



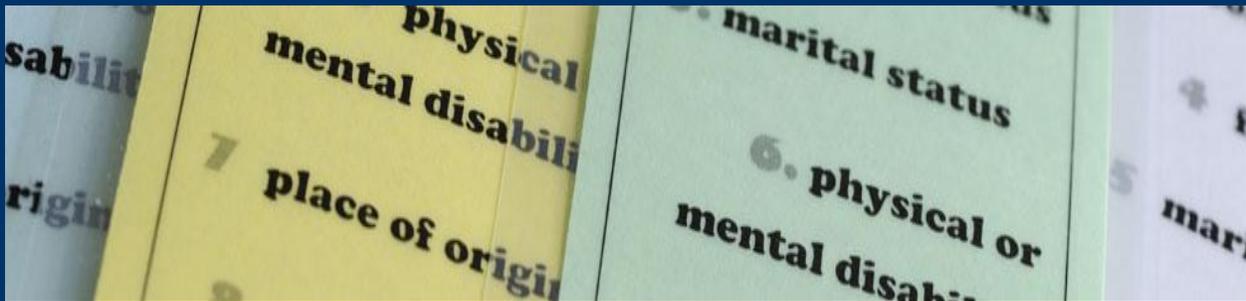
a place of mind

THE UNIVERSITY OF BRITISH COLUMBIA

EQUITY OFFICE

DISCRIMINATION & HARASSMENT REPORT 2011

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The Equity Office envisions a community in which human rights are respected and equity is embedded in all areas of academic, work and campus life. Through its leadership, vision and collaborative action, the Equity Office will further UBC's commitment to excellence, equity and mutual respect.

[Equity Office Vision Statement]

Introduction

The 2011 Discrimination and Harassment Annual Report will look different than in previous years. This is, in large part, because the UBC *Policy on Discrimination and Harassment* underwent significant revisions which were passed by the Board of Governors and took effect on September 1, 2011.

This report will document the revisions made to UBC's *Policy on Discrimination and Harassment* (Policy 3) and its accompanying procedures, data on the complaints brought to the Equity Office in 2011, reflections on how the new policy and procedures are working and reflections on where further revisions to the procedures may be necessary. Because the Policy changed during this calendar year, we will report on some of the complaint data in two parts; the eight month period (January-August 2011) in which we were operating under the old policy and the four month period (September-December 2011) in which the new policy and procedures took effect.

For more information about our offices, staffing, educational initiatives and the Policy itself, please see our websites at www.equity.ubc.ca and <http://web.ubc.ca/okanagan/equity>.

Revisions to Policy 3

UBC's *Policy on Discrimination and Harassment* (Policy 3) was initially approved in January 1995 and first revised in July 1996. With the experience gleaned from over a decade working with this policy, it was clear that further revisions were required. A revised Policy, with its accompanying procedures, needed to be more flexible, fair, transparent, streamlined and better tied to UBC's strategic plans and vision. A policy review committee and community consultations ensued and revisions to the *Policy on Discrimination and Harassment* were approved by the Board of Governors on June 8, 2011, to take effect on September 1, 2011. The educational mandate and role of the Equity Office to consult, provide information, advice and assistance and to manage University-related discrimination and harassment concerns in a fair and impartial manner under the revised Policy is better explained.

In the revised Policy, the fundamental objectives of UBC's *Policy on Discrimination and Harassment* (Policy 3) remain the same. The objectives are to prevent discrimination and harassment on grounds protected by the BC *Human Rights Code* and to provide fair procedures for handling complaints and remedying concerns when allegations of human rights based discrimination and harassment arise. (Personal harassment concerns, those that do not involve a prohibited ground of discrimination, are not included in this Policy. Instead, as has been made explicit in the revised Policy 3, these concerns are addressed under the *UBC Statement on Respectful Environment for Students, Faculty and Staff*). The Policy covers all members of the university community (students, staff and faculty) in areas pertaining to University work, studies, service provision or participation in campus life. Additionally, the Equity Office

now has the authority to initiate complaints under the procedures. In the revised Policy, definitions of discrimination, harassment and systemic discrimination are also clarified and their interpretation is better explained.

