person would view as abusive and demeaning, threatening and intimidating, and creating an intimidating, humiliating or hostile environment. Bullying and harassment does not include reasonable action taken by the employer or a supervisor relating to the management and direction of employees or the place of employment.
  - 2.3.2. Discrimination, is defined as refusing to employ or to continue to employ a person, or refusing to provide an opportunity or benefit or imposing a burden with respect to employment or any term or condition of employment, because of the race, color, ancestry, place of origin, political belief, religion, marital status, family status, sex or gender, sexual orientation, gender identity or expression,

physical or mental disability, age, or unrelated criminal or summary conviction of that person, except where there is a bona fide occupational requirement.

- 2.3.3. Sexual Harassment is a form of sexual discrimination, and includes any attention of a sexual nature which a reasonable individual would find to be unwanted or unwelcome, and which detrimentally affects the work environment. People of all genders can be sexually harassed by members of any gender. Sexual harassment may be repeated or persistent or may be a single incident.

### 3. Duties

- 3.1. It is the FSA Board and Management's responsibility to take reasonable steps to prevent where possible, or otherwise minimize or eliminate, workplace discrimination, bullying, and harassment. FSA Board and Management, employees, and members engaged in carrying out roles and work of the FSA have the following specific duties.

- 3.2. The FSA Board and Management must:

- 3.2.1. Not engage in discriminatory conduct, whether in design or effect, in its treatment of employees and members;
- 3.2.2. Not engage in bullying and harassment of employees and members;
- 3.2.3. Apply and comply with FSA policies and procedures on discrimination, bullying, and harassment;
- 3.2.4. Develop and implement procedures for employees to report and deal with incidents or complaints of workplace discrimination, bullying, and harassment, and review these procedures yearly, keeping in mind that staff who are CUPE 1004 members have recourse to the relevant Article in their Collective Agreement; and
- 3.2.5. Inform employees and members engaged in carrying out roles and work of the FSA of this policy and provide training on recognizing and responding to discrimination, bullying, and harassment.

- 3.3. Employees and members engaged in carrying out roles and work of the FSA must:

- 3.3.1. Not engage in discriminatory practices in their treatment of other employees and other members;
- 3.3.2. Not engage in bullying and harassment of other employees and other members;
- 3.3.3. 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; and

- 3.3.4. Apply and comply with all FSA policies including procedures on discrimination, bullying and harassment.

#### 4. Reporting

- 4.1. Reports of discrimination, bullying, and harassment should be made to the Executive Director in the case of a complaint against an employee or member or Board Director or members engaged in carrying out roles and work of the FSA.
  - 4.1.1. If an employee reports a complaint of discrimination, bullying, or harassment against the Executive Director, a Board-Staff Liaison Officer (see Policy 1.5.11 for Terms of Reference) will assume the responsibilities of the Executive Director in this process and notify the board within 24 hours of receipt of the formal complaint and call a Special Meeting of the Board using the mechanisms provided in by-law 7.1.3
  - 4.1.2. If an employee reports a complaint of discrimination, bullying, or harassment against a Director of the board, the Executive Director will notify the board within 24 hours of receipt of the formal complaint and call a Special Meeting of the Board using the mechanisms provided in by-law 7.1.3.
  - 4.1.3. If a Board Director or member engaged in carrying out roles and work of the FSA reports a complaint of discrimination, bullying, or harassment against the Executive Director, or if the Executive Director is unavailable or in a conflict of interest, the FSA President will determine an alternate to deal with the matter.
  - 4.1.4. If the Executive Director and the FSA President are both unavailable or in a conflict of interest, the report should be made to the FSA Vice-President, who will determine an alternate to deal with the matter.
- 4.2. Incidents or complaints should be reported as soon as possible, if the complainant or witness feels able, after experiencing or witnessing an incident, to allow the incident to be investigated and addressed promptly. Reports of incidents or complaints of workplace discrimination, bullying, or harassment should be in writing, using the Complaint Form or Witness Report Form in the Appendices of this policy, and be signed by the person making the report. The report should include as much information as possible, such as the names of people involved, witnesses, where and when the events occurred and what behaviour and/or words led to the report. Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted.
- 4.3. There shall be no duplication of process. These procedures will not be used where a complainant has sought recourse under another policy or process, such as filing a grievance under the harassment provisions of the collective agreement, unless that process has been discontinued or abandoned.

- 4.4. Nothing in this policy prevents an employee who receives discipline under this policy from filing a grievance under the CUPE 1004 collective agreement.

## 5. Investigations

- 5.1. The Executive Director or alternate (see Article 4 above) will determine the most appropriate resource to conduct the investigation (the “Investigator”), after consulting with CUPE 1004 if the respondent or complainant is a CUPE member.
- 5.2. In the case of a complaint against a Director of the board or the Executive Director, within five (5) business days the board will engage an independent third-party investigator with a mandate to investigate and make appropriate recommendations. The investigator will advise all parties of the investigation timeline, with the understanding that the investigation and recommendations need to proceed as quickly as possible.
  - 5.2.1. To ensure the safety of all office staff during the investigation, the board may impose interim measures, which may include change in work locations or suspension of duties.
  - 5.2.2. The respondent in the investigation must recuse themselves from any discussion or decision-making in respect to how the board handles the investigation and subsequent report and recommendations.
- 5.3. The Investigator examines any incident or complaint and determines whether a violation of the policy has occurred. In complex or sensitive situations, or where there is a conflict of interest or unavailability of personnel, the Executive Director may appoint an external Investigator.
- 5.4. The Investigator will ensure that investigations are:
  - 5.4.1. Undertaken promptly and diligently;
  - 5.4.2. Thorough, fair, and impartial;
  - 5.4.3. Sensitive to the interests of all parties involved;
  - 5.4.4. Confidential; and
  - 5.4.5. Focused on finding facts and evidence.
- 5.5. The Investigator will interview the complainant, the respondent, and any witnesses. The Investigator will also review any relevant physical evidence, such as emails, handwritten notes, photographs, or other objects.
- 5.6. During the investigation process, the complainant, respondent or witness may be accompanied by a support person or union representative.

