

Policy No.: TBD
Approving authority: WCUMSS Board
Effective: October 25, 2024

Western Canadian Universities Marine Sciences Society (WCUMSS) Discrimination and Harassment and Workplace Bullying Policy

Definitions

Complaint

A Complaint is a concern about an incident involving conduct prohibited by this policy that is brought to the Director. A Complaint is not a Report and does not initiate an Investigation.

Complainant

A Complainant is a directly impacted person who contacts the Director with a Complaint, alleging this policy has been breached.

Director

The Director means the Director of WCUMSS.

Discrimination

Discrimination is adverse differential treatment of a person based on any protected characteristic as set out in the British Columbia *Human Rights Code*. The protected characteristics in the *Code* are: Indigenous identity, race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age. Additional protected characteristics that apply to employment are: political belief, or conviction for a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that individual. An additional protected characteristic that applies to tenancy is source of income.

Harassment

Harassment is any conduct or comment by an individual towards a WCUMSS Community Member which that individual knew or reasonably ought to have known would cause the targeted individual to be humiliated or intimidated. Harassment has the effect or purpose of negatively impacting the targeted individual's participation in a WCUMSS-related activity. Harassment excludes any reasonable action taken by an individual with supervisory responsibilities relating to workplace or educational evaluation, or to the management and direction of workers in the place of employment, and action where the harm to an individual by any objective standard is fleeting.

Interim Measures

Interim Measures are temporary restrictions placed on a WCUMSS Community Member by the Director pending the outcome of an Investigation.

Informal Resolution Process

An Informal Resolution Process is any attempt by the Director to resolve a Complaint informally and voluntarily. The purpose of an Informal Resolution Process is not to determine whether this policy has been breached, but rather to address the impact of the incident and, potentially, to prevent similar incidents from happening in the future.

Investigation

An Investigation is a formal fact-finding process conducted by the Director or designate (for example, an external third-party investigator) to determine, on a balance of probabilities, whether this policy has been breached.

Parties

The Parties means the Complainant and the Respondent, and in some cases key Witnesses.

Report

A Report is a written report about an incident that is submitted by the Complainant to the Director using this policy's Report Form. A Report is made by the Complainant for purpose of initiating an Investigation to determine if this policy has been breached.

Respondent

A Respondent is a WCUMSS Community Member who has had a Report filed against them alleging their conduct has violated this policy.

Third-Party

A Third-Party is an individual other than the Complainant who comes forward to the Director with a Complaint, for example, a witness, a friend, a colleague, a person to whom the Discrimination, Harassment and/or Workplace Bullying was disclosed, or any other individual. A Third-Party cannot file a Report and cannot be a Complainant in an Investigation.

WCUMSS Community Member

A WCUMSS Community Member is a person who is:

- A credit or non-credit student;
- An employee of WCUMSS;
- A University faculty or staff member on location at WCUMSS to teach, conduct research, or engage in work to advance the vision and purpose of WCUMSS;
- Residing on WCUMSS property;
- A member of the WCUMSS Management Council; and/or
- Under contract with WCUMSS and on WCUMSS property or engaged in WCUMSS business.

Workplace Bullying

Workplace Bullying is the conduct of a person towards a WCUMSS employee that meets the bar for workplace bullying and harassment as set out and defined in the Occupational Health and Safety Regulations and the WorkSafeBC policies made under the British Columbia *Workers Compensation Act*.

Purpose

This policy sets out a framework for WCUMSS to address Discrimination and Harassment and Workplace Bullying. The purpose of this policy and its associated resolution procedures is to instill and cultivate institutional, collective, and individual responsibility for creating and maintaining a respectful working and learning environment and, specifically, to:

- increase awareness of Discrimination, Harassment and Workplace Bullying and to prevent its occurrence through education and training; and
- address incidents of Discrimination, Harassment and Workplace Bullying that occur between, by, and of WCUMSS Community Members.

Expectations and Commitments

The WCUMSS is committed to providing a safe, inclusive, and respectful learning, teaching, research, and work environment in which Discrimination, Harassment, and Workplace Bullying are neither acceptable nor tolerated. As an academic and research institution, the WCUMSS promotes teaching, scholarship and research, and the free and critical discussion of ideas.

The WCUMSS acknowledges the diversity of its community and recognizes that Discrimination, Harassment, and Workplace Bullying, when it occurs, will impact each person differently

Every WCUMSS Community Member should be treated in a fair, equitable and respectful manner.