The grounds of prohibited discrimination covered in UBC's Policy 3 are the same as those in the BC *Human Rights Code*. A provision was added to UBC's revised Policy to ensure that, if further grounds are added or read into to the *Code* through case law, or other amendments are made, our policy will automatically include any additional or amended grounds. The grounds are broadly interpreted under UBC's Policy in the same manner as they would be by the BC Human Rights Tribunal. The 13 grounds of prohibited discrimination currently are:

- Age (19 and older)
- Ancestry
- Colour
- Family status
- Marital status
- Physical or mental disability
- Place of origin
- Political belief (in the context of employment only)
- Race
- Religion
- Sex (which includes sexual harassment, pregnancy and gender identity/expression)
- Sexual orientation
- Unrelated criminal conviction (in the context of employment only)

Although the Equity Office has always provided a consultation service, the revised Policy makes explicit the ability of members and non-members of the University community to consult with the Equity Office before, or instead of, addressing a concern through case management procedures. This consultation service is an essential role of our office. We offer consultations on equity issues in general or on specific allegations of discriminatory or harassing conduct that may fall under the jurisdiction of Policy 3. With the latter, consultations provide people the opportunity to talk in private about what they are experiencing, witnessing or accused of perpetrating; to understand if the concern falls under the mandate of Policy 3; and to explore a range of options and resources available to address their concerns on their own, through the Equity Office or through other on- or off-campus resources. Consultations give people the ability to get information, advice, support and referrals, including a referral to the Administrative Head of Unit, without necessarily proceeding with further action from the Equity Office. For example, a student enrolled in a class with a professor who is making inappropriate comments in the classroom may be looking to explore their options about how best to address this concern, but may be hesitant to engage in our complaint management process until their grades are final. A consultation would provide them with this opportunity, without fear of "losing control" of the process; that is, of things proceeding to a complaint management process without their consent. As the time limit for bringing forward a complaint of discrimination or harassment under the Policy is still 12 months from the date of the incident, or last incident in a series of incidents, the student would still be able to return to the Equity Office once grades were final.

The revised Policy also makes explicit the ability of Administrative Heads of Units and others acting in a supervisory capacity to consult with the Equity Office at any stage of a complaint. Equity Advisors can offer advice on preventative approaches; how to address a concern expeditiously to prevent escalation

of issues; how to ensure fair process for all parties during a complaint resolution process; tips for working with complainants and respondents; options for remedial resolution and the University's and heads' obligations under UBC's *Policy on Discrimination and Harassment*. Equity Advisors can work with Heads in a consultative capacity to co-manage a concern; help guide the complaint resolution process; facilitate or prepare for meetings with parties to a concern; avoid pitfalls and common mistakes; help find creative and effective resolution options; and to ensure the process moves in a fair and timely manner.

Administrative Heads of Units may also choose to manage concerns on their own. The Policy has always identified a primary role for Administrative Heads of Units in creating and maintaining an environment free from discrimination and harassment and they have the authority and responsibility to address such concerns. Heads are encouraged to consult with the Equity Office for any assistance they feel they may need in addressing (or preventing) concerns in their units.

A few changes to the Policy impact how the Equity Office reports on our work. While the University continues to have a high-level equity committee (the Provost's Advisory Committee on Equity and Diversity), the requirement for the President's Advisory Committee on Equity, Discrimination and Harassment has been removed from the Policy. Similarly, although we will continue to create reports such as this on activity generated under this Policy, the requirement to "annually publish, in UBC Reports, statistical and summary reports on the number, type and outcomes of complaints, educational activities of the Equity Office and an evaluation of the Policy and procedures" has been removed from the revised Policy 3.

Procedural Changes

Although the responsibility to manage complaints of discrimination and harassment is shared by Administrative Heads of Unit and UBC's Equity Office (with offices at both UBC Vancouver and UBC Okanagan), significant changes were made to the procedures in the revised Policy. These procedures now apply only to those concerns brought to the Equity Office. Administrative Heads are instructed to deal with concerns brought to their attention in accordance with the usual practices and policies of the University. However, often Administrative Heads of Units work in conjunction with our office to address and remedy concerns.

