

Thompson Rivers University

Annual Report of the Human Rights Officer

2020-21

H. MacInnes



2020-21



THOMPSON RIVERS UNIVERSITY

December 13, 2021

Ms. Marilyn McLean
Chair, Board of Governors
Thompson Rivers University

Dr. Brett Fairbairn
President and Vice-Chancellor
Thompson Rivers University

Mr. John Sparks
General Counsel and Corporate Secretary
Thompson Rivers University

Dear Ms. McLean, Dr. Fairbairn and Mr. Sparks:

Please find attached my Annual Report, in accordance with article 13 of the Thompson Rivers University Policy on *Respectful Workplace and Harassment Prevention* for the academic year of 2020-2021.

Sincerely,

A handwritten signature in blue ink that reads "Hugh MacInnes". The signature is written in a cursive, flowing style.

Hugh MacInnes
Human Rights Officer

Introduction

This is the Annual Report of the Human Rights Officer of Thompson Rivers University for the Academic Year of 2020-2021. This is my eleventh annual report. To assist those who regularly follow this report, I use a similar form of report year after year.

This report is made in response to the requirement in section 13 of the University's Policy on Respectful Workplace and Harassment Prevention (the "**Policy**"). A copy of the Policy is attached as Appendix "A".

The Policy was adopted on May 28, 2009 after a review of the prior policy led by the University's then Associate Vice-President of Human Relations and Planning. Content of the Policy was heavily influenced by Simon Fraser University's policy and SFU's experience and expertise in dealing with harassment and human rights matters. TRU acknowledged the use, with permission, of SFU's work by express acknowledgment in the Policy. Implementation of the Policy began in the summer of 2009.

The Policy was substantially updated on March 26, 2021. Notable revisions are discussed in this report.

I was appointed Acting Human Rights Officer in August 2009 and appointed Human Rights Officer in January 2011.

The Human Rights Officer has several specific duties under the Policy including:

- (i) receiving complaints from members of the University community who believe they have been bullied or harassed or subjected to discrimination or who believe they witnessed discrimination or harassment at the University during University-related activities;
- (ii) facilitating the administration of the Policy; and,
- (iii) coordinating a training and education strategy to prevent harassment and discrimination at the University or during University-related activities.

These activities take place under the supervision of the University's General Counsel.

Section 13 of the Regulations under the Policy requires the Human Rights Officer to prepare and distribute an annual report. The purpose of the Annual Report is to:

- (i) summarize the activities of the Human Rights Officer in administering the Policy in the past academic year;
- (ii) provide information on the number of complaints and resolutions through informal procedures, mediation and investigations; and
- (iii) report on the progress in educating employees and students in regard to preventing harassment and discrimination.

Protecting the identity and confidentiality of the personal information of both those who report allegations of harassment or discrimination (complainants) and those against whom the allegations (respondents) are made is an important consideration when administering the Policy and carrying out its purposes. In recognition of this need for

confidentiality, the information in this Annual Report is provided in summary form without disclosing the identity or personal information of complainants and respondents.

Complaints in 2020-2021

Table 1 (below) provides the number of complaints and resolutions which involved my office and lists whether the resolutions were achieved through informal procedures, mediation or investigations.

Table 1 also sets out comparative information for 2010 and 2011 calendar years and academic years 2012-13 through 2020-21. In 2010 and 2011, the reporting period of the Annual Report was the calendar year. To align the Annual Report with the academic year at the University, the 2012 - 2013 Annual Report converted the reporting period to the academic year by reporting on the activities in both the calendar year of 2012 and the University's Spring Term in 2013.

Complaints involving members of the Thompson Rivers University Faculty Association, whether made by or against a member, are governed by the collective agreement between the University and TRUFA. The harassment and discrimination provisions of the TRUFA Collective Agreement are generally consistent with the Policy with the exception of the informal resolution procedures in section 6 of the Policy. The collective agreement has no corresponding provision. In recognition of the existence of the terms of the collective agreement, persons who consult me about potential complaints against TRUFA members are referred to the University's Human Resources Department or, in cases of complaints by TRUFA members, to TRUFA.

