



Policy No:

Responsibility: Vice President, Education

Harassment Policy - Students

Approved by: Board of Governors

Effective: June 14, 2005

Revisions:

1. STATEMENT OF PRINCIPLE

The Justice Institute of British Columbia (JIBC) is committed to providing a learning environment that is free from discrimination and harassment and in which the individual differences of all students are valued and respected.

The JIBC does not condone and will not tolerate any discrimination or harassing behaviour that undermines the dignity, self-esteem, and respect of any student.

The JIBC considers discrimination and/or harassment by any individual to be a serious breach of human rights that requires immediate action. Such action may include disciplinary measures up to and including termination or expulsion.

2. SCOPE

This policy applies to all students of the JIBC. The policy covers complaints made by any student of the JIBC of alleged harassment by:

- a. any employee, seconded staff, or contractor of the JIBC;
- b. any person having a business relationship with the JIBC (e.g. student, vendor).

This policy applies to any location where the business of the JIBC is being conducted, including

- a. the JIBC itself (e.g. cafeteria, meeting rooms, offices, training simulations);
- b. other locations and situations such as travel, off-site meetings, or any other event or place where the student is present in the course of learning.

This policy applies to all communications: in-person, by telephone, using computer equipment, in writing, or through other mediums used within the JIBC.

3. COMMITMENT TO PREVENTION

The Justice Institute of British Columbia is committed to the prevention of discrimination and harassment. Respect is the cornerstone of our learning relationships. All staff and students share responsibility for creating a learning environment that is free of discrimination and harassment.

1. DEFINITIONS

Discrimination

Discrimination refers to unfair treatment on the basis of any of the prohibited grounds in the BC Human Rights Code: race, colour, ancestry, place of origin, religion, family status, marital status, physical disability, mental disability, sex, age, sexual orientation, political belief, or conviction of criminal or summary offence unrelated to employment.

Harassment

Harassment is a form of discrimination. It is unwelcome comment or conduct relating to any of the prohibited grounds under the BC Human Rights Code that detrimentally affects the learning environment or leads to adverse learning-related consequences.

Prohibited conduct may be verbal, non-verbal, physical, deliberate or unintended, unsolicited or unwelcome, as determined by the reasonable person. It may consist of repeated or persistent behaviour or may be a single serious incident.

2. RESOLVING A COMPLAINT

A. TAKE DIRECT ACTION

If a student believes he or she has been subjected to discrimination or harassment, he or she may wish to make his or her objection or unease known to the person in order to resolve the issue prior to seeking mediation.

If dealing directly with the person is not an option or is unsuccessful, the student may seek the confidential advice of Student Services (TBC), Human Resources, or the Academy, Centre, or Division Director.

B. MEDIATION PROCEDURE

The intent of mediation is to provide an alternative to the investigation procedure (section C below) and to promote early intervention and the use of mediation as a means to resolve allegations of discrimination or harassment as defined above. Where mediation occurs it will be conducted without prejudice to any further action by either party.

Either party to the mediation may withdraw from the mediation process at any time.

a) Requesting Mediation

Requests for mediation may be initiated through the Academy, Centre, Division Director or through Human Resources. Requests will be accompanied by a signed written complaint, which should include the following, where applicable:

- name(s) of the complainant(s) and the respondent(s)
- a description of the action(s), conduct, events, or circumstances
- date, time and place of incident(s)
- name(s) of witnesses
- prior attempts to resolve the situation
- remedy sought

b) Mediation Process

- i. Within five (5) days of receipt of a written request, a mediator will be assigned. Mediators will be agreed to by the parties. Costs associated with the mediators will be borne by the JIBC.
- ii. The mediation will be completed within ten (10) working days from the date of assignment or as soon thereafter as practicable.

- iii. The mediator will, in situations, where the mediation results in a resolution, generate a Settlement Agreement within five (5) working days of the conclusion of the mediation. The Settlement Agreement will be signed by and exchanged by both parties with copies going to the Academy, Centre, or Division Director and the Director, Human Resources.
- iv. Should either party to the Settlement Agreement within the first six (6) months of the agreement be of the opinion that the agreement has been breached, he or she will make his or her views known to the Director, Human Resources who will work with the parties in an effort to restore the agreement. This may involve referring the parties back to the original mediator.
- v. Any issue arising between the parties to the Settlement Agreement beyond the first six (6) months of the agreement will be deemed to be a new issue and will be dealt with through the appropriate mechanism.
- vi. In situations where, in the opinion of the mediator, a resolution is not to be found, the mediator will conclude the mediation. This will be done in consultation with the Director, Human Resources. The mediator will, within ten (10) working days of the conclusion of mediation, issue a report to the Director, Human Resources outlining the reasons for concluding the mediation.