The procedures ensure an impartial, procedurally fair process for all involved in a concern related to matters of discrimination or harassment pertaining to University work, studies or participation in life on campus. As a result of the policy revision process, the informal and formal processes attached to the previous Policy have been removed and instead have been replaced by a consultation process and a more robust, streamlined, flexible complaint management process. Consultations, while always there in practice, have expressly been added to the procedures. The ability to consult before or instead of making a complaint allows individuals to explore their options with an Equity Advisor before they decide how or if to proceed with a complaint. It also allows people to consult anonymously. While anonymous concerns and those brought to the Equity Office in a consultation-only capacity will not be further investigated, acted upon or independently substantiated, in rare, serious and exceptional circumstances, the AVP Equity now has the ability to initiate a complaint based on information provided anonymously or information that has been shared with the Equity Office. The AVP Equity may also initiate a complaint concerning systemic issues.

The complaint management procedures in the revised Policy allow for greater flexibility and a greater range of options from which Equity Advisors can choose. The complaint procedures are no longer divided into informal and formal procedures, but instead have one complaint management process with a number of available options based on the nature and complexity of the situation. For example, whereas earlier versions of the Policy allowed for external investigation only at the formal stage, the revised procedures, grounded in principles of procedural fairness, now allow for both internal and external investigations and mediation, as well as a range of fact-finding, consultation and information gathering options. These procedures and the advice and assistance provided within, are balanced and fair in their remedial purpose.

The factors considered in the assessment of whether this Policy applies to a concern are better explained in the revised procedures. These include whether the named individual(s) or department(s) are part of the UBC community, whether the concern happened within the UBC context, whether a prohibited ground of discrimination has been cited, what is the adverse effect or negative impact and whether the concern has been raised within 12 month time limit established by the Policy.

While the former versions of this Policy limited its scope to current UBC students, staff and faculty engaged in a university-sanctioned activity, program or event, this scope has been broadened in the revised version. Of course, current students, staff and faculty and concerns that arise within the UBC context are still covered by the Policy, but the new version also provides the AVP Equity with discretion to allow non-members of the University community who are directly affected by the comment or conduct that forms the basis for a complaint of discrimination or harassment to access these complaint procedures and lodge a complaint against any member of the university community or the university itself. Non-members of the UBC community may include former students, staff and faculty, applicants for work or study, contractors and visitors.

Complaints made to the Equity Office must now be made in writing in order to initiate the complaint management procedure. This requirement may be waived or deferred in exceptional circumstance at the discretion of the AVP Equity. The written complaint will be shared with the respondent and the applicable Administrative Head of Unit. A written complaint not only ensures that permission to proceed under the complaint management procedure has been given, but it also outlines the nature of the alleged conduct or comment that forms the basis of the complaint and the impact of this on the individual or group. All parties to a concern are given a full opportunity to present and respond to complaints made under this Policy. Individuals are encouraged to consult with the Equity Office when they make or respond to a written complaint.

The Equity Office has the authority to make findings and recommendations related to discrimination or harassment concerns brought to our offices. The Equity Office will communicate in writing any resolution or recommendations made under these procedures to the appropriate Administrative Head of Unit, as well as reasons and a finding of whether or not there has been a violation of this Policy, where appropriate. As with former versions of the Policy, disciplinary measures fall under the authority of the Administrative Head of Unit receiving the communication. The Administrative Head of Unit will also provide a written report of any measures taken to the AVP Equity, the appropriate Dean and/or Head and the complainant and respondent.

Discrimination and Harassment Complaints in 2011

The following data pertains only to concerns brought to the attention of the Equity Office. Concerns brought directly to an Administrative Head of Unit or managed elsewhere in the University without assistance from the Equity Office are not reflected in this annual report.

In the first eight months of 2011 (under the old Policy 3), 83 concerns were brought to the Equity Offices on both campuses. Of these, 57 involved human rights related allegations and 26 involved allegations in which no human rights based element was cited. After the new Policy 3 took effect on September 1, 2011, we had an additional 49 concerns brought to the office by the end of the calendar year. Twenty-one of these concerns involved a human rights based element and 28 did not. Thus, although we are reporting the data separately for the time periods in which the old and revised Policy were in effect, when combined, 132 concerns were brought to both Equity Offices in 2011; 78 with a human rights based element and 54 without.

These figures are much higher than numbers from recent years¹. For example, in 2010, we received 105 concerns on both campuses (75 with a human rights related element and 30 without). Perhaps the publicity around the policy revision process, in addition to the educational outreach work of our office, helped increase awareness of our services.