During the reporting period, I was consulted 11 times by persons seeking help in understanding whether or not bullying, harassment or discrimination had occurred, how to avoid bullying, harassment and discrimination, and how to address possible instances of bullying, harassment and discrimination. There were 13 such consultations in 2019-20.

The Policy places responsibility on all members of the University community to ensure the University's working and learning environments are free from harassment and discrimination. Chairs, Directors, and Deans "bear the primary responsibility for maintaining a working and learning environment free from discrimination, and harassment" (section 2.8 of the Policy).

Complaints brought to Chairs, Directors and Deans or other members of the University community and which are addressed by them without involving me as the Human Rights Officer are not reflected in this Report.

There was a decrease in the number of consultations in 2020-21. I continue to see the overall trend of decreases in the number of consultations over previous years as positive. Of note, the number of consultations in 2020-21 is notably below the numbers in 2012-13 and 2013-14. The 2012-13 and 2013-14 numbers indicate the number of complaints arising prior to the program of education presented by Corinn Bell and myself (described below). See Table 1 below for additional information. I consider this overall trend to be a product of the improved knowledge about bullying, harassment and

discrimination resulting from the training provided during the past 8 academic years and from the use of TRU's online training materials.

Table 1

| | 2010 | 2011 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20* | 2020-21* |
|--|------|------|---------|---------|---------|---------|---------|---------|---------|----------|----------|
| Complaints | 11 | 7 | 21 | 22 | 10 | 16 | 12 | 9 | 17 | 13 | 11 |
| Informal Resolutions | 10 | 4 | 8 | 7 | 1 | 10 | 7 | 3 | 9 | 2 | 3 |
| Complaints which were not harassment | 1 | 2 | 4 | 4 | 0 | 0 | 1 | 2 | 1 | 2 | 2 |
| Mediations | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Investigations | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Taken to the Human Rights Tribunal | 0 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |
| TRUFA matters referred to human resources or TRUFA | NR | NR | 6 | 10 | 9 | 6 | 4 | 4 | 4 | 1 | 1 |
| Ongoing | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a | 2 | 0 | 0 |

*8 complaints in 2019-20 were either withdrawn or not pursued by the complainant.

*3 complaints in 2020-21 were either withdrawn or not pursued by the complainant.

Section 16 of the Policy recognizes that, if a complaint brought under the Policy might involve a possible violation of the BC *Human Rights Code*, the complainant may, at any time, take the complaint to the Human Rights Tribunal. The Policy further provides that if a complainant complains to the Tribunal, the University will, at the request of the respondent, cease its processes under the Policy. While the practice of my office is to seek to deal with complaints under the Policy, at the same time, I do not actively seek to dissuade complainants from going to the Human Rights Tribunal.

Education

Under the Policy, the Human Rights Officer is responsible for coordinating a training and education strategy for students and employees on harassment and discrimination prevention. Table 2 sets out the education provided in 2020-21 along with comparative information from prior years.

In 2012-13 to 2014-15, the University presented the University community with a broad and comprehensive program of education regarding harassment, bullying and discrimination. The education was presented primarily by Ms. Corinn Bell, Q.C. LL.B, LL.M. Ms. Bell is a leading expert in human rights law and human rights training. Her educational program was developed with input from the University's General Counsel and me. In addition to Ms. Bell, education sessions have been presented by the University's General Counsel and me.

In May 2014, an online training package for education of members of the University's community was launched through the University's internal website. The training program was prepared by the office of the University's General Counsel, with input from Ms. Bell and me. All new employees of the University must take the course when they start their employment. The training program is available to all members of the University community to refresh their knowledge or respond to questions or address situations arising in the usual course of the University's activities.

As a result of the success in this online training, the human resources department ceased inviting me to provide in-person training and orientation sessions for new employees in October 2017. Prior to then, I regularly presented a harassment seminar at orientation sessions for new employees.

