



Policy	#2-08
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Administrator Responsible:	Associate Vice President, People, Equity & Inclusion

HUMAN RIGHTS POLICY

POLICY STATEMENT

North Island College (the College) values access and inclusion for all people in the College Community. Our community includes members who may possess personal characteristics protected by the *Human Rights Code*, RSBC 1996, c. 210. The College is committed to ensuring that all individuals can fully and freely participate in College activities, and that our community has the ability to identify and address persistent patterns of inequality associated with Discrimination.

PURPOSE STATEMENT

This policy establishes the obligations and responsibilities of all members of the College Community to respect the Human Rights of other members of the College Community, and establishes procedures for making, investigating and resolving Complaints of Discrimination on the grounds protected by the Human Rights Code (the Protected Characteristics).

SCOPE AND APPLICATION

This policy applies where:

- the person adversely affected by an alleged incident of Discrimination and/or Sexual Harassment is a member of the College Community;
- the person who is alleged to have engaged in conduct that constitutes Discrimination and/or Sexual Harassment is a member of the College Community; and
- the alleged incident(s) is directly connected to a College Activity.

Contractors, including their employers and agents, who contravene this policy are in breach of their contract with the College, and the matter will be addressed through contract law.

Volunteers and visitors to the College who contravene this policy may be prohibited from participating in College Activity or attending property owned or managed by the College.

Where a College employee is subject to a Collective Agreement, the relevant terms of that Collective Agreement will inform application of this policy. Should a provision in this policy conflict with a term in that Collective Agreement, the term in the Collective Agreement will prevail to the extent of the inconsistency. Should a Complainant initiate a grievance in respect to an alleged breach of this policy, the grievance process will be followed in lieu of a procedure pursuant to this policy.

PRINCIPLES

1. This policy and its procedures will be interpreted, administered, and applied in a fair, reasonable, unbiased, and timely manner.
2. This policy will not be employed to limit Academic Freedom; however, Academic Freedom will not protect conduct that discriminates against or sexually harasses an individual or group or be permitted to promote conduct that is disruptive to the College learning or working environment.
3. This policy will not be interpreted or applied in a manner that limits the rights and obligations of the College and its administrators to supervise, instruct and discipline employees.

DEFINITIONS

Academic Freedom	<p>Academic Freedom includes the freedom to express views, to encourage and engage in discussion, and to criticize ideas. Academic Freedom carries with it the duty to use the freedom in a manner consistent with the scholarly obligation to base research and teaching on an honest search for knowledge.</p> <p>Academic Freedom cannot be used as a defense to promote hatred of any individual or group of persons, or to defend against such unlawful activity as discrimination and sexual harassment.</p>
<i>Bona Fide</i> Occupational Requirement (BFOR)	<p>A BFOR is a standard adopted for a purpose rationally connected to performance of a job, that is adopted in an honest and good-faith belief that it was necessary to fulfill a legitimate work-related purpose and is reasonably necessary to fulfill its purpose and that cannot permit for accommodation of individuals with protected characteristics without imposing undue hardship.</p>
<i>Bona Fide</i> and Reasonable Justification	<p>Once a Complainant proves that a personal characteristic was a factor in adverse treatment regarding employment, the Respondent can defend themselves by providing that the behaviour was for a purpose or goal that is rationally connected to the function being performed, was done in good faith, and that the behaviour was reasonably necessary to accomplish a purpose or goal, such that the Complainant cannot be accommodated without undue hardship.</p>
College Community	<p>All students (applicants and registrants) and current employees of the College, as well as individuals within an active employment application process and individuals who are living in student housing who are not also students are considered part of the College Community for the purposes of this policy. Individuals who apply for employment with the College will be considered members of the College Community for the duration of time they are actively engaged in the employment application process.</p>
College Activity	<p>Any type of activity, at any time, that is operated under College control. All activities at the college campuses or centers are college-related unless they are within the exclusive control of one or more Constituency Organizations or an organization/group external to the College.</p>