Scope

Prohibited Conduct

- All acts of Discrimination and Harassment and Workplace Bullying are prohibited under this policy.
- Retaliation against a person who makes a Complaint or Report under this policy or who participates in any capacity in any process related to this policy is prohibited.

Jurisdiction of this Policy

- This policy and its resolution procedures apply to all WCUMSS Community Members.
- WCUMSS has the jurisdiction to address Complaints and to investigate Reports made under this policy when the incident involves a WCUMSS Community Member and:
 - the incident occurred on property owned or controlled by WCUMSS;
 - the incident occurred when the WCUMSS Community Member was engaged in a WCUMSS -related activity;
 - the incident, regardless of when or where it occurred, has a nexus to the WCUMSS workplace;
 - the incident, regardless of when or where it occurred, may impact the reputation of WCUMSS or one of its units and/or may represent a risk to the functioning of the WCUMSS or one of its units;
 - the incident involved electronic communications harmful to a WCUMSS Community Member and/or harmful to the WCUMSS.

Impact of Concurrent Policies and Processes

Some WCUMSS Community Members, for example, students and faculty, are concurrently members of their home University's community and are subject to their home University's policies and procedures. This policy and its resolution procedures are meant to complement and not

conflict with other applicable policies and procedures. Where a policy of the Respondent's home institution may better apply to the Respondent, that policy will be followed. For example, when a student Respondent's behavior falls under their home University's policies, including investigation and disciplinary procedures.

Regardless, WCUMSS may address or investigate simultaneously with, prior to, or following another process, as is in the best interests of WCUMSS. WCUMSS will act under this policy with respect to any matter covered by WorkSafe BC.

Confidentiality and Privacy

Confidentiality is an important part of fostering an environment where individuals feel safe disclosing incidents of Discrimination, Harassment and Workplace Bullying and feel safe seeking support.

All WCUMSS Community Members who receive a Complaint or Report, or who are involved in a Complaint or a Report or an Investigation as a Party, a witness, a support person, or in any other capacity, must respect the privacy of all others involved.

All WCUMSS Community Members must keep confidential all personal information about a Complainant, Respondent, or other person involved in a matter under this policy or its resolution procedures.

All WCUMSS employees must comply with British Columbia's *Personal Information Protection Act* ("PIPA") and the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), as applicable (collectively referred to as the "Legislation"). The Legislation regulate the collection, use, disclosure, storage, and retention of personal information.

The Legislation restricts the circumstances in which WCUMSS employees, board members, and volunteers, may use and disclose personal information collected by WCUMSS pursuant to this policy.

The Legislation authorizes WCUMSS to use personal information about an individual, collected pursuant to this policy, for the limited purpose of implementing this policy.

The Legislation authorizes WCUMSS to disclose personal information about an individual, collected pursuant to this policy, for the following limited purposes among others:

- for the purpose of implementing this policy;
- where there are reasonable grounds to believe there are compelling circumstances affecting anyone's health or safety; and
- disclosure is required or authorized by law.

In these instances, the minimum amount of personal information needed to meet legal or other obligations of WCUMSS should be shared with others.

Any WCUMSS Community Member who is unsure about their responsibility to protect the personal information of a Complainant, Respondent, or other individual involved in a matter under this

policy and its resolution procedures, or who is unsure about whether that personal information can be used or disclosed, should immediately seek advice from the Director or their delegate and should not use or disclose the personal information until they have done so.

Review

This policy will be reviewed every three years.

This policy and its resolution procedures will be made available electronically to all WCUMSS employees and to all WCUMSS Community Members.

APPENDIX A

Western Canadian Universities Marine Sciences Society (WCUMSS) Discrimination and Harassment and Workplace Bullying Resolution Procedures

Policy Statement

The WCUMSS is committed to providing a safe, inclusive, and respectful learning, teaching, research, and work environment in which Discrimination, Harassment, and Workplace Bullying are neither acceptable nor tolerated. As an academic and research institution, the WCUMSS promotes teaching, scholarship and research, and the free and critical discussion of ideas.

Purpose

These resolution procedures describe the options and processes available following a Complaint made to the Director.

Preliminary Review of Complaint

The Director is responsible for reviewing all Complaints made under the policy to determine, in the Director's sole discretion, whether to take action, including whether to initiate an Informal Resolution Process or an Investigation. The Director may need to gather additional information before making a determination.