Table 2 shows a decrease in the number of seminars and private consultations provided in the reporting period. In-person training and education was curtailed in 2020 and 2021 due to the COVID-19 pandemic. This curtailment was offset by the introduction of additional online training

In my opinion, the decrease in numbers in Table 2 demonstrates the ongoing positive impact of the past and present education provided by the University and the usefulness of the University's online training.

Table 2

| Activity | 2010 | 2011 | 2012-13 | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|------------------------------------|------|------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| Seminars presented by me | 3 | 4 | 14 | 29 | 4 | 3 | 1 | 1 | 0 | 0 | 0 |
| Private discussions and counseling | 6 | 12 | 10 | 6 | 10 | 5 | 0 | 0 | 0 | 0 | 1 |
| Seminars presented by Corinn Bell | 0 | 0 | 6 | 1 | 9 | 1 | 7 | 6 | 2 | 1 | 0 |

Review and Revision of Policy

The Policy was reviewed during this reporting year and was revised on March 25, 2021. The review was led by a human rights law specialist. Changes of note include:

1. Workplace bullying and harassment was included as a specific type of harassment protected by the Policy;
2. Witnesses to harassment are now able to seek recourse under the Policy;
3. The Policy now says:
 - a. “discrimination and harassment will not be tolerated by the University”
 - b. The obligation to eliminate discrimination and harassment on Chairs, Directors and Deans has been emphasized
 - c. All members of the University community are expected to report experienced or observed incidents of harassment or discrimination
 - d. The University will act promptly to take corrective action to address and prevent harassment and discrimination
4. Investigation Procedures and expectations were clarified. Internal investigations can now be used when appropriate and expectation to investigate all complaints promptly and diligently, in conformity with the principles of natural justice and procedural fairness is expressly stated. The ability for the University to investigate without having received an official complaint is clarified and enhanced. The informal resolution and mediation provisions in the prior version of the Policy are now components of the investigation process rather than separate steps available before an investigation is done.

Prior to this year’s review and revisions, the Policy was comprehensively reviewed by an employment and human rights law specialist who was retained by the University’s General Counsel to conduct a gap analysis on the Policy to ensure the Policy met the then-new requirements of WorkSafeBC’s policies regarding harassment and bullying.

Analysis and Conclusions

There were 2 fewer complaints in 2020-2021 than 2019-2020. The number of complaints in 2020-21 is lower than the average of the past five academic years (13.4) and is lower than the average number since records were kept (13.8). This may reflect in part to the suspension of in-person classes and employees working from home during the pandemic.

As noted above and in my previous reports, in my view, the overall trending decrease in the number of complaints since 2012-14, at the same time as a decrease in the number of in-person training sessions, suggests the in-person training provided by Ms. Bell and the online training continues to be successful in educating the University community regarding harassment and discrimination and in promoting informal resolutions.

A properly functioning policy with regard to harassment and discrimination is a key requirement at a university in order to facilitate the maintenance of a respectful and productive place to learn and work. From my perspective as Human Rights Officer, I remain of the view that there is now much greater familiarity by members of the University community with the principles set out in the Policy and understanding of what is and what is not bullying, harassment, and discrimination, all of which were achieved by the educational training program and the online training undertaken by the University.

Appendix "A"

Respectful Workplace and Harassment Prevention Policy

- see following pages -

RESPECTFUL WORKPLACE AND HARASSMENT PREVENTION



805 TRU Way
Kamloops, BC V2C 0C8
tru.ca

| | |
|------------------------|--------------------|
| POLICY NUMBER | BRD 17-0 |
| APPROVAL DATE | March 26, 2021 |
| AUTHORITY | Board of Governors |
| PRIMARY CONTACT | General Counsel |

POLICY

Thompson Rivers University promotes teaching, scholarship and research, and the free and critical discussion of ideas. The University is committed to providing a working and learning environment that allows for the full and free participation of all members of the University community. Discrimination undermines these objectives, violates the fundamental rights, personal dignity and integrity of individuals or groups of individuals and may require remedial action by the University.

