



## FSA Harassment Policy

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### Statement of Commitment

UFV FSA promotes an open, and democratic union where free and critical debate and discussion of ideas and issues is the norm. UFV FSA is committed to providing an environment that allows for the full and free participation of all union members in the activities of the union. Harassment undermines these objectives and violates the fundamental rights, personal dignity and integrity of individuals or groups of individuals.

Harassment is a serious offence that may be cause for disciplinary sanctions by the union including, where appropriate, censure, prohibitions against holding elected positions, or suspension from participation in specific union events.

UFV FSA has a responsibility under BC's Human Rights Code to prevent harassment and to provide procedures to handle complaints, to resolve problems and to remedy situations where harassment occurs in the context of union activities.

### Definitions

Harassment is a form of discrimination that adversely affects the recipient on one or more of the prohibited grounds under the BC Human Rights Code [R.S.B.C. 1996 c.210].

**Harassment** as defined above is behaviour or the effect of behaviour, whether direct or indirect, which meets one of the following conditions:

- a) Is abusive or demeaning;
- b) Would be viewed by a reasonable person experiencing the behaviour or effect of the behaviour, as an interference with her/his participation in an institutional related activity;
- c) Creates a poisoned environment.

As of this date, the grounds protected against discrimination by BC's Human Rights Code [R.S.B.C. 1996 c.210] are age, race, colour, ancestry, place of origin, political belief, religion,

marital status, physical or mental disability, sex, sexual orientation and, in the case of employment, unrelated criminal convictions.

**Sexual Harassment** is behaviour of a sexual nature by a person who knows or ought reasonably to know that the behaviour is unwanted or unwelcome; and

- a) Which interferes with another person's participation in a union related activities; or
- b) Leads to or implies Faculty and Staff Association related consequences for the person harassed; or
- c) Which creates a poisoned environment.

**Personal harassment** may occur as a single incident or over a period of time. A combined series of incidents - of which any one in isolation would not necessarily be considered harassment - may also constitute harassment.

Examples of personal harassment that are not acceptable include:

- discriminatory behaviour in violation of human rights legislation
- physical threats, abuse, assault, intimidation
- verbal abuse
- displays of pornographic, and/or racist pictures, photographs, or literature not related to an appropriate academic context of creating awareness of such materials.

## Procedures

### Mediation

When a complaint is received by the UFVFSa Executive Committee involving members of the Association, UFVFSa will initiate a mediation process. The mediation process is the recommended avenue of resolution. Consensual mediation will require the agreement of the complainant and the alleged harasser to use the following process:

- (a) UFVFSa will discuss the nature of the complaint with the complainant and respondent and agree upon who will conduct the mediation;
- (b) The mediation process will be referred to the Labour Relations Board or a mediator agreed to by UFVFSa, the complainant and the respondent;
- (c) The mediation process and resolution will be kept strictly confidential by all participants;
- (d) Where a resolution is reached, the complainant and the respondent must agree in writing to the resolution and the matter will then be considered concluded;

- (e) No record of the mediation except the written agreed resolution will be placed on file at UFVFSa.

### **Investigation**

- a) Where either the complainant or respondent does not agree to mediation, or no resolution is reached during the mediation, the complaint will be referred to an external investigator.
- b) An investigator will be appointed within ten (10) working days of referral. UFVFSa shall consult with FPSE before hiring an investigator.
- c) UFVFSa will not hire investigators who are contraindicated by FPSE.
- d) The referral should, where possible, include a written statement from the complainant and the respondent which succinctly outlines the issue(s) in dispute. The referral should be assembled by the President or designate and forwarded to the Investigator, with a copy sent to the complainant and respondent.
- e) The appointment of an investigator does not preclude an investigator from mediating the dispute where possible. Any complaint of harassment will be kept confidential except as is necessary to investigate and resolve the issue. Investigators will stress the confidentiality of the investigation with the person(s) interviewed.

### **Terms of Reference of the Investigator**

- a) The purpose of the investigator will be to ascertain facts.
- b) All persons quoted in the investigation will be named by initials.
- c) The report of the Investigator will be given, in confidence, to the President or other appropriate member of the UFVFSa Executive.
- d) It is the responsibility of the UFVFSa to forward a copy of the report to the complainant and the alleged harasser.
- e) The President, or other appropriate member of the UFVFSa Executive, will state, in a covering letter, that the report is confidential. The report should refer to individuals involved by initials or code. However, a key will be provided for internal use. This practice should be repeated at any subsequent arbitration proceeding.
- f) The report will not be introduced as evidence or have standing in any arbitration or other legal procedure.

- g) If the President is the Respondent or Complainant in a complaint, the UFVFS Executive shall appoint a different member of the Executive to deal with the Investigator and the report.

### **Reliance on Report of Third Party Investigator**

- a) UFVFS is entitled to rely on the fact of mediation or the report of a Third Party Investigator as evidence that may mitigate liability in a proceeding that follows receipt of the Third Party Investigator's report.
- b) UFVFS is entitled to rely on the Investigator's report as evidence that it acted in good faith in any disciplinary action that it undertook following receipt of the Third Party Investigator's report where the issue of good faith is raised by a member.
- c) The investigator will not be compellable as a witness in any arbitration or other legal procedure which may result from the investigation.
- d) The investigator will conclude her/his work within ten (10) days of appointment and will render a report within a further five days. These timelines may be extended if deemed appropriate by UFVFS.
- e) If requested by the investigator, UFVFS will provide meeting space and contact information about persons to be interviewed.
- f) The investigator may, as part of her/his report, make recommendations for resolution of the complaint.
- g) The investigator's report will not be shared in any way with the University.

### **Findings and Actions**

The President or designate will make a written determination based upon the facts and recommendation, if any, within ten (10) working days of the receipt of the Investigator's report.

If necessary, this timeline may be extended.

The determination will:

- a) Make a recommendation to the UFVFS Executive regarding action(s), if any, to be taken or required by UFVFS.

- b) Include, where appropriate, a statement of exoneration.

### **Consideration by UFVFSa Executive**

The UFVFSa Executive will consider the recommendations from the President or Designate.

If the President or Designate recommends that the UFVFSa Executive take disciplinary action against a member then the Executive shall inform the member of that recommendation and give the member the opportunity to meet with the Executive to address the findings of the harassment report and the recommendations of the President or Designate.

The member shall have the right to be accompanied by a steward or other union representative of his or her choice.

The Executive Committee shall not make any decision regarding potential discipline against a member until that member has been given the opportunity to meet with the Executive.

### **Rights of the Parties**

Should a complainant file a complaint under the provisions of the Human Rights Code, it is understood that the Human Rights Code complaint will be set aside until such time as the procedures under this policy have been completed. Where an allegation includes both complaints under the Human Rights Code and a personal harassment complaint, UFVFSa may agree to have the Investigator investigate all of the complaints, in order to relieve against expense and duality of process.

### **False Complaints, Breaches of Confidentiality and Retaliatory Action**

Frivolous, vexatious or malicious complaints of harassment or breaches of the confidentiality provisions of this clause or retaliation in respect of a complaint may result in UFVFSa taking disciplinary action against a member.

Should retaliation be alleged following the filing of a complaint, an investigator may deal with that allegation and make a finding.