

# Discrimination, Bullying and Harassment Policy (CCNM – Boucher Campus)

**Background:** CCNM – Boucher Campus is committed to providing a safe working and learning environment that allows for full and free participation of all members of the CCNM – Boucher Campus Community.

Discrimination, Bullying and Harassment are strictly prohibited under this Policy.

A breach of this Policy by a member of the CCNM – Boucher Campus Community represents serious misconduct, and may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal or expulsion.

CCNM – Boucher Campus recognizes its responsibility to increase awareness of Discrimination, Bullying and Harassment, to prevent its occurrence within the CCNM – Boucher Campus Community, to provide procedures to handle Complaints, and to remedy situations where Discrimination or Bullying and Harassment has been found to have occurred.

CCNM – Boucher Campus will respond to Complaints in a manner that supports all persons involved in the Complaint, consistent with CCNM – Boucher Campus policies and principles of procedural fairness.

## **Purposes of this Policy and Procedure:**

The purposes of this Discrimination, Bullying and Harassment Policy and the Discrimination, Bullying and Harassment Procedure are to:

1. Provide a safe and secure learning and working environment that is free from Discrimination, Bullying and Harassment;
2. Define the roles and responsibilities of individuals in implementing and carrying out programs and practices towards the prevention of, and in response to, Discrimination, Bullying and Harassment; and
3. Create a procedurally fair mechanism for handling Complaints of Discrimination or Bullying and Harassment.

## **Scope and Jurisdiction**

This policy applies where:

1. An incident is alleged to have occurred on CCNM – Boucher Campus property, or off CCNM – Boucher Campus property (including online) in connection with an event or activity sponsored by or under the auspices of CCNM – Boucher Campus, and
2. The alleged Discrimination, Bullying and/or Harassment involves a member of the CCNM – Boucher Campus Community, or a person who was a member of the CCNM – Boucher Campus Community at the time of the incident.

If an incident of Discrimination or Bullying and Harassment does not meet the above criteria, CCNM – Boucher Campus may still take steps to mitigate the impact of the incident on the learning or working environment.

CCNM – Boucher Campus does not have jurisdiction to take disciplinary action against a person who is not a member of the CCNM – Boucher Campus Community or who is not currently affiliated with Boucher. However, under certain circumstances CCNM – Boucher Campus may be able to take other action, such as revoking a person's access to campus property or a campus event.

This policy is separate from any criminal or civil proceedings. CCNM – Boucher Campus is not responsible for determining violations of criminal or civil law.

Other CCNM – Boucher Campus policies that pertain to Discrimination, Bullying and Harassment include, but are not limited to, the Sexual Violence and Misconduct Policy, the Standards of Student Conduct Policy, and the Safety Policy.

### Definitions

**CCNM – Boucher Campus Community:** All campus employees, faculty members, Students, contractors and volunteers, and any other person who is contractually obligated to comply with this Policy.

**Bullying and Harassment:** Any inappropriate conduct or comment by a member of the CCNM – Boucher Campus Community towards an Employee or Student that the person knew or ought reasonably to have known would cause that person to be humiliated or intimidated, or;

Any other form of unwelcome verbal or physical behaviour which, by a reasonable standard, would be expected to cause insecurity, discomfort, offence or humiliation to one or more Employees or Students, and has the purpose or effect of interfering with an Employee's work performance or a Student's learning, or creating an intimidating, hostile or offensive working or learning environment.

However, Bullying and Harassment excludes any reasonable action taken by an authorized Boucher administrator, supervisor or faculty member, relating to the management and direction of Employees, or the regulation of academic and non-academic conduct of Students or the working or learning environment.

Examples of Bullying and Harassment include, but are not limited, to the following:

- words, gestures, actions or practical jokes, the natural consequence of which is to humiliate, ridicule, insult or degrade;
- spreading malicious rumours;
- threats or intimidation;
- vandalizing personal belongings;
- physical assault or violence; and/or
- persistent rudeness, bullying, taunting, patronizing behaviour, or other conduct that adversely affects the learning or working environment.

It is NOT Bullying and Harassment to:

- comply with professional, managerial, or supervisory responsibilities to evaluate and report on the performance, conduct or competence of Employees or Students;
- express reasonable opinions freely and courteously; or
- respectfully engage in honest differences of opinion.

**Complainant:** A person who files a Complaint. In some instances, CCNM – Boucher Campus may act as a Complainant where it becomes aware of allegations of Discrimination, Bullying and Harassment that, if true, would violate this Policy but no person comes forward with a Complaint, or where an investigation is required by law.

