

Policy	Approving Body Responsibility of	Board of Governors President
Subject: Human Rights Policy		

1. INTRODUCTION

- 1.1 Quest University Canada (“Quest”) is an academic community dedicated to the search for knowledge through teaching, research, and service. As such, Quest has a profound commitment to every person’s value, dignity, and potential. Quest believes that the fullest possible achievement of each person’s value, dignity, and potential is produced by and in an environment which recognizes and supports every person’s human identity and dignity. To further this belief, Quest is committed to providing a place of work and learning which is at all times free from discrimination, harassment, and abuse as they are defined in this Human Rights Policy (“Policy”).
- 1.2 Every student at, employee of, internal contractor with, volunteer, including a member of the Board of Governors (“Board”), with, and visitor to Quest (collectively: “Quest Community”) and every external contractor with Quest has and is expected and required to recognize in others the right to be free from all forms of discrimination (“Discrimination”), harassment (“Harassment”), and abuse (“Abuse”) which are prohibited from time to time by British Columbia’s *Human Rights Code* (“Code”), the *Criminal Code of Canada*, the *Workers’ Compensation Legislation*, and this Policy in connection with her/his participation in the activities of the Quest Community.
- 1.3 For the purposes of a Complaint made under, and except as otherwise expressly stated in, this Policy:
- a. an internal contractor will have the same status as an employee;
 - b. a volunteer, other than a member of the Board, will have the same status as an employee;
 - c. a member of the Board will have the same status as the President; and
 - d. external contractors will be dealt with under section 3.3 of this Policy.

1.4 A Member or an external contractor who thinks that her/his rights under this Policy have been breached may file a complaint (“Complaint”) using the applicable procedures established under this Policy.

2. PROHIBITED CONDUCT

2.1. Discrimination

2.1.1. Every Member and every external contractor is prohibited from engaging in Discrimination in her/his dealings with a Member.

2.1.2. In particular but without limitation, Quest prohibits Discrimination:

- a. without a bona fide and reasonable justification, in connection with the provision of any accommodation, service or facility that it offers on the basis of a person’s race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, or age; and
- b. in connection with a person’s employment, on the basis of a person’s race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity, gender expression, age, or because that person has been convicted of a criminal or summary conviction offence that is unrelated to her/his employment or intended employment.

2.2. Harassment

Discriminatory Harassment

2.2.1. Every Member and every external contractor is prohibited from engaging in discriminatory harassment (“Discriminatory Harassment”) in her/his dealings with a Member.

2.2.2. For the purposes of this Policy, Discriminatory Harassment is conduct, including a communication, by a Member or an external contractor towards a Member which:

- a. includes, whether directly or indirectly, reference to a prohibited ground of Discrimination;
- b. serves no legitimate social or operational purpose at Quest; and
- c. negatively affects the participation in the normal activities of the Quest Community of the Member towards whom the conduct has been directed, always provided that she/he is reacting to the conduct as would a reasonable person in her/his circumstances.

2.2.3. Conduct does not need to constitute Discrimination in order to constitute Discriminatory Harassment.

Personal Harassment

2.2.4. Every Member and every external contractor is prohibited from engaging in personal harassment (“Personal Harassment”) in her/his dealings with a Member.

2.2.5. For the purposes of this Policy, Personal Harassment is conduct, including a communication, by a Member or an external contractor towards another Member which:

- a. serves no legitimate purpose; and
- b. would be considered by a reasonable person in the position of the Member experiencing the conduct to create a hostile work or learning environment.

2.3. **Abuse**

Physical Abuse

2.3.1. Every Member and every external contractor is prohibited from engaging in physical abuse in her/his dealings with a Member.

2.3.2. For the purposes of this Policy, Physical Abuse is defined as the use of intentional force that can result in physical harm or injury to an individual.

Verbal Abuse

2.3.3. Every Member and every external contractor is prohibited from engaging in verbal abuse in their dealings with a Member.

2.3.4. For the purposes of this Policy, Verbal Abuse is defined as communication meant to put-down and belittle another Member. Examples of verbal abuse include, but are not limited to:

- a. Name calling;
- b. Humiliating remarks;
- c. Swearing at; and:
- d. Yelling at.