Harassment is a form of discrimination that is prohibited under this policy and may result in the imposition of disciplinary sanctions including, where appropriate, dismissal or permanent suspension.

This policy responds to the University's responsibility under the Human Rights Code of British Columbia (the Human Rights Code) to prevent discrimination, to provide procedures to handle complaints, to resolve problems, and to remedy situations when a violation of this policy occurs. The University will offer educational and training programs designed to support the administration of this policy and to ensure that all members of the University community are aware of their responsibilities under the Human Rights Code and this policy.

REGULATIONS

1. DEFINITIONS

“Complainant” – Any person who believes that he/she has experienced or witnessed harassment or discrimination and who seeks recourse pursuant to this policy. The University may also be a complainant.

“Complaint” – A statement of facts alleged by a complainant seeking recourse pursuant to this policy.

“Constituency organizations” – Association of Professional Administrators (APA) and other administrative staff of Thompson Rivers University, Canadian Union of Public Employees (CUPE 4879), Thompson Rivers University Faculty Association (TRUFA), Thompson Rivers University Open Learning Faculty Association (TRUOLFA), and Thompson Rivers University Students Union (TRUSU).

“Discrimination” – includes harassment and discrimination as defined by the **BC Human Rights Code**.

Currently, **“the grounds of discrimination”** prohibited by the **BC Human Rights Code** are age, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation gender identity or expression and, in the case of employment, unrelated criminal convictions. **“Age”** means an age of 19 years or more.

The University is under a legal duty to accommodate individuals or groups protected from discrimination under the **Human Rights Code** unless it would create undue hardship to the University.

“Harassment” – Any behavior that satisfies one or more of the following definitions of harassment:

- a. **Harassment based on a prohibited ground of discrimination.** Behaviour directed towards another person or persons that:
 - i. is abusive or demeaning; and
 - ii. includes a direct or indirect reference to a prohibited ground of discrimination under British Columbia's Human Rights Code; and
 - iii. would be viewed by a reasonable person experiencing the behaviour as an interference with her/his participation in a University-related activity.
- b. **Sexual harassment.** Behavior of a sexual nature by a person:
 - i. who knows or ought reasonably to know that the behaviour is unwanted or unwelcome; and
 - ii. which interferes with another person's participation in a University-related activity; or
 - iii. leads to or implies job- or academically-related consequences for the person harassed.
- c. **Personal harassment.** Behavior directed towards a specific person or persons that:
 - i. serves no legitimate purpose; and
 - ii. would be considered by a reasonable person to create an intimidating, humiliating, or hostile work or learning environment.
- d. **Workplace bullying and harassment.** Any inappropriate conduct or comment by a

person towards a worker (as defined in the BC *Workers' Compensation Act*) that the person knew or reasonably ought to have known would cause that worker to be humiliated or intimidated, but excludes any reasonable action taken by the University or a supervisor relating to the management and direction of workers or the place of employment.

“Reasonable person standard” – Whether or not a reasonable person in roughly the same position as the complainant would judge discrimination or harassment to have occurred as a result of another person’s behaviour or pattern of behaviour.

“Respondent” – A person or persons against whom an allegation of discrimination or harassment has been made pursuant to this policy.

“Responsible officer” – The University official who may carry out one or more of the following roles within the terms of this policy:

- a. decide whether the policy has been violated;
- b. make recommendations or decisions regarding remedies or discipline;
- c. assume the role of complainant to initiate an investigation;
- d. initiate interim measures.

The responsible officers in a particular case are determined by the University positions of the complainant and respondent. For members of the TRUFA bargaining unit the responsible officer is the appropriate Dean/Director; for students the responsible officer is the Associate Vice-President, Students; for staff the responsible officer is the appropriate Director or Associate Vice-President; for Deans and Directors the responsible officer is the appropriate Associate Vice-President/Vice President; and for Vice Presidents the responsible officer is the President.