Complainant	A College Community member who initiates a Complaint pursuant to this policy.
Complaint	A statement of facts alleged by a Complainant.
Constituency Organizations	Canadian Union of Public Employees (CUPE) LOCAL 3479; North Island College Faculty Association (NICFA); North Island Students' Union (NISU)
Contractors	A business or individual whose relationship with the college is defined by a contract other than a contract of employment, and all employees and/or agents of that business or individual.
Discrimination	<p>Discrimination occurs when an individual who has, or who is perceived to have, a characteristic protected by the <i>Human Rights Code</i> (a Protected Characteristic) experiences an adverse impact that has a nexus of connection with the Protected Characteristic and there is no defensible justification for the discrimination under the <i>Human Rights Code</i>.</p> <p>The existence of a <i>bona fide</i> occupational requirement or the existence of a Special Program seeking to redress historical or systemic discrimination are examples of justifiable discrimination under the <i>Human Rights Code</i>.</p>
Human Rights Code	Reference in this document to Human Rights Code are references to the British Columbia Human Rights Code , RSBC 1996, c. 210.
Policy Advisor	An appropriately trained person appointed by the Associate Vice President, People, Equity and Inclusion, or by the Director, Student Affairs, and trained to advise members of the College Community in connection with Complaints made pursuant to this policy and to facilitate informal dispute resolution procedures. The Policy Advisor may also provide information and advice about other College policies that may apply to a particular concern.
Investigator	A professionally qualified person who undertakes a formal examination of allegations made in Complaints and any associated evidence available and produces a report of their resulting findings. The report will include the investigator's findings of fact and opinion as to whether policy violations occurred.
Protected Characteristic	<p>Those personal characteristics the actual or believed existence of which cannot be the reason for an adverse impact without breaching the <i>Human Rights Code</i>, unless a reasonable justification under the Code exists.</p> <p>At the time this policy was drafted, legislated Protected Characteristics 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 of that person or class of persons.</p> <p>Should additional personal characteristics be identified as protected grounds in the <i>Human Rights Code</i> in the future, they will also be considered Protected Characteristics in this policy.</p>

Reasonable Person Standard	The reasonable person standard refers to an assessment of responsibility that takes into account not only what the Complainant and Respondent actually experienced, knew, or understood about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.
Respondent	A member of the College Community who is alleged to have breached this policy in a Complaint made pursuant to this policy.
Responsible Administrator	The Responsible Administrator in a particular case will be determined by the role within the College Community held by the Respondent.
Sexual Harassment	<p>Sexual harassment is unwelcome conduct of a sexual nature that detrimentally affects the working or learning environment or that leads to adverse learning-related or job-related consequences for the victims of the harassment.</p> <p>All allegations of sexual harassment made by a student against an employee will be considered allegations of sexualized violence and addressed through Policy 3-34, Sexualized Violence Prevention and Response Policy.</p> <p>Allegations of sexual harassment made by an employee against another employee will be assessed on a case-by-case basis to determine whether Policy 2-08, Human Rights Policy, or Policy 3-34, Sexualized Violence Prevention and Response Policy, applies. Should both policies apply, the policy and procedures set out in Policy 3-34, Sexualized Violence Prevention and Response Policy will govern the College's response.</p>
Special Program	An employment equity program that has as its objective the amelioration of conditions of disadvantaged individuals or groups who are disadvantaged because of Indigenous identity, race, colour, ancestry, place of origin, physical or mental disability, sex, sexual orientation, or gender identity or expression, or other personal characteristics protected under the Human Rights Code and achieves or is reasonably likely to achieve that objective.

GUIDELINES

1. Every member of the College Community can expect to have their human rights respected and have recourse should they experience Sexual Harassment or Discrimination on the basis of a personal characteristic protected by the *Human Rights Code*. At the time this policy was drafted, legislated Protected Characteristics 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 of that person or class of persons. Should additional personal characteristics be identified as protected grounds in the *Human Rights Code* in the future, they will also be considered Protected Characteristics in this policy.
2. Alleged violations of this policy by employees of the College will be addressed through the procedures appended to this policy, and alleged violations of this policy by students of the College will be addressed through the procedures appended to the Code of Conduct governing student conduct at the time of the alleged breach of policy unless specific procedures have been enacted for students under this policy. For individuals who are living in

student housing who are not also students, alleged violations will be addressed through the housing agreements entered into with the College.