Emotional Abuse

2.3.5. Every Member and every external contractor is prohibited from engaging in emotional abuse in their dealings with a Member.

2.3.6. For the purposes of this Policy, Emotional Abuse is an umbrella term that encompasses a range of behaviours or communications that chronically attack an individual’s self-esteem. Examples of emotional abuse include, but are not limited to:

- a. Threats;
- b. Ongoing ridicule;
- c. Isolation; and
- d. Intimidation.

2.4 **Relationships with Subordinate Staff or Students**

- 2.4.1. All Members are strongly cautioned about the significant risks which are inherent in the formation of intimate or sexual relationships between employees (whether faculty or staff) and either their subordinate employees or students. Both subordinate employees and students are subject to inappropriate or improper influences in such relationships because of the relative differences in status and power that exist between the parties to such a relationship. Quest therefore actively discourages the formation of such relationships.
- 2.4.2. However, if such a relationship does form, it must be reported to, in the case of faculty, including the President, the Chief Academic Officer, and, in the case of all other employees, their Supervisor(s). If either the Chief Academic Officer or the Supervisor is a party to the relationship which must be reported, then she/he must report the relationship to the President. A person receiving such a report must then take all reasonably necessary measures to ensure that any actual or perceived conflicts of interest arising from the relationship are addressed. Such measures may also include measures designed to mitigate the differences in power and status that exist between the parties to the relationship.
- 2.4.3. When the either Chief Academic Officer or a Supervisor, as the case may be, receives a report of a relationship that involves a student, she/he must determine whether the circumstances disclosed in the report make it appropriate to notify the DS about the relationship. The most important consideration in making this Determination will be the role the person making the report plays in the life of the student at Quest, with a particular focus on the person's degree of influence over and the relative vulnerability of the student. If either the Chief Academic Officer or Supervisor, as the case may be, determines that she/he should notify the DS, she/he should provide the notification at the first reasonable opportunity,
- 2.4.4. Should a student or subordinate staff member file a Complaint about such a relationship, the Member who is the subject of the Complaint will have the burden of proving that her/his conduct in the relationship did not constitute a form of Discrimination or Harassment or both, as the case may be.

3. **COMPLAINT PROCEDURES**

- 3.1. Except as is otherwise stated in this Policy, a Member ("Complainant") who wishes to make a Complaint against another Member ("Respondent") may use either or both of the informal and formal complaint procedures set out below.
- 3.2. **Responsible Officers, Supervisors, and Report Recipients**

3.2.1. For the purposes of this Policy, the Responsible Officers (“RO”) are:

- a. if both the Complainant and the Respondent are students: the Dean of Students (“DS”);
- b. if the Complainant is a student and the Respondent is an employee: the DS for Informal Complaints, and the Director of Human Resources (“DHR”) for Formal Complaints;
- c. if the Complainant is an employee and the Respondent is a student, the DS for Informal Complaints, and the DHR for Formal Complaints;
- d. if both the Complainant and the Respondent are employees: the DHR;
- e. if the Complaint is made against the DS, the DHR, or a Supervisor, the President must appoint the RO taking into account the identity of the Respondent and the nature of and factual allegations made in the Complaint;
- f. if the Complaint is made against the President, the Chair of the Board must appoint the RO taking into account the identity of the Respondent and the nature of and factual allegations made in the Complaint;
- g. if the Complaint is made against a member, including the Chair, of the Board, the President must appoint the RO taking into account the identity of the Respondent and the nature of and factual allegations made in the Complaint; and
- h. if the parties to the Complaint are the President and the Chair of the Board, the Chief Academic Officer must appoint the RO taking into account the identities of the Complainant and the Respondent and the nature of and factual allegations made in the Complaint.
- i. if any RO are vacant the RO will be President and the Chair of the Board

3.2.2. In a case in which both parties to a Complaint are students, the RO may request such assistance as she/he thinks necessary from any of the DHR and Quest’s executive employees other than an executive employee who may subsequently be required to make a decision about the Complaint. In any other case, the RO may ask for assistance in managing the Complaint from the Complainant’s and Respondent’s Supervisors. Where such assistance is requested, the person receiving the request must provide such assistance as is reasonable and appropriate in the circumstances.