Table 1
Total Concerns brought to the Equity Office in 2011 (N=132)

	2011		
	January to August	September - December	Total
Non Human Rights Related	26	28	54
Human Rights Related	57	21	78
TOTAL	83	49	132

Non human rights related concerns are those that do not involve any prohibited grounds of discrimination or harassment, as defined by law. Instead the concerns may involve interpersonal conflict, bullying or personal harassment, service-related complaints, perceived violations of employment contracts, concerns about administrative or educational fairness, disruptive behaviour, issues of campus and personal safety and/or concerns in which an Equity Advisor has not been given enough information about the specific nature of a concern to assess whether or not it could be human rights related. As non human rights related concerns do not fall under the mandate of the *Policy on Discrimination and Harassment*, we do not see these concerns through to resolution. However, we do try to provide the parties who have approached the Equity Office with information and guidance to help them find resolution to their concern through referrals to other departments or non-university agencies and/or information about other university policies. We may also work with other university

¹ For 2010 and earlier data for both campuses, please see the Reports section on our website, www.equity.ubc.ca. Additionally, further charts depicting statistics from the January-August 2011 period that are not expanded upon in this annual report can be found on the website.

departments to create plans or offer tips on safety-related issues. The most common non human rights related concerns that come to our offices involve interpersonal conflict, university policies such as Non-Academic Misconduct under the *Student Code of Conduct*, union or employee association grievances and personal harassment concerns encompassed by the *UBC Statement on Respectful Environment for Students, Faculty and Staff*.

As mentioned above, we are reporting data from 2011 in two parts, the eight months (January-August 2011) in which we were operating under the old policy and the four month period (September-December 2011) in which the new policy and procedures took effect. However, due to the small sample size of the Sept-Dec 2011 human rights related data (21 allegations in this period had a human rights based element), we cannot provide the same level of detail for the latter part of the year as we can for the part of the year when the previous policy and procedures were still in place. The data from this latter period will be included in next year’s report and can be more fully explored then.

Discrimination and Harassment Complaints (January 1- August 31, 2011)

Table 2 provides a broad look at the human rights related concerns that were brought to the Equity Office in January-August 2011. Under the former Policy and procedures, human rights related concerns were approached in one of three ways; as a consultation from a third party (someone not directly involved as a party to the concern); as a consultation from a person directly involved in the concern (direct consultation); and as a case from parties directly involved or from Administrative Heads of Units where permission to proceed with an informal or formal case management process has been granted. Of course, sometimes a concern which started as a consultation turns into a case, or vice versa. The data in this report reflects not in which stream (consultation or case) a concern started, but where it concluded.

An increase in consultations has been a common trend in the Equity Office for several years and this was further pronounced in the first eight months of 2011. The complexity of the consultations has also increased. We are finding that more Administrative Heads are consulting with us when they first hear of a concern. This allows us to work to address and resolve a concern before it escalates into a more difficult situation. A remedial approach at this early stage has proven successful at repairing relationships between the parties (or unit) before parties become polarized. For years it has been the view of the Equity Office that early prevention, and when possible and applicable, an approach that finds local solutions to local concerns, is the best way to address and resolve issues.

**Table 2
Human Rights Related Concerns by Type of File, January – August 2011 (N=57)**

Type of File	
Third Party Consultation	9
Direct Consultation	34
Case	14
TOTAL	57

People may consult with us for a variety of reasons, as earlier explained in this report. Third party consultations or direct consultations may involve allegations which are premature in nature or are outside the jurisdiction of the Policy because they involve non-UBC parties or contexts, or are outside the twelve month time limit for making a complaint. They may also involve concerns which would otherwise fall under the Policy but for which the complainant has not given us *permission to proceed*² with case management procedures. Consultations may involve people who are looking for advice or assistance in managing a concern on their own or in advocating for someone else. People who are directly impacted by discrimination and harassment may also want to get a better sense of what to expect in a case management process before they make the decision to pursue that path or not. Consultations can also be preventative in scope. For example, these may include issues in which someone would likely face a barrier to service or a harassing situation in the future, were a timely accommodation not made or other preventative steps not taken. Assistance in getting the required accommodation or in removing or overcoming this barrier before a denial of access or harassing comment or conduct has been made may result from the consultation.