“University community” – All students and employees of the University and the activities that arise directly out of the operations of the University, between people in their capacity as members of the TRU community are within the jurisdiction of this policy. Members of the TRU Community include students, faculty members, teaching staff in the Open Learning Division, support and administrative staff, or any person holding a TRU appointment.

“University-related activity” – Any type of activity operated under University auspices at any location. All activities on the University’s campuses are University-related unless they are within the exclusive control of constituency organizations or an organization/group external to the University.

2. PRINCIPLES

- 2.1 All members of the University community have the responsibility to respect the rights of others. Discrimination and harassment, will not be tolerated by the University.

- 2.2 This policy will not be interpreted, administered, or applied to infringe the academic freedom of any member of the University community. Academic freedom is the freedom to examine, question, teach, and learn and it involves the right to investigate, speculate, and comment without reference to prescribed doctrine as well as the right to criticize the University and society at large. The frank discussion of controversial ideas, the pursuit and publication of controversial research, and the study and teaching of material with controversial content do not constitute discrimination or harassment.
- 2.3 This policy will be interpreted, administered, and applied in conformity with the principles of procedural fairness and natural justice.
- 2.4 All parties will be advised of the provisions of this policy and of the procedures available to them under the terms of this policy.
- 2.5 All members of the University community will be treated equitably under this policy. All matters arising under this policy will be dealt with in a fair, unbiased and timely manner.
- 2.6 This policy is not intended to interfere with ordinary social or personal relationships among members of the University community.
- 2.7 In the University community, power differences exist between or among faculty, staff, and students. Where one person has implied or explicit power or authority over another, there is an increased potential for discrimination or harassment issues to arise.
- 2.8 Members of the University community have a responsibility for ensuring that the University's working and learning environment is free from discrimination and harassment. Chairs, Directors and Deans bear the primary responsibility for maintaining a working and learning environment free from discrimination and harassment. They are expected to act on this responsibility whenever necessary, whether or not they are in receipt of a complaint and take steps to eliminate or otherwise minimize discrimination and harassment. All members of the University Community are expected to report experienced or observed incidents of discrimination or harassment that are within the scope of this policy.
- 2.9 Those responsible for interpreting, administering, and applying this policy will use a reasonable person standard.
- 2.10 This policy is not to be interpreted, administered, or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage and discipline employees and students in accordance with collective agreements or applicable university policies and procedures. The exercise in good faith of management's rights for operational requirements, performance management or progressive discipline does not constitute harassment.

- 2.11 Members of the University community have an obligation to participate in procedures under this policy. It is a ground for discipline for either party to refuse to participate in an investigation without reasonable justification.
- 2.12 Frivolous, vexatious, or malicious complaints of discrimination or harassment may result in discipline.
- 2.13 Either party to a complaint may object to the participation of a person in the administration of this policy on grounds of conflict of interest or reasonable apprehension of bias. Such objection should be submitted in writing to General Counsel whose decision will be final. Where the objection relates to the participation of General Counsel, the President will make the determination.

3. JURISDICTION

Under this policy, a complaint of discrimination or harassment may only be made where the alleged discrimination or harassment involves a member of the University community and the alleged incident(s) arose from a University-related activity.

4. USE OF INFORMATION AND CONFIDENTIALITY

- 4.1 Allegations of discrimination and harassment, particularly of sexual harassment, often involve the collection, use, and disclosure of sensitive personal information. Confidentiality is required so that those who may have experienced discrimination and harassment will feel free to come forward. Confidentiality is also required so that the reputations and interests of those accused of discrimination or harassment are protected. However, either party may discuss the case in confidence with her/his supervisor, support person, and/or representative of her/his constituency organization.
- 4.2 Subject to any limits or disclosure requirements imposed by law or required by this policy, any and all information, oral and written, created, gathered, received or compiled through the course of a complaint is to be treated as confidential by both the respondent and complainant, their representatives, witnesses, and the officials designated by this policy.
- 4.3 All recorded personal information will be treated as "supplied in confidence" for the purposes of compliance with the *Freedom of Information and Protection of Privacy Act* of BC and responding to access requests under that legislation.
- 4.4 The office of record for all records documenting cases under this policy is the Human Rights Office.
- 4.5 Information concerning a complaint may be provided by the Human Rights Officer, to appropriate University officials on a need-to-know basis. Any person informed of an allegation of discrimination or harassment under this section will be informed of its disposition.