**Complaint:** A formal written complaint containing allegations of Discrimination, Bullying and Harassment or other violation(s) of this Policy.

**Discrimination:** Discrimination within the meaning of the BC Human Rights Code, based on a person's sex, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sexual orientation, gender identity or expression, age, or criminal conviction which is unrelated to the person's employment. Discrimination permitted by the BC Human Rights Code is not a breach of the Policy (i.e., where a bona fide occupational requirement or bona fide and reasonable justification is established, or where the alleged discrimination relates to a bona fide pension plan or group insurance plan). Discrimination includes Sexual Harassment, as defined below.

**Employee:** An employee of CCNM – Boucher Campus, including administrators, faculty, and staff.

**Investigator:** A person appointed by CCNM – Boucher Campus to investigate a Complaint.

**Respondent(s):** A person or persons alleged to have engaged in conduct that violates this Policy.

**Responsible Administrator:** An executive or Board member of CCNM, or an administrator responsible for the operations of an Institute department, faculty, or service area.

**Retaliatory Action:** Any adverse action taken against a person because that person seeks advice on making a Complaint, makes a Complaint, or cooperates in an investigation of a Complaint.

**Sexual Harassment:** Conduct or comments of a sexual nature that is unwelcome, and that detrimentally affects the working or learning environment or leads to adverse employment or education-related consequences.

Examples of Sexual Harassment include, but are not limited to, the following:

- unwanted touching;
- unwelcome sexual flirtations, advances, or propositions;
- sexually suggestive, obscene, or degrading comments or gestures;
- offensive jokes of a sexual nature;
- leering or staring;
- displaying or circulating pictures or other material of a sexual nature; or
- unwelcome questions or remarks about a person's sex life, appearance, or clothing.

**Student:** A person who is enrolled as a student at CCNM in credit or non-credit courses.

## Discrimination, Bullying and Harassment Policy Statement

### Rights and Responsibilities

CCNM – Boucher Campus is committed to addressing Discrimination, Bullying and Harassment by:

1. implementing and actively promoting awareness and training programs to educate the CCNM – Boucher Campus Community regarding Discrimination, Bullying and Harassment and the issues addressed in this Policy;
2. promoting working and learning conditions that seek to eliminate the potential for incidents of Discrimination or Bullying and Harassment to occur within the Institute's facilities or operations;
3. reducing barriers to filing Complaints regarding Discrimination or Bullying and Harassment; and
4. responding to Complaints in a procedurally fair, efficient, and consistent manner.

CCNM – Boucher Campus reserves the right to initiate an investigation and/or to inform the relevant law enforcement agency without the consent of the person filing a Complaint regarding an incident of Discrimination or Bullying and Harassment, if the Institute has a reasonable belief that the safety of a member of the CCNM – Boucher Campus Community is at risk.

CCNM – Boucher Campus reserves the right to implement interim measures as it considers appropriate, to protect the safety of the CCNM – Boucher Campus Community or any of its members during an evaluation of a Complaint or pending the completion of an investigation. Such measures may include, but are not limited to: directing the Complainant, Respondent, witnesses or other parties to cease and desist from engaging in a particular type of behaviour; restricting access to Institute property or specific areas within the Institute; alteration of the learning or work schedule of an individual; imposing a no-contact directive; and/or temporary, non-disciplinary leave of an individual.

A member of the CCNM – Boucher Campus Community has the right to pursue other processes external to the Institute in connection with alleged Discrimination or Bullying and Harassment, such as reporting the matter to the police, initiating a civil action, or filing a complaint under the BC Human Rights Code. If an external course of action is pursued, the Institute may elect to continue with the process under this policy, or to suspend the process under this policy pending the outcome of the external process.

### Discrimination, Bullying and Harassment Procedure

CCNM – Boucher Campus is committed to addressing Discrimination, Bullying and Harassment by:

1. Implementing and actively promoting awareness and training programs to educate the CCNM – Boucher Campus Community regarding Discrimination, Bullying and Harassment and the issues addressed in the Policy;
2. Promoting working and learning conditions that seek to eliminate the potential for incidents of Discrimination or Bullying and Harassment to occur within the Institute's facilities or operations;
3. Reducing barriers to filing Complaints regarding Discrimination or Bullying and Harassment; and
4. Responding to Complaints in a procedurally fair, efficient, and consistent manner.

**Procedure:** A member of the CCNM – Boucher Campus Community who has experienced Discrimination, Bullying and /or Harassment, or who is otherwise affected by a violation of the Policy, may file a Complaint as described below.