Third-Party Complaint

A Complaint made by a Third-Party does not initiate an Informal Resolution Process or, normally, an Investigation. Exceptions may be made in instances where the alleged conduct represents a significant risk to an individual or the WCUMSS community.

Informal Resolution Process

Wherever appropriate, the Director will seek to resolve matters informally between the Parties and in the interest of resolving conflict, in a manner that respects the wishes of the Parties and the interests of WCUMSS.

An Informal Resolution Process may include, but is not limited to:

- Placing a record on file for the purposes of identifying trends or patterns;
- An educational conversation for the alleged Respondent, with the purpose of preventing similar conduct in the future or to facilitate an apology;
- An apology to the Complainant and other impacted parties; and/or
- A mediated or facilitated conversation, by an experienced mediator/facilitator.

An Informal Resolution Process is voluntary. Participating in such a process is not an admission of wrongdoing but an attempt to resolve an incident or conflict to the mutual benefit of the Parties and/or for the Respondent to take accountability for (often unintended) harm caused.

A Respondent cannot be disciplined following their participation in an Informal Resolution Process. Discipline may only follow after an Investigation has been completed and a finding made.

Interim Measures

Interim Measures may be implemented by the Director at any time after a Complaint has been received, including at the outset of an Investigation, through to any potential disciplinary outcomes.

The purpose of Interim Measures is to ensure the safety of the Parties and the broader WCUMSS community. Interim Measures may include but are not limited to:

- No contact agreements between the Parties;
- Temporary restriction barring an individual from WCUMSS property;
- Temporary reassignment;
- Temporary change in supervision;
- Temporary agreement to work remotely;
- Temporary unpaid or paid leave.

Investigations

Initiating an Investigation

To initiate an Investigation, a Complainant must complete a Report Form, which must include a written summary of the incident involving conduct that is alleged to be in breach of the policy.

Determination of an Investigation

Investigations at WCUMSS are conducted by, or under the authority of, the Director. In the case the Director is named in the Complaint and/or Report, the Director will recuse themselves and appoint a member of the Board or their delegate to assume the responsibilities of the Director in these resolution procedures.

The Director will normally proceed with an Investigation in those instances where the alleged incident(s) fall within jurisdiction of the policy and, on the face, appear to meet the definitions set out in the policy. The Director may conduct the Investigation or may contract an external third-party to conduct it.

The Director may decline to exercise the Director's discretion to investigate in cases where the Director reasonably believes:

- There is insufficient information to proceed with an Investigation;
- The passage of time, or other factors, makes an Investigation impractical;
- It would be more appropriate to proceed under another institution's policy, another process, or a collective agreement;
- The Complaint has already been meaningfully addressed through another process; or
- An Investigation is not an appropriate response to the Report.

Notification of the Director's Decision

The Director will notify the Complainant in writing of their decision not to proceed with an investigation. The Director will notify both Parties if an investigation is initiated.

Notification of Investigation

The Director's Notice of Investigation to the Parties will outline the allegations, provide the name of the investigator, set out the scope of the investigation and the confidentiality provisions, and provide information about support options for the Parties.

Scope of Investigation

The investigator (Director or their delegate) will determine through a procedurally fair process whether, on a balance of probabilities:

- the alleged conduct occurred; and
- if it did, whether the conduct constitutes a breach of the policy.

Ordinarily the investigator will make this determination by speaking to the Complainant, the Respondent, and witnesses, and will review available physical and electronic evidence including but not limited to emails, texts, social media posts, handwritten notes, and photographs.

Timeline

The investigator will endeavor to complete the Investigation in a timely manner, barring unforeseen circumstances. The investigator will make the Parties aware of lengthy delays and anticipated timelines where possible.

Investigation Report

After completing the Investigation, the investigator will produce a written Investigation Report that will include: the allegations, the scope of the Investigation, a summary of the verbal and other evidence gathered and considered, and the investigator's determination of whether the policy was breached.

Where the investigator determines that the policy has been breached, the Director will make the Investigation Report available to the authority responsible for discipline of the Respondent. The Director may provide a confidential and/or redacted Investigation Report to the Parties as the Director, in the Director's sole discretion, considers appropriate.

Remedial Action

Following an Investigation, the Director will review the Report to determine if any actions, other than potential disciplinary actions for an individual, need to be taken to prevent future incidents of Discrimination, Harassment and Workplace Bullying. Appropriate corrective actions will be taken within a reasonable time frame.