- 4.6 Any person breaching confidentiality may be subject to disciplinary sanction or other appropriate action.

5. ADMINISTRATION

- 5.1 The administration of this policy is conducted by the following persons or groups:
- a. General Counsel, or designate
 - b. Human Rights Officer
 - c. responsible officers
 - d. investigators
- 5.2 The Human Rights Officer facilitates the implementation of the policy. The Human Rights Officer is responsible for coordinating a training and education strategy for students and employees on harassment and discrimination prevention. The goal of such training and education is to both prevent discrimination and harassment from occurring and to ensure members of the University community have a clear understanding of their responsibilities in connection with discrimination and harassment prevention. The Human Rights Officer is not an advocate for either party to a complaint. General Counsel supervises the Human Rights Officer.
- 5.3 Where a determination of reasonable apprehension of bias or conflict of interest has been made under section 2.13, General Counsel will make decisions concerning any replacement that may be required.

6. REPORTING AND COMPLAINT PROCEDURES

- 6.1 Any member of the University community who believes that he/she may have experienced or witnessed discrimination or harassment is expected to report or discuss the matter with the Human Rights Officer or the Dean/Director of the faculty/school/division in which the concern has arisen. If the Human Rights Officer or applicable Dean/Director is the individual alleged to have engaged in discrimination or harassment, then the conduct in question may be reported to General Counsel or to another responsible officer.
- 6.2 A complainant may bring a complaint to the Human Rights Office within six months of the last alleged incident of discrimination or harassment. A member of the Human Rights Office will discuss the complaint fully with the complainant, who will be informed of the procedures of this policy.
- 6.3 All complaints must be submitted in writing.
- 6.4 The Human Rights Officer may reject a complaint on the grounds that it is frivolous, vexatious, malicious, lies outside the jurisdiction of this Policy, or is beyond the time limits for laying a complaint. The decision to reject a complaint must include the reasons for the decision and may be appealed to General Counsel. General Counsel's decision will be final.

6.5 The Human Rights Officer will determine whether or not a complaint falls within the definition of discrimination and/or subsection (a), (b), (c) or (d) of the definition of harassment. If a complainant disagrees with this determination, the complainant may appeal this determination to General Counsel, whose decision is final.

6.6 A complainant will be informed of avenues for redress or resolution.

7. INVESTIGATION PROCEDURES

7.1 If a complaint is within the jurisdiction of this policy and proceeds, the Human Rights Officer will initiate an investigation that is appropriate to the circumstances.

7.2 At any time, and even if the complainant and respondent have reached a resolution through mediation or otherwise, a responsible officer may, in appropriate circumstances, decide to assume the role of complainant in a case in order to initiate or continue an investigation.

7.3 Investigations may be conducted by either an internal or external investigator, as deemed appropriate by General Counsel.

7.4 If more than one complaint has been made about a respondent, General Counsel may decide that the complaints will be investigated together. Each party will have the opportunity to make submissions on this matter and to comment on the other's submission.

7.5 If a complainant makes the request for an external investigation, the request will contain a full account of the alleged discrimination. If the respondent requests an external investigation, the request must explain the reasons why he/she seeks an external investigation.

7.6 General Counsel has power to authorize or refuse to authorize an external investigation; this decision will be guided by the following criteria:

- the alleged discrimination or harassment may have had a serious impact on the complainant or respondent;
- the complaint is important to the mission, values or goals of the University; or
- the respondent has refused to participate in earlier efforts to address the complaint.