In the event that this process does not resolve the complaint, the student may pursue it through the investigation procedure.

C. INVESTIGATION PROCEDURE

a) Natural Justice and Fairness

The following procedures will comply with the principles of natural justice and fairness. This means that all parties to the discrimination or harassment complaint, including the complainant, respondent and witnesses, will be given the opportunity to fully explain what happened from their perspective, to have their explanations and concerns fully considered, and to challenge any evidence that is being or has been considered.

b) Investigation Process

Where a student chooses not to pursue a complaint through Taking Direct Action or the Mediation Procedure (as described above), the following shall apply:

- i. A student (complainant) who wishes to pursue a concern arising from alleged discrimination or harassment may submit a complaint in writing within six (6) months of the latest alleged occurrence directly to the Director, Human Resources. Where the complaint is against the Director, Human Resources, it shall be submitted to the Academy, Centre, or Division Director. Complaints shall be treated in strict confidence by the JIBC.
- ii. The Director, Human Resources has the discretion to waive the six (6) month time restriction where there are extenuating circumstances.
- iii. An alleged harasser (respondent) shall be given notice of the substance of such a complaint under this clause and shall be entitled to attend and participate in any hearing pursuant to (vi) below.
- iv. The Director, Human Resources will designate an investigator to investigate the complaint and submit his or her report to the Director, Human Resources in writing within fifteen (15) days of receipt of the complaint. The Director, Human Resources shall within ten (10) days of receipt of the report take the appropriate

action to resolve the issue as contained in the report. The complainant, the respondent, and the respective Director(s) shall be apprised of the resolution.

- v. Pending determination of the complaint, the Director, Human Resources, in consultation with the complainant's and the respondent's Director(s), may take interim measures to separate the parties involved if deemed necessary. Such action will not be seen as presumption of guilt or innocence.
- vi. Where either the complainant or the respondent is not satisfied with the JIBC's response, the complaint will be put, within thirty (30) days, before an agreed upon, independent adjudicator who specializes in this field. The adjudicator shall work with the parties to achieve an acceptable resolution and if this is not achieved, the adjudicator shall have the right to:
 - dismiss the complaint; or
 - determine the appropriate course of action for the harasser;
 - make such further recommendations as are necessary to provide a final and conclusive settlement of the complaint.
- vii. Where the complaint is determined to be of a frivolous, vindictive, or vexatious nature, the JIBC will take appropriate action.
- viii. This procedure does not preclude a student filing a complaint under the BC Human Rights Code.
- ix. Complaints dealt with using these procedures, including related documentation, shall be treated in strict confidence by all parties involved.
- x. The complainant may withdraw the complaint at anytime during this process by notifying the Director, Human Resources, in writing.

c) List of Mediators and Independent Adjudicators

A list of mediators and independent adjudicators will be maintained and posted on the JIBC intranet. The parties may agree to use mediators or independent adjudicators not on this list in the interest of proceeding with the investigation in a timely manner.

3. CONFIDENTIALITY

No documentation of the discrimination or harassment, including any materials resulting from mediation or investigation process, such as reports from the mediator, investigator or independent adjudicator, will be placed on a student's file.

Where a complaint has been filed, the names of the complainant(s) and respondent(s) and the circumstances of the complaint will not be disclosed to any person except where disclosure is necessary for the purpose of investigating and resolving the complaint, or where disclosure is required by law.

In the event that an investigation concludes that discrimination or harassment did occur and where disciplinary action was taken, a letter indicating the level of discipline will be the only documentation to appear on a student's file. All other documentation related to the investigation shall be maintained in a confidential manner by the Director, Human Resources and the Academy, Centre, or Division Director.

All parties who are privy to information or in possession of documentation pertaining to matters or incidents in the course of dealing with a complaint of discrimination or harassment shall hold that information in strict confidence. This shall include refraining from discussions and from releasing information in any form, beyond that contained in these procedures or as required by law.

4. RETALIATION

Retaliation against any individual who has filed a complaint, or who has been named as a respondent or witness in the complaint or who investigates the complaint according to the procedures outlined, will itself be an incident of harassment and will be dealt with in accordance with these procedures.

5. CONCLUSION

The JIBC policy and procedures demonstrate the commitment of the JIBC to ensuring that all students of the JIBC can learn in an environment free from discrimination and harassment.