Lastly, as previously mentioned, Administrative Heads of Units (or others in a supervisory capacity) often call the Equity Office for advice on how to address a situation in their unit. When no direct intervention is required from our office, as the Administrative Head of Unit is prepared to handle the concern directly, this is also counted as a third party consultation. Although a direct or third party consultation does not proceed through the case management procedures provided for in the policy, assistance given at this stage may range from a single meeting up to months of time and effort on the part of the Equity Office. We welcome consultations from all members of the UBC community.

Those who are concerned that they may have transgressed the Policy are welcome to consult with an Equity Advisor. However, it tends to mainly be Administrative Heads, potential complainants, those acting on another person's behalf and persons who were not covered by the former policy (i.e., non-UBC community members or non-UBC contexts) who consult with the Equity Office most often. When a complaint becomes a case in the Equity Office, the informal or formal process (under the previous policy) is initiated and both complainants and respondents are engaged in the process. Equity Advisors play an impartial role; that is, they do not advocate for either party. All parties to a complaint are given the opportunity to share their concerns and to respond to the allegations raised by the other party.

² *Why do we need permission to proceed with a case?* The UBC Policy on Discrimination and Harassment, in keeping with the BC Human Rights Code, is a complaint-driven process. Under the previous policy, unless the concern was of such a serious nature that it posed a substantial threat to an individual, group or to the University (for example, serious allegations involving sexual or physical violence, or threats thereof), the Equity Office could not proceed with a case without permission from the complainant to do so. This allowed persons who had concerns about harassment to approach the Equity Office in confidence to discuss their concern and explore available options before they decided whether or not they wished to initiate procedures under Policy 3.

Concerns brought to the Equity Office must engage one or more of the prohibited grounds of discrimination listed in the introduction to this report (under Revisions to Policy 3) to be considered human rights related. Table 3 displays the grounds of prohibited discrimination alleged in the human rights based consultations and cases brought to the Equity Office in 2011. The total number of grounds is greater than the total number of human rights based concerns because some of these concerns allege a single ground, while others include multiple or intersectional grounds within a single concern.

Table 3
Alleged Grounds of Prohibited Discrimination, January-August 2011 (N=57)

GROUNDS	
Age	2
Ancestry	3
Colour	3
Family Status	7
Marital Status	0
Physical or Mental Disability	21
Place of Origin	3
Political Belief	0
Race	7
Religion	4
Sex/Gender	28
Sexual Orientation	6
Unrelated Criminal Conviction	0
TOTAL	84

Note: Some concerns cite more than one ground thus the total number of grounds cited (N=84) exceeds the total number of human rights related concerns brought to the Equity Office (N=57)

As with previous years, concerns which include a sex/gender allegation are most frequently reported to the Equity Office on both campuses. This is followed by concerns related to physical or mental disability, race and sexual orientation. However from January-August, we also saw a higher than usual number of concerns on the grounds of family status (equal to the number of race-based concerns). Interpersonal behaviours were alleged in 43 of the 57 human rights related direct consultations and cases (excluding third party consultations). Table 4 offers a description of the alleged behaviours. Some of these concerns involved a single type of behaviour, where others involved two or more behaviours, and thus the total number of behaviours exceeds the number of human rights related files included on this chart. Consistent with data from previous years, unwelcome verbal behaviour (insults, slurs, inappropriate jokes or innuendo) was cited most often on both campuses. Allegations of biased employment and academic decisions were also often cited.

Table 4**Behavioural Descriptions of Human Rights Concerns – Interpersonal, January-August 2011 (n=43)**

Behavioural Descriptions	
Unwelcome Verbal Behaviour	17
Unwelcome written or Visual Behaviour	6
Unwelcome Physical Attention	4
Stalking	3
Threats	0
Assault	1
Retaliation	3
Biased Academic Decisions	12
Biased Employment Decisions	15
Exclusion or Denial of Access	2
Fear of future behaviour	3
Total	66

Total number of concerns (including cases and consultations citing multiple concerns)

From January-August 2011, 14 of the 57 human rights related concerns alleged systemic barriers. Systemic barriers generally fall into three categories: policies and practices, curriculum and environment.

