

## HARASSMENT

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**Effective Date:** April 20, 2011

**Responsibility:** President

**Amends Policy dated:** September 1, 2010

**Policy Number:** HRA 110

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### **Scope: All Students, Employees, Volunteers and Visitors**

#### **Purpose**

Burman University (BU) is committed to a healthy, harassment-free environment for all employees and students. Burman University has developed a campus-wide policy intended to prevent any type of harassment of its employees and students and to deal quickly and effectively with any incident that might occur. Underlying this policy is the desire that all students, employees, visitors and volunteers will, embracing the principles of *Luke 10:27*, "Love the Lord your God with all your heart and with all your soul and with all your strength and with all your mind, and love your neighbour as yourself."

#### **Definition of Harassment**

Harassment occurs when an employee or student is subjected to unwelcome and vexatious verbal or physical conduct because of race, religious beliefs, colour, place of origin, gender, mental or physical disability, ancestry, marital status, family status, source of income, or sexual orientation. Alberta human rights laws prohibit harassment in the workplace and on campus, on these grounds.

#### **Definition of Sexual Harassment**

Unwanted sexual advances, unwanted requests for sexual favours, and other unwanted verbal or physical conduct of a sexual nature constitute sexual harassment when

1. *Submission to such conduct is made either explicitly or implicitly a term of, or condition of, an individual's employment or academic standing.*
2. *Submission to, or rejection of, such conduct by an individual affects that individual's employment.*

Sexual harassment, being discrimination on the grounds of gender, is a violation of the Human Rights, Citizenship and Multiculturalism Act.

#### **Procedure**

If you are being harassed or witness harassment take place

1. *Inform the harasser his/her behaviour is unwelcome and ask him/her to stop.*
2. *If at any time you believe you or another person is in danger, immediately get help from the appropriate campus or law enforcement authority.*
3. *Keep a record of incidents that includes dates, times, locations, name and status of the persons involved, possible witnesses, what happened, its effect on you (or*

- the victim) and your response. Save copies of any related written, printed or electronic communication. You do not have to provide a record of events in order to file a complaint, but a record can strengthen your case and help you remember details over time.*
- 4. File a complaint. If, after asking the harasser to stop his/her behavior, the harassment continues, initiate a complaint with the Harassment Advisor or the appropriate vice president.*
  - 5. If you are unsure if what you are experiencing or have witnessed is harassment please seek the assistance of the Harassment Advisor and/or the Alberta Human Rights Commission.*

### **Stages of Complaint**

The following process describes two stages: informal resolution and formal resolution. In all but the most serious cases, participants should strive to resolve harassment complaints through personal resolution or the informal resolution stage.

Any of the time frames for the steps outlined below may be extended upon mutual agreement of the parties. In extenuating circumstances, the Harassment Advisors may also extend a time frame. In all cases, the Harassment Advisors will advise the parties of the reason for and period of the extension.

A complainant has the right to withdraw a complaint at any stage in this process. Burman University may continue to act on the issue identified in the complaint in order to comply with its legal obligations.

### **Stage 1: Informal Resolution**

1. The Harassment Advisor will make contact with the respondent to discuss the complaint. If the respondent fails to respond to the request for a meeting within ten (10) working days of the request, the Harassment Advisor will report the refusal or failure to the appropriate vice president for possible disciplinary action against the respondent.
2. The Harassment Advisor will work with the parties to resolve the matter. Any information obtained from this process is without prejudice and will not be introduced automatically as evidence in any subsequent investigation or hearing. Participants in a dispute resolution process cannot be compelled to provide evidence in any future or concurrent BU proceeding regarding any information disclosed during the informal resolution process.
3. If an informal resolution, acceptable to both parties, is reached, the Harassment Advisor will send a written report to the BU President, who will communicate in writing, to both parties, setting out the understandings and/or agreement. Receipt of this written communication and confirmation in writing regarding the agreement must be acknowledged by both parties. The Harassment Advisor will then follow through with any action needed to complete the resolution. Where a complaint is resolved informally, the Harassment Advisor will retain the complaint as a confidential document and no reference to its existence will be

- contained in either the complainant's or the respondent's official student or personnel file. All documentation will be placed in a sealed "For My Eyes Only" file and placed in a secure location that only the Harassment Advisors can access. Such files will be kept for seven (7) years and then destroyed.
4. Informal resolution shall normally be completed within forty (40) working days of the Harassment Advisor making contact with the respondent to discuss the matter.
  5. The matter will move to formal resolution when
    - *Alternative dispute resolution measures do not succeed,*
    - *Both parties are not willing to attempt informal resolution,*
    - *The behaviours continue,*
    - *The behaviour is of a more serious nature than can be dealt with by informal resolution, or*
    - *Informal resolution is not appropriate to the specific case.*

## **Stage 2: Formal Resolution**

1. A request for formal resolution will be taken to BU's President by the Harassment Advisor. The decision on whether or not to proceed with formal resolution shall be made by BU's President.
2. If BU decides not to proceed, the complainant shall be informed in writing of the final decision.
3. If BU decides to proceed, the complainant and respondent shall be notified within ten (10) working days of receipt of the formal complaint. They shall be provided with details of the complaint and advised of the procedure to be followed in the resolution of the complaint.
4. Throughout this process the Harassment Advisors will advise both the complainant and the respondent of support services available which they may wish to consult.
5. The investigation will be conducted by the President and/or his/her designee(s) and the Harassment Committee. (This committee will be formed following the same procedures used to create a Grievance Committee.)
6. Both the complainant and alleged harasser will be interviewed as will any individuals who may be able to provide relevant information.
7. If the investigation reveals evidence to support the complaint of harassment, the harasser will be disciplined appropriately. Discipline may include loss of rank or privileges, transfer, suspension, or dismissal.
8. No documentation will be placed in the complainant's file where the complaint is filed in good faith, whether the complaint is upheld or not.
9. If the investigation fails to find evidence to support the complaint, there will be no documentation concerning the complaint placed in the file of the alleged harasser.
10. If the matter is not resolved to the satisfaction of the complainant or the respondent, either of them may appeal through the appropriate campus grievance process.