3. No one who, in good faith, raises a concern, makes a Complaint, or provides evidence in an investigation related to a Complaint made pursuant to this policy will suffer reprisal or retaliation.
4. Frivolous, vexatious, or malicious Complaints may be considered a violation of this policy and the individual responsible for the frivolous, vexatious or malicious Complaint may be subject to disciplinary action.
5. Education and increased awareness are the keys to eliminating incidents of discrimination and sexual harassment; thus, individuals who believe that they have been subject to Discrimination or Sexual Harassment are encouraged to first inform the party responsible that the behaviours are unwelcome and inappropriate and ask that they cease.
6. However, it is recognized that in some situations personal, direct communication with the party responsible for the behaviour in question may not be appropriate. In such scenarios, a Policy Advisor may be contacted for assistance in determining appropriate next steps, up to and including the filing of a Complaint.
7. The Associate Vice President, People, Equity and Inclusion will appoint Policy Advisor(s) to assist employees who have concerns, or about whom concerns are raised, pursuant to this policy. Students who have questions about this policy may contact Student Affairs.
8. In the event of an alleged violation of this policy, the College and its administrators may take interim measures to preserve safety, morale and/or maintain operations while a situation is being resolved. Such interim measures will be precautionary, not disciplinary, and will not be construed as indicative of a finding that a breach of this policy has occurred.
9. Members of the College Community who engage in Conduct that amounts to Discrimination and/or Sexual Harassment are in breach of this policy and its procedures and are subject to sanctions.
10. Unless there exists a Special Program or a *Bona Fide Occupational Requirement*, the College will not refuse to employ or to continue to employ a person or discriminate against a person regarding employment or any term or condition of employment because of a Protected Ground or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.
11. A *bona fide* scheme based on seniority will not be considered Discrimination based on age pursuant to this policy.
12. When a College pension plan or employee insurance plan has *bona fide* operational requirements related to marital status, physical or mental disability, sex or age, those requirements will not be considered Discrimination pursuant to this policy.

LIMITATIONS

This policy and its procedures focus on Discrimination and the Protected Grounds set out in the Human Rights Code. It serves as a companion policy to the North Island College Policy 2-17 *Respectful Workplaces and Prevention of Workplace Bullying and Harassment*. Please refer to the College Respectful Workplaces and Prevention of Workplace Bullying and Harassment Policy for information about the standards and processes available to address respectful workplace and workplace bullying and harassment concerns, and to the *Protection of Employees from Violence in the Workplace*, Policy 2-10 for concerns about violence.

This policy will not apply to allegations of the Sexual Harassment of students, instead the *Sexualized Violence Prevention and Response*, Policy 3-34 will apply. Allegations of the Sexual Harassment of employees will be evaluated to determine which policy will apply, and to what extent.

ASSOCIATED DOCUMENTS

[Employee Procedures for Human Rights Policy Complaints](#)

LEGISLATIVE AND COLLECTIVE AGREEMENT REFERENCES

[College and Institute Act](#)

[Human Rights Code](#)

Collective Agreement between North Island College and CUPE Local No. 3479

Collective Agreement between North Island College and North Island College Faculty Association

LINKS TO OTHER RELATED POLICIES, DOCUMENTS AND WEBSITES

[NIC Policy 1-01 Freedom of Information and Protection of Privacy](#)

[NIC Policy 1-20 Code of Ethical Conduct](#)

[NIC Policy 2-10 Protection of Employees from Violence in the Workplace](#)

[NIC Policy 2-15 Occupational Health and Safety](#)

[NIC Policy 2-17 Respectful Workplaces and Prevention of Workplace Bullying and Harassment](#)

[NIC Policy 3-06 Community Code of Academic, Personal and Professional Conduct \(Code of Conduct\)](#)

[NIC Policy 3-17 Instructional Accommodation and Accessible Learning Services](#)

[NIC Policy 3-31 Student Complaint Resolution](#)

[NIC Policy 3-34 Sexualized Violence Prevention and Response](#)

[NIC Policy 5-03 Communicating Without Bias](#)