Systemic barriers in policies and practices may involve concerns about ways of doing things that intentionally or unintentionally create a barrier for people on one of more grounds of prohibited discrimination. For example, using forced choice (male/female) gender options on forms that do not allow for non-binary gender options is a systemic barrier to gender variant people in policies and practices. Asking for “mother’s and father’s names” on enrolment or financial aid documents would also be a systemic barrier as it denies the reality of same sex headed families and single parent headed families.

Systemic barriers in curriculum include concerns about barriers to/in pedagogy, course content, course work, courses of study; an omission, misrepresentation or suppression of avenues of scholarly inquiry that are related to human rights related grounds could constitute such a barrier. For example, a concern that the approach to teaching the history of a country excludes the contributions of immigrants and indigenous persons could be a concern of systemic discrimination in curriculum.

Systemic environmental barriers include concerns about aspects of the built, social or psychological environment, including physical, communication or attitudinal barriers. For example, holding a lecture in a room that is not wheelchair accessible or having an accessible washroom with a doorway that is not wide enough for most power wheelchairs would be environmental barriers.

Table 5 shows the behavioural descriptions of these systemic concerns. Environmental barriers were most often cited, followed by systemic concerns with UBC or departmental policies and practices.

Table 5
Behavioural Descriptions of Human Rights Concerns – Systemic, January-August 2011 (n=14)

Behavioural Descriptions	
Policies and Practices	5
Curriculum	1
Environment	8
Total	14

Table 6 outlines the outcome of the 14 cases that proceeded through the informal process of the previous policy from January-August 2011. As previously noted, the majority of cases proceed in the informal process and this year was no exception, with all 14 cases involving this process. A number of third party consultations may also have proceeded as cases under the *Policy on Discrimination and Harassment* but were handled by the Administrative Heads of Units so are not included in the data generated for this report. The number of cases that proceeded to the informal process rose this year from 11 in 2010 to 14 in the first 8 months of 2011. As mentioned earlier, perhaps the increased publicity around the Policy 3 revision consultation process as well as the outreach and educational work of the Equity Office and the launch of the Equity and Diversity Strategic Plan for the University in January 2011 all worked to raise awareness of the consultation and case management services that the Equity Office offers.

Table 6
Outcome of cases, January-August 2011 (n=14)

Outcome of Cases	
Informal Process: Resolved	11
Informal Process: Abandoned by Complainant	1
Informal Process: Ongoing	2
Total	14

DISCRIMINATION AND HARASSMENT COMPLAINTS (September 1- December 31, 2011)

Due to the small sample size in this period, we cannot provide the same level of detail in this section of the report as in the previous section. However, we will include data from this period in the 2012 annual report where we will more fully explore 16 months of data instead of the usual 12 months. Again, as the revised procedures apply only to concerns brought to the Equity Office, concerns addressed solely by Administrative Heads of Unit (who share responsibility for maintaining an environment free of discrimination and harassment and for managing concerns when they do arise) are not included in the data for this report.

From September-December 2011, 49 concerns were brought to the Equity Offices on both campuses. Of these 49 concerns, 28 concerns did not involve a human rights related element. That is, they did not invoke one or more of the 13 grounds of prohibited discrimination and are not under the mandate of UBC's *Policy on Discrimination and Harassment* or the jurisdiction of our office. Rather, they involved concerns of interpersonal conflict, bullying or personal harassment, personal or campus safety concerns, service-related concerns and concerns about administrative, employment or academic fairness. We do our best to hear people's concerns, to provide them with information and assistance and to direct them to more appropriate resources on or off campus to have their concerns resolved. We may also work with other university departments to help parties navigate the university system or to address safety related issues. Many of these concerns involve issues which fall under the mandate of the *UBC Statement on Respectful Environment for Students, Faculty and Staff*, other university policies such as *Response to At-Risk Behaviour*, the *Student Code of Conduct* or union or employee association grievance processes.

Of the 49 total concerns in this time period, 21 human rights related concerns that fell under the mandate of the revised *Policy on Discrimination and Harassment* were brought to the Equity Office. Of these 21 human rights related concerns, 19 involved allegations of harassing interpersonal behaviour and 2 concerns alleged systemic discrimination. The concerns most often cited of the interpersonal concerns, included unwelcome verbal behaviours, biased academic decisions and biased employment decisions. The systemic concerns involved allegations of a UBC procedure that had an adverse impact on persons with disabilities and a physical access/environment issue.