## Other Provisions and Definitions

### **Interim Measures**

After a complaint is made, the Harassment Advisor, in consultation with the President of BU, will determine if any immediate action or interim measures are required to protect BU, its community or any of its members, and/or the integrity of the process. These measures may include limiting access to facilities, making arrangements for alternative grading or supervisory relationships, or discontinuing contact between the complainant and the respondent during the period of the proceedings.

Interim measures, if required, must be authorized by the President of BU and are to be implemented by the appropriate BU personnel. Both parties to the complaint shall be notified of any interim measures required. Interim measures are not to be viewed as a disciplinary action or a transfer within the meaning of any BU policies. In addition, where a complaint proceeds to the formal resolution stage, interim measures may also be enacted as part of formal resolution processes under the procedures governing that process.

### **Confidentiality**

Confidentiality is required in all procedures and of all participants under this policy. Those making complaints should not discuss the matter other than with the appropriate parties. Breaches of confidentiality may result in disciplinary action.

Confidentiality does not mean anonymity. The respondent must be informed of who has made the allegations, and the specific nature of the allegations, at the earliest possible point in the process.

Where there exists a clear, serious, and immediate threat to safety of an individual or the community, BU has a legal duty to warn any community members at risk. This may mean, for the purposes of safety, the procedures outlined in this policy, including confidentiality, will be set aside.

### **Presumption of Innocence**

Those named in complaints under this policy will be presumed innocent until a formal decision to the contrary is reached under the terms of this policy.

### **Role of the Harassment Advisor**

Harassment Advisors are appointed by the President of BU. The role of the Harassment Advisor is to

- *Offer a “listening ear” to complainants,*
- *Offer support, guidance and advice to the complainant as to whether the alleged behaviour falls within this policy,*

- *Outline and advise the complainant on options for resolving the problem, including personal resolution, informal resolution using alternative dispute resolution measures, or pursuing more formal resolution,*
- *Assist the parties to informally resolve matters, as required,*
- *Coordinate the investigation process in a consistent, timely and fair manner,*
- *Assist those with supervisory responsibilities in the resolution of human rights concerns,*
- *Make referrals to other BU departments or outside organizations who can further support or assist the complainant in resolving the matter, and,*
- *Bring to the attention of those in positions of responsibility any BU policy, procedures or practices that appear to discriminate against individuals or groups based on prohibited grounds.*

### **Personal Advisors**

1. Any person involved in an informal complaint may seek support or representation from another person of her/his choice, such as a faculty or staff. The Harassment Advisor and all participants must be notified in advance if any party will bring a personal advisor to any meeting.
2. Participation or representation by personal advisors at any formal proceedings is at the discretion of the President.

### **Resolution of Formal Complaints between Students**

Formal complaints between students shall be dealt with as alleged breaches of the campus code of conduct. The Harassment Advisor will refer such matters to the Vice President of Student Services for investigation, adjudication and sanction. The Harassment Advisor shall play an advisory role in ensuring that the investigation and adjudication of complaints between students are handled in a manner consistent with the spirit and procedures within this policy.

### **Resolution of Formal Complaints Involving Visitors and Volunteers**

Where a formal complaint is made against a visitor or volunteer, the Harassment Advisor will consult with affected parties and relevant BU staff, managers, and/or senior administration to determine whether that person should simply be denied further access to BU's campus or whether an investigation under this policy is appropriate. In determining how to act, the following factors will be considered:

- *The severity and frequency of the actions complained about. Any continuing threat or risk to the BU community.*
- *The person's reason for being on BU premises and whether that person has any continuing need to be on BU premises.*
- *The person's response to the complaint and willingness to resolve the matter.*
- *BU's legal duty to provide a safe and healthy work and learning environment for its students, employees, volunteers and visitors.*

When the Harassment Committee recommends sanctions against a volunteer or visitor, the appropriate vice president or his/her designee will ensure that those sanctions are carried out. Should the person refuse to participate in the investigation or resulting sanctions, or should the behaviour continue, BU retains its right to have that person legally removed from campus as part of its continuing duty to provide a safe and healthy work and learning environment for its employees and students.

### **Resolution of Complaints Involving Senior Administration**

If any accusation is made regarding senior administration or a Harassment Advisor, the issue will become the immediate responsibility of the President. If any accusation is made regarding the President, the responsibility for action will be with the Board of Trustees, through its Chair. In these cases and where an informal resolution is not appropriate or possible, the respondent may choose to have an investigation completed according to the North American Division policy for harassment in force at that time, rather than through the process described in this policy.

### **Bad Faith Allegations**

It is a violation of this policy for any person to

- *Make a frivolous, vexatious, malicious or bad faith allegation,*
- *Initiate a procedure under this policy in bad faith, or*
- *Influence an ongoing procedure under this policy in bad faith.*

A written complaint that a bad faith allegation or action has been made will be treated as a formal complaint under this policy. If such a complaint is substantiated, it will be subject to the same consequences as harassment.

### **Whistleblower Protection**

A member of the BU community who comes forward in good faith with reports or concerns about compliance with BU policies or procedures shall not be subject to reprisal or retaliation for making such a report. Any such reprisal or retaliation shall be considered harassment under this policy.

### **Acknowledgements**

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