Rights of the Parties

The Parties involved in either an Informal Resolution Process or Investigation are entitled to:

- dignity, respect, and fairness;
- information provided in an accessible and timely manner;
- the allegations made against them;
- the name of the person who has made allegations against them;
- be accompanied by a union representative, legal counsel, or a support person throughout the process(es);
- choose their level of participation in the process;
- freedom from retaliation; and

- have their personal information kept confidential according to British Columbia's protection of personal information legislation.

In those instances where one, both, or all of the Parties decline to participate in an Informal Resolution Process, the Director may decide to move to an Investigation.

In those instances where one or both of the Parties decline to participate in an Investigation, the Investigation will continue based on the available information.

Everyone has a right to bring forward a Complaint under the policy to the Director. Retaliation for coming forward is unacceptable and prohibited conduct that, if found to have occurred, may result in discipline separate to, or in addition to any discipline that might result from a breach of the policy.

Appeals

Initiating an Appeal

Neither Party can appeal a disciplinary decision made under the policy and/or these resolution procedures.

A Respondent has the right to appeal an investigator's finding made under the policy and these resolution procedures. To do so, the Respondent must submit in writing the grounds for their appeal and the rationale for their appeal and must do so within 14 days of the date the finding was made.

The Grounds for an Appeal

The grounds for appeal are limited to one or more of the following:

- A procedural error occurred of sufficient magnitude that it may reasonably be seen to have affected the fairness of the process or altered the investigator's finding;
- A factual error occurred of sufficient magnitude that it may reasonably be seen to have altered the investigator's finding;
- A reasonable person, exercising their judgment on the evidence leading to the finding under appeal could not have made the finding; or
- New, material evidence is available which, despite the exercise of due diligence could not have been made available at the time of the Investigation that resulted in the finding under appeal, and the relevancy and cogency of the new evidence is such that if it had been available to and considered by the investigator, it could reasonably be expected to have altered the investigator's finding.

Appeal Process

If the finding that is the subject of the appeal was made by an external third-party investigator, the Respondent's appeal will be submitted to the Director.

If the finding that is the subject of the appeal was made by the Director, under an Investigation conducted by the Director, the Respondent's appeal will be submitted to the Board Chair.

The individual conducting the appeal will review and consider the Respondent's grounds for appeal and the Respondent's rationale for the appeal, the Investigator's Report, the evidence considered

by the investigator, and any new material evidence provided with the Respondent's appeal. An appeal may result in additional fact finding.

The Appeal Decision

The individual conducting the appeal will provide the outcome of the appeal to the Respondent within a reasonable period of time, in writing, with reasons. The appeal decision is binding and final.

Deliberately Misleading Reports

Making a deliberately misleading Report of Discrimination, Harassment or Workplace Bullying is unacceptable and prohibited conduct that, if found to have occurred, may result in corrective measures and disciplinary sanctions. Making a Report based on a genuinely held but mistaken belief that Discrimination, Harassment, or Workplace Bullying occurred is not considered to be deliberately misleading.

A deliberately misleading Report may itself be considered Discrimination, Harassment and/or Workplace Bullying and may be subject to the options outlined in these resolution procedures.

Supports

WCUMSS recognizes the impact an incident of Discrimination, Harassment and/or Workplace Bullying can have on an individual, and the potentially compounding impact of being involved in a process under the policy. All WCUMSS Community Members are encouraged to avail themselves of the supports available through both WCUMSS and the home institutions to which some Members belong.

- WCUMSS employees may access support from their union and/or by accessing, where eligible, the Employee and Family Assistance Plan provided through the University of Victoria.
- WCUMSS students may choose to access the services and supports available through their home institution such as a student union, student health and wellness office, student affairs, and/or equity and human rights offices;
- A University faculty or staff member may choose to access services and supports available through their home institution, such as their union, the faculty relations, human resources, and/or equity and human rights offices, and services under relevant health and wellness plans.

All WCUMSS Community Members are entitled to bring a support person of their choice to any meeting in relation to the policy.

Confidentiality and Privacy

The confidentiality and privacy provisions contained in the policy apply to the options and processes outlined in these resolution procedures.

Record Keeping

WCUMSS will keep a confidential written record of Investigations and findings, and any recommendations and/or sanctioning decisions.

Review

These resolution procedures, including the above Policy Statement, will be reviewed every three years.