As mentioned in the previous sections, consultations are an important part of the service that the Equity Office provides to all members of the university community (among others). Starting in the consultation stage, Equity Advisors learn of the nature and context of the discrimination and harassment concern and work with all of the parties to determine the fuller scope of the concern. Once the Equity Advisor has ascertained that the allegation, if true, falls under the scope of UBC's *Policy on Discrimination and Harassment*, we identify ways in which the concern could be best addressed. Factors considered in this assessment include whether the named individual(s) or department(s) are part of the UBC community, whether the concern happened within the UBC context, whether the concern involves a prohibited ground of discrimination, the adverse effect of the behaviour on the individual(s) or group and whether the concern has been raised within the time limit established by the Policy. All 21 human rights related concerns from September-December 2011 began in a consultation and 17 of these proceeded to a stage where an Equity Advisor assisted in resolving the concern. (Four concerns did not proceed past the consultation stage because the complainant did not wish to proceed or because the complaint was proceeding in a different process.) Following similar trends to the previous 8 months and to years prior, sex/gender (43%), disability (38%) and place of origin (19%) were the grounds most often cited in concerns raised from September-December 2011.

As discussed further in the Reflections section below, much of the work that Equity Advisors do to resolve human rights related concerns occurs after the consultation stage but before a written complaint launches the complaint management process found in the *Procedures to Policy 3*. In between a consultation and a written complaint, we engage in a voluntary "facilitated resolution process".

Much of our work with the facilitated resolution process focusses on finding timely approaches to address concerns. We utilize voluntary, problem-solving approaches which can lead to a consensual outcome for concerns where a more formal investigation and determination or finding of fact is not required to address and resolve the concern or repair the situation. In order to resolve concerns

effectively within a facilitated resolution process, we work with the parties and Administrative Heads of Units to facilitate a shared understanding of the perspectives of all those involved in a concern. We clarify roles and expectations for behaviour under Policy 3. We may engage in shuttle mediation between the parties and/or between an individual and their department, provide customized training and workshops, communicate with parties about expectations for future conduct and consult with or provide advice to the Administrative Heads of Units and their designates to resolve the concern. When concerns also include issues outside the Discrimination and Harassment Policy mandate (such as personal harassment or performance issues, for example), this approach also allows better collaboration with other individuals and units to address the whole concern. This process allows us to use many of the same tools as are found in the complaint management procedures to offer a range of options, address varying levels of complexity and provide education and coaching on rights and responsibilities under the *Discrimination and Harassment Policy*. If these options do not work, or are not appropriate to attempt, given the nature of the particular allegation, the written complaint may then be pursued.

Sixteen of the 17 human right related concerns that proceeded beyond a consultation were resolved and/or closed through a facilitated resolution during the September-December 2011 time period and one complaint moved to the BC Human Rights Tribunal. None of these concerns involved a written complaint under UBC's *Policy on Discrimination and Harassment* as we determined that, in these particular cases, the written complaint would not help achieve a resolution and, in many of these cases, it may even hinder that process. Written complaints require more time to initiate proceedings and can elevate the proceedings to a more adversarial and less cooperative, solution-focused tone.

Had the facilitated resolution process not worked or not been appropriate to the circumstances of the allegation, a written complaint could have been sought before proceeding further into a complaint management process. Written complaints may be more appropriate with concerns that are very serious in nature, that are deeply rooted within a department or unit, that are more complex, where a consensual outcome cannot be reached or where the party or parties to a complaint want a complaint in writing, a determination of whether or not harassment occurred and/or a written report outlining the nature of the resolution from the Equity Office.

When a written complaint is accepted, options for complaint management in the *Procedures* to the Policy include referring the concern in whole or part to the applicable Administrative Head of Unit or handling the concern under the Policy's complaint management procedures. Complaints may also be dismissed at this stage.