If General Counsel refuses to authorize an external investigation, he/she will give reasons for this decision.

7.7 When a request for an external investigation has been refused by General Counsel, a direct appeal to the President, meeting without General Counsel, may be made. The appeal must be made within three weeks of General Counsel's refusal to authorize an external investigation. The appellant will make an initial submission; the other party may make a response to which the

appellant will have a right of reply. After consideration of the reasons for the request for an external investigation and any submissions and comments from the parties, the President will decide whether or not to authorize an external investigation.

- 7.8 When an external investigation is authorized, General Counsel will appoint an experienced investigator with expertise in administrative law and trauma informed investigations who is external to the University. The investigator will be provided with terms of reference for the investigation, a protocol for conducting the investigation and a timeline for completing the investigation and report.
- 7.9 Whether internal or external, the investigation will conform to the principles of natural justice and procedural fairness and:
 - 7.9.1 be undertaken promptly and diligently, and will normally commence within three weeks of its authorization;
 - 7.9.2 be fair and impartial; and
 - 7.9.3 be sensitive to the interests of all parties involved and maintain confidentiality to the extent reasonably possible.
- 7.10 The investigator will normally interview the complainant, respondent, and such other persons and/or review documents as he/she considers may have or contain relevant information pertaining to the complaint.
- 7.11 Any complainant who wishes the University to assist in the resolution of a complaint through investigation must be prepared to be identified to the respondent.
- 7.12 All parties must be given the opportunity to present evidence in support of their positions and to defend themselves against allegations of discrimination or harassment. Where a party has the opportunity to make a submission, response or comment, it will normally be provided within two weeks.
- 7.13 All parties may be accompanied by legal counsel, a support person, and/or a representative of their constituency organization throughout the procedures set out in this policy.
- 7.14 A complainant may withdraw his/her complaint at any time. However, the University may nonetheless have an ongoing obligation to investigate the concerns raised.
- 7.15 If the complainant or the respondent refuses to cooperate with the investigator, the investigator will proceed with the investigation with the available evidence.
- 7.16 The investigator will normally prepare a report that conforms to the legislative requirements of the *Freedom of Information and Protection of Privacy Act* of BC. The investigator's report will include an opinion on the facts of the case, disputed and undisputed, and whether, on a balance of probabilities, there has been a violation of the policy.

- 7.17 The report of the investigator will be sent to General Counsel. In accordance with the *Freedom of Information and Protection of Privacy Act* of BC, the report is not releasable to either the complainant or respondent unless the complainant or respondent makes a written request under the provisions of the *Freedom of Information and Protection of Privacy Act* of BC and all personal information about other individuals is severed.
- 7.18 The investigator may recommend that the investigation be adjourned, stayed, or terminated, or otherwise settled with the agreement of the parties. The decision on this recommendation will be made by whoever authorized the investigation after considering submissions on the recommendation, if any, from each party.

8. INTERIM MEASURES

It may be necessary that interim measures be taken while a complaint is being resolved, investigated or decided. Such measures will be precautionary, not disciplinary. The responsible officer for either the complainant or the respondent may initiate interim measures in consultation with the Human Rights Officer. In situations where a member of the TRU community believes that their personal safety or the safety of others is an issue, the member should immediately seek assistance through the Human Rights Officer, General Counsel or their excluded supervisor or the Manager, Student Affairs.

9. MEDIATION & ALTERNATIVE RESOLUTION OF COMPLAINTS

- 9.1 At any point in the investigative process, either party or the person responsible for the investigation, may request or initiate an informal complaint resolution process such as mediation. Any informal complaint resolution process must have the consent of both parties to proceed, and if a resolution is reached, it will be documented in writing.
- 9.2 The University may have an ongoing obligation to investigate or continue to investigate the Complaint even where the parties have agreed to participate in an informal complaint resolution process or have reached a resolution acceptable to both parties.