1. To initiate an investigation, a Complaint must be filed, in writing, with:
  - the Registrar (Meghan Henesey, [mhenesey@ccnm.edu](mailto:mhenesey@ccnm.edu)), if the Respondent is a student; or April 2021
  - the Human Resources Manager (HRM) (Nicola Diaz, [ndiaz@ccnm.edu](mailto:ndiaz@ccnm.edu)), if the Respondent is a CCNM – Boucher Campus employee.
2. The Complaint should set out, using the CCNM – Boucher Campus Incident Report Form, the relevant details regarding the alleged Discrimination or Bullying and Harassment, or other alleged violation of the Policy. The Complaint should include a list of any potential witnesses, along with a brief description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included with the Complaint.
3. A Complainant has the right to withdraw a Complaint at any stage of the process. However, the Institute may continue to act on the issue identified in the Complaint to comply with its obligations under law or the Policy.
4. A Complaint must be filed within six months of the alleged incident(s). If the Complaint involves a series of related incidents, the Complaint must be filed within six months of the latest incident.
5. CCNM – Boucher Campus has the discretion to accept a Complaint for filing after the expiry of the time limit described above, if the campus determines that exceptional circumstances exist and no person is prejudiced by the delay in filing.

### Initial Review

Upon receipt of a Complaint, the Registrar, HRM or designate will, notify the Executive Director of Human Resources (EDHR) (Barbara Young, [byoung@ccnm.edu](mailto:byoung@ccnm.edu)), and conduct an initial review to determine whether the allegations in the Complaint fall within the scope of the Policy. This review will occur within 14 calendar days of receiving a Complaint unless exceptional circumstances exist that prevent meeting this timeline, in which case the Registrar, HRM, or designate will contact the individual making the Complaint as soon as possible to inform them of the revised timeline. (Note; if the EDHR is named in the complaint, then the President will replace their role identified in this procedure)

If the Registrar, HRM or designate determines that the Complaint falls within the scope of the Policy, they will refer the matter to the EDHR, who will do one of the following;

1. Appoint an external Investigator to investigate the Complaint; or
2. Refer the matter to the alternative resolution process described below.

If the Registrar, HRM or designate determines that the allegations in the Complaint do not fall within the scope of the Policy, the Registrar or HRM will advise the individual making the Complaint of this decision along with reasons.

If the Registrar, HRM or designate believes that the Complaint discloses other kinds of misconduct or information that CCNM – Boucher Campus may need to act on under another CCNM – Boucher Campus policy or process, the Registrar, HRM or designate may refer the Complaint or the relevant portions of the Complaint to the appropriate CCNM – Boucher Campus authority. When appropriate, the Registrar or HRM will consult with the person making the Complaint before referring it elsewhere.

### Interim Measures

The Institute reserves the right to implement interim measures as it considers appropriate, to protect the safety of the CCNM – Boucher Campus Community or any of its members during an evaluation of a disclosure or complaint or pending the completion of an investigation. Such measures may include, but are not limited to:

1. directing the Complainant, Respondent, witness or other parties to cease and desist from engaging in a particular type of behaviour;
2. restricting access to Institute property or specific areas within the Institute;
3. alteration of the learning or work schedule of an individual;
4. imposing a no-contact directive; and/or
5. temporary, non-disciplinary leave of an individual

### Alternative Resolution

If the EDHR believes that an alternative resolution process may be appropriate in the circumstances, the EDHR will discuss this option with the Complainant. If the Complainant agrees that an alternative resolution process may be appropriate, the EDHR will contact the Respondent to advise them that a Complaint has been made and will discuss this option with the Respondent. If the Respondent agrees to participate in an alternative resolution process and the EDHR is satisfied that an alternative resolution process is appropriate, then the EDHR will explore the options available and, with the agreement of both parties, will refer the matter to that process for resolution.

Participation in an alternative dispute resolution process is entirely voluntary. If either the Complainant or the Respondent decides they no longer wish to participate in the alternative resolution process at any time, then the EDHR will appoint an Investigator to investigate the Complaint.

### Investigation

When CCNM – Boucher Campus appoints an external Investigator to conduct an investigation into a Complaint, consideration will be given to the subject matter of the Complaint and the expertise and training of the Investigator. The Investigator will advise participants in the investigation process of the option to have a support person present for interviews. Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within 60 calendar days of the Investigator's receipt of the Complaint. If during the course of the investigation the Investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the EDHR as soon as possible to inform them of the revised timeline.

Investigations are not adversarial processes, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.

In all investigations, the Respondent will be informed of the allegations made against them, and will be given a full opportunity to respond.