- 5.7. The Investigator will make a written report. This report will include their findings as to what happened and may include recommendations for resolution.

## **6. Follow-up**

- 6.1. Upon completion or receipt of the investigation report, the Executive Director or alternate will advise the complainant and respondent of the results of the investigation, and will take steps within a reasonable time frame to redress the incidents if appropriate as well as to prevent any future discrimination, bullying and harassment incidents in the workplace. These steps may include:
  - 6.1.1. Reviewing and revising workplace procedures and
  - 6.1.2. Appropriate corrective action, including discipline, mediation, and/or education.
- 6.2. The FSA may also assist employees through referral to available employee assistance programs or other workplace resources.

## **7. Roles and Responsibilities**

- 7.1. The Executive Director or alternate (see Article 4 above) is responsible for ensuring that any reports or complaints of discrimination, harassment and bullying are addressed, and these investigation procedures are followed.
- 7.2. Employees, Board Directors, and members engaged in carrying out roles and work of the FSA are expected to cooperate with the Investigator and provide any details of incidents they have experienced or witnessed.
- 7.3. All persons involved in an investigation are expected to maintain confidentiality.
- 7.4. There shall be no retaliation against a person for making a report or complaint, or being involved in an investigation under this policy. Any person found to have engaged in retaliation may be subject to discipline.
- 7.5. Any complaint or allegation that proves to be false and made maliciously will be viewed as a serious offence and the person making the malicious allegation may be subject to discipline.
- 7.6. A party who is dissatisfied with the results of an investigation under this policy may request a review by the Board of Directors.
- 7.7. In any case where the Executive Director is unable to fulfill their duties under this policy, the President will assume those duties. Where the President or Vice-President is unable to do so, the FSA Board will determine who will assume those duties.

## **8. Record-keeping Requirements**

- 8.1. The FSA expects that complainants will keep written accounts of incidents to submit with any complaints.
- 8.2. The FSA will keep a written record of investigations, including the findings, in accordance with the FSA Records Retention Policy.

## **9. Annual Review**

This policy and its procedures will be reviewed annually. All FSA employees, board directors, and members engaged in carrying out roles and work of the FSA will receive training on this policy, copies of which will be available electronically and on the office staff room bulletin board.

## Workplace Discrimination, Bullying, and Harassment Complaint Form

<b>Name of complainant</b>
<b>Name of respondent(s)</b>

### Personal statement

Please describe in as much detail as possible the bullying and harassment incident(s), including:

- the names of the parties involved
- any witnesses to the incident(s)
- the location, date, and time of the incident(s)
- details about the incident(s) (behaviour and/or words used)
- any additional details that would help with an investigation

Attach any supporting documents, such as emails, handwritten notes, photographs, or screen capture. Physical evidence, such as vandalized personal belongings, can also be submitted.

<b>Signature</b>	<b>Date</b>
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## Workplace Discrimination, Bullying, and Harassment – Witness Report Form

<b>Your Name</b>
<b>Names of persons involved in the incident you observed</b>

### Personal statement

Please describe in as much detail as possible the incident(s), including:

- the names of the parties involved
- any other witnesses to the incident(s)
- the location, date, and time of the incident(s)
- details about the incident(s) (behaviour and/or words used)
- any additional details that would help with an investigation

Attach any supporting documents, such as emails, handwritten notes, or photographs. Physical evidence, such as vandalized personal belongings, can also be submitted.

<b>Signature</b>	<b>Date</b>
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Date	Revision (Brief description)
October 2021	Approved
May 2021	<ul style="list-style-type: none"> <li>• A requirement that the Board be notified when one of its members or the Executive Director has been accused of inappropriate behaviour;</li> <li>• A tight timeline within which an emergency Board meeting must be called when a Board member or the Executive Director has been accused of serious inappropriate conduct;</li> <li>• A requirement that the Board engage an independent third-party investigator with a mandate to investigate and make appropriate recommendations, also within a tight timeframe, in cases where the Executive Director or a Board member is implicated;</li> <li>• An explicit recognition of the Board’s right to impose interim measures while an investigation is ongoing;</li> <li>• The respondent(s) must be excluded from any discussion or decision-making in respect of how the Board handles an incident; and</li> <li>• The policy be expanded to prohibit and provide a policy for investigating disrespectful and/or otherwise inappropriate behaviour that may not fall within the parameters of bullying or harassment.</li> <li>• Language changed to include any FSA member engaged in FSA work</li> </ul>
May 2016	Formatted into branded template
August 2015	New policy in compliance with Worksafe BC - approved by Board
June 2018	Edits presented at board meeting and feedback solicited from board and staff
October 2018	Edits presented at board meeting and feedback solicited from board and staff
December 2018	Edits presented at board meeting with specific inclusion of staff (“CUPE version” of doc) feedback for review
April 2019	All edits now included and presented to the board and staff for review prior to Stage 3
October 2019	Additional edits presented to board for final approval