10. DECISION

- 10.1 When General Counsel receives the investigator's report he/she will meet with the responsible officer for the respondent and the responsible officer will decide whether or not to accept the investigator's findings, and if a breach is found to have occurred, will decide what sanctions or corrective measures, if any, should be imposed.
- 10.2 The decision, with reasons, on whether the policy has been violated will be communicated to both parties within four weeks of receipt of the report.
- 10.3 If the responsible officer for the respondent finds that the complaint was frivolous, vexatious or malicious he/she will take steps to appropriately

address this conduct, which may include disciplinary action for the complainant. Except for complaints that are frivolous, vexatious or malicious, there will be no retaliation by any member of the University Community against a complainant for bringing a complaint.

11. REMEDIES

- 11.1 If there is a finding that this policy has been violated, the responsible officer for the respondent will act promptly to take corrective action to ensure that the discrimination or harassment ceases and to prevent future occurrences of similar activity. Such corrective action may include disciplinary action against the respondent, training for members of the university community, or amendments to university policies or processes. Any corrective measure will be documented by the responsible officer.
- 11.2 The complainant may request that measures be taken to correct damage. The responsible officer for the complainant will send a recommendation for remedy to the appropriate Vice President and President for a decision.
- 11.3 In cases where it is determined that there has not been a violation of the policy the University will, if requested to do so by the respondent, issue a statement that there was no violation of the policy by the respondent. Whether or not there has been a violation of the policy, the University will document the incident and take any appropriate action to help prevent discrimination and harassment in the future. Such action may include, but is not limited to: providing direction and supervision to affected employees or students, providing specific training to employees or students on managing difficult situations, imposing arrangements that minimize the risk of discrimination and harassment.

12. DISCIPLINE

- 12.1 Where there is a finding of discrimination or harassment by a member of the University community, the responsible officer for the respondent will decide on appropriate discipline.
- 12.2 Where the respondent is covered by a collective agreement with a bargaining unit, any discipline will be imposed consistent with the terms of that agreement.
- 12.3 Where the respondent is a student, the responsible officer will, after taking all the circumstances of the case into consideration make a recommendation regarding discipline to the President. At that point, the provisions of the University's applicable policy with regard to student discipline will apply.
- 12.4 If the respondent is not covered by either section 12.2 or 12.3 of this policy, the responsible officer will create an analogous process.
- 12.5 Each party will be informed of the final decision. The final decision will be placed in the appropriate personnel file or student file of any party found to have violated the policy.

13. REPORTING

The Human Rights Officer is responsible for preparing and distributing an annual report. This responsibility requires that information on activity under this policy be collected by the Human Rights Officer. The annual report will summarize the activities of the Human Rights Office in administering this policy and will provide information on the number of complaints, and the number of resolutions through informal procedures, mediation activities, and investigations. The report will also contain the progress made in providing education to employees and students in regard to harassment and discrimination prevention. This annual report will be provided to General Counsel, the President and the Board of Governors of TRU and made available through the office of General Counsel.

14. REVIEW

This policy will be reviewed annually.

15. INTERPRETATION

Questions of interpretation or application of this policy shall be referred to General Counsel, whose decision shall be final.

16. OTHER PROCESSES

If the complaint is an alleged violation under the *BC Human Rights Code* the complainant may, at any time, make a complaint to the Human Rights Tribunal. In accordance with the *Human Rights Code*, a complaint must be filed within 6 months of the alleged contravention.

17. CONTRACTORS AND OTHER VISITORS TO CAMPUS

The University will not tolerate harassment or discrimination on its campuses or at University events. As the University is not able to impose disciplinary sanctions directly on employees of contractors engaged by the University or compel contractors to engage in the processes under this policy, the University will rely on its contractual and other rights with regard to contractors alleged to have committed harassment or discrimination; in doing so the University will require contractors to hold their employees to the same standards applicable to members of the University Community. Similarly, other visitors to campus found to have breached this Policy may be excluded from University campuses and/or events.

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