The Investigator will conduct the investigation in a procedurally fair manner, using a process determined by the Investigator.

At the completion of the investigation, the Investigator will submit a written Report to the EDHR. The Report will normally include the following information:

1. summary of the evidence considered;
2. any assessment of credibility that is required to render a determination; and
3. the Investigator's findings of fact, and a determination as to whether, on a balance of probabilities, the Policy has been violated.

### Investigation Outcomes

If the Investigator's Report determines that Discrimination, Bullying and Harassment has occurred, or that the Policy has otherwise been violated, the following will occur:

1. the EDHR will determine what disciplinary and/or other measures are appropriate based on the findings in the Report;
2. the Complainant and the Respondent will be notified of the outcome;
3. the Respondent will be notified of the option to appeal, as described below.

In addition to disciplinary outcomes, CCNM – Boucher Campus may require workshops and/or mediation for the parties or other members of the CCNM – Boucher Campus Community in the environment affected by the Complaint or investigation.

If the external Investigator's Report determines that the Policy has not been violated, the EDHR will dismiss the Complaint and so notify the Complainant and the Respondent. The Complainant will be notified of the option to appeal, as described below.

Whether or not the Investigator's Report determines that Discrimination, Bullying and Harassment has occurred, or that the Policy has otherwise been violated, if the EDHR believes that the Investigator's Report discloses other kinds of misconduct or information that the Institute may need to act on under another Institute policy or process, the EDHR may refer the Investigator's Report, or the relevant portions of the Report, to the appropriate CCNM – Boucher Campus authority. When appropriate, the EDHR will consult with the person making the Complaint before referring it elsewhere.

### Confidentiality

Confidentiality of all persons and information involved in a Disclosure or Complaint of Discrimination, Bullying and Harassment is expected.

To protect the integrity, fairness, and effectiveness of investigations and to ensure compliance with the Personal Information Protection Act (PIPA), all participants in an investigation must act in accordance with the requirements set out below.

Individuals, including the Complainant and the Respondent, who have obtained personal information about an identifiable individual through their participation in an investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

- any participants in an investigation from disclosing information about themselves, or information that they have obtained outside the investigation; or
- CCNM – Boucher Campus representatives from disclosing investigation-related information as authorized under the Policy.

CCNM – Boucher Campus will not disclose any personal information related to an investigation except to the extent such disclosure is:

- expressly authorized by the affected individual;
- to a CCNM – Boucher Campus representative, if necessary for the performance of that individual's duties;
- to a Complainant, Respondent, witness, or other participant in the investigation, if necessary for the conduct of the investigation;
- authorized by the Policy; or
- authorized or required under law.

Information may also be shared where:

- an individual is at imminent risk of self-harm;
- an individual is at imminent risk of harming another; or
- there are reasonable grounds to believe that others in the CCNM – Boucher Campus Community or the wider community may be at risk of harm.

To maintain the integrity of the investigation process, CCNM – Boucher Campus must ensure that both Complainants and Respondents know the investigation findings.

Under the PIPA, CCNM – Boucher Campus is only authorized to disclose disciplinary actions it has taken against a Respondent if the disclosure is authorized by CCNM – Boucher Campus for compelling health or safety reasons. For example, CCNM – Boucher Campus will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.

### **Retaliatory Action, Breaches of Confidentiality, and Frivolous or Vexatious Complaints**

Retaliatory Action of any kind is prohibited. This includes Retaliatory Action against a person who Discloses or files a Complaint regarding Discrimination or Bullying and Harassment, against witnesses, or against any other persons involved in the process.



Where a member of the CCNM – Boucher Campus Community is found to have engaged in Retaliatory Action, or to have breached the confidentiality requirements in the Policy, CCNM – Boucher Campus may take appropriate disciplinary action.

Where an investigation determines that a Complaint was frivolous, vexatious or vindictive in nature, CCNM – Boucher Campus may take appropriate disciplinary action.

### Appeal

A Complainant or Respondent may appeal the decision of the EDHR to the President.

The appeal must be submitted in writing within ten (10) business days of the decision being received by the Complainant/Respondent and must provide specific grounds for the appeal, describing how the Policy was incorrectly applied and/or due process was not followed.

The appeal will deal with appropriateness of process or disciplinary decisions and will not reconsider the original Complaint. However, the President has the discretion to consider new evidence that could not reasonably have been available at the time of the investigation.

The appeal may be upheld or dismissed, in whole or in part, and/or referred back to the EDHR for reconsideration.

The President will give reasons for its decision in writing.