REFLECTIONS ON THE REVISED POLICY AND PROCEDURES

Facilitated Resolution Process

In working with the new policy and procedures, we have found that the revised Policy has improved in scope, flexibility, transparency and fairness. It allows for greater collaboration between units and increased education of all the parties as to their rights and responsibilities. We are more focused on problem solving. However, the procedures, while more streamlined on paper, still require some modifications in practice to be more flexible and most effective in fulfilling the goals of the Policy; that is, in preventing and resolving concerns of discrimination and harassment in a fair and impartial manner. As we met with parties, we quickly realized that there was a gap between the consultation stage and the formal written complaint stage where opportunities existed to resolve concerns using a variety of mediation or fact-finding approaches, but without a formal investigation or determination of whether or not discrimination or harassment had occurred. Equity Advisors (along with Administrative Heads of Units and parties to the concerns) saw the benefit to all parties to be able to resolve concerns in a manner that was more flexible and less adversarial than that laid out in the new procedures, but also one to which procedural fairness and due process was adhered. There existed options for Equity Advisors to apply their own experience and knowledge to determine the best path to address the concern and to consensually effect a resolution.

At the discretion of the Equity Office and AVP Equity, and with the consent of all parties, a facilitated resolution process was developing as a place from which to work more proactively and with less formality to resolve a concern. This stage was ideal for concerns which required action on the part of an Equity Advisor to resolve the concern, but did not need the more investigative and potentially adversarial approach of a written complaint. The phase which began to emerge is a consent-driven process, one that we engaged in when parties gave us permission to try and resolve the concern before, or instead of, engaging in the more formalized process. At this stage, there were no formal findings of fact or full investigation. However, there was far more active involvement on the part of an Equity Advisor than at the consultation stage.

There are situations in which a facilitated resolution process may not be helpful, however. For example, in circumstances where there exists a long standing and complex situation with many people involved; when a determination of whether or not discrimination or harassment happened is required; or when facilitated attempts to resolve the concern have not worked; then the next stage, the written complaint, should be attempted. In some cases, a facilitated resolution process will not require a respondent's participation. However, a respondent must not face adverse consequences without their participation. If the parties do not consent to a facilitated resolution process, the written complaint option, as it currently exists in the procedures, is another avenue that may be open.

We have identified a need for revisions to the procedures to incorporate this important facilitated resolution process in which much of the resolution work this year has been focused. We are moving forward to address the need for revisions. As a first step, we will consult with the Provost's Advisory Committee on Equity and Diversity to discuss proposed revisions to the procedures.

RESOURCES: EQUITY AND RELATED POLICIES AND STATEMENTS

[Employment Equity Policy # 2](#) (PDF)

[Discrimination & Harassment Policy # 3](#) (PDF)

[Response to At-Risk Behaviour Policy # 14](#) (PDF)

[Advertising of Position Vacancies Policy # 20](#) (PDF)

[Religious Holidays Policy # 65](#) (PDF)

[Accommodation of Students with Disabilities Policy # 73](#) (PDF)

[UBC Statement on Respectful Environment for Students, Faculty and Staff](#)

[Student Code of Conduct](#) (includes academic and non-academic misconduct)

[Duty To Accommodate](#)³

³ The Duty to Accommodate is a legal obligation to meaningfully incorporate diversity into the workforce by identifying and removing barriers and eliminating or changing policies and practices, rules and behaviours that adversely impact people based on a prohibited ground of discrimination. The employer must provide accommodation, or provide alternate arrangements to eliminate the discriminatory barrier, unless it would be an undue hardship on the employer to do so, based on factors such as health, safety or cost. The duty to accommodate is a responsibility shared by the employee, employer and union or professional association. Although usually referenced in regard to disability, the duty to accommodate applies to all human rights related prohibited grounds of discrimination. Service providers have a similar duty to accommodate. For more information on the duty to accommodate, see *Creating a Respectful and Inclusive Workforce for Employers with Disabilities* by following the link above.



a place of mind

THE UNIVERSITY OF BRITISH COLUMBIA

Equity Office, Vancouver Campus

2306 Brock Hall, 1874 East Mall

Vancouver, B.C. V6T 1Z1

T 604.822.6353

F 604.822.3260

equity@equity.ubc.ca

www.equity.ubc.ca

Equity Office, Okanagan Campus

FIPKE 302, 3333 University Way

Kelowna, B.C. V1V 1V7

T 250.807.9291/1.866.596.0767

equity.ubco@ubc.ca

www.ubc.ca/okanagan/equity