3.3. Complaints involving External Contractors

3.3.1. Where either the Complainant or the Respondent is an external contractor with

Quest, the application of this Policy may be problematic because Quest’s means of control over an external contractor will normally be wholly or primarily economic. In

addition, some external contractors may be engaged in highly sensitive or confidential work for Quest which could or would be inappropriately disclosed through use of the complaint procedures set out in this Policy.

- 3.3.2. For these reasons, if a Complaint is made by or against an external contractor, it must be submitted in writing to the President of Quest (“President”) who must designate an appropriate Supervisor to be responsible for the management of the Complaint. Once appointed, the Supervisor must either act as the investigator or appoint an external investigator to investigate the Complaint.
- 3.3.3. If the President is the subject of the Complaint, the Chief Academic Officer will discharge the President’s responsibilities under this section of the Policy and she/he must appoint an external investigator to investigate the Complaint.
- 3.3.4. The investigator must undertake an investigation appropriate to the events described in the Complaint and prepare and submit to the President a final report in writing. The purpose of the investigation will be to make findings about what occurred and to recommend what, if any, remedial measures should be implemented given the investigator’s findings. The President or, if the President is the subject of the Complaint, the Chair of the Board, must then determine which, if any, of the recommended remedial measures should be implemented.
- 3.3.5. The Complainant and the Respondent must be provided with a summary of the investigator’s findings and recommendations and informed which, if any, of the recommendations have been accepted by the President or, as the case may be, the Chair of the Board.
- 3.3.6. Both the Complainant and the Respondent have the right to appeal the investigator’s findings and the President’s or, as the case may be, the Chair of the Board’s, decision about which, if any, of the investigator’s recommendations to accept.
- 3.3.7. An appeal must be conducted using the appeal procedures set out in section 3.7 of this Policy. The Chair of the Board will be the Appeal Officer (“AO”) except in the case of a Complaint made by or against the President. In such a case, the Board must designate another of its members to be the AO.

3.4. **Informal Complaints**

- 3.4.1. The informal procedure (“Informal Procedure”) is intended to provide, in appropriate circumstances, a consensus-based approach to resolving Complaints.
- 3.4.2. The Informal Procedure must be used to address:
 - a. a Complainant’s election to use the Informal Procedure; or
 - b. a Complaint based on factual allegations that, if true, would constitute a minor breach of this Policy unless the Respondent has previously been the subject of a Complaint in which case the RO must review the Respondent’s record under this Policy and then make a determination whether it is appropriate to use the

Informal Procedure; or

c. a Complaint in which either the Complainant or the Respondent is a student where the potential benefits of using the Informal Procedure outweigh the potential detriments, taking the reasonable and legitimate interests of both the Complainant and the Respondent into account. The RO must make this assessment and must then decide in favour of using the Informal Procedure unless the potential detriments of doing so heavily outweigh the potential benefits.

3.4.3. To initiate a Complaint under the Informal Procedure (“Informal Complaint”), a Complainant must submit an oral or a written Informal Complaint to the RO designated under this Policy.

3.4.4. The Complainant must set out the nature of and factual basis for the Informal Complaint. The factual basis for the Informal Complaint must be stated in sufficient detail for the RO who receives the Informal Complaint to determine whether the factual allegations in the Informal Complaint, if true, would constitute a breach of this Policy.

3.4.5. If the factual allegations in the Informal Complaint are not sufficient to meet this standard, the RO may ask the Complainant to provide supplementary factual allegations. If the factual allegations then made by the Complainant, assuming them to be true and taken as a whole, do not disclose a breach of this Policy, the RO must so inform the Complainant and decline to proceed with the Informal Complaint.

3.4.6. If the RO declines to proceed with the Informal Complaint but also concludes that the Complainant’s factual allegations, if true, raise a concern about the Respondent’s conduct, the RO may contact the Respondent to review and discuss her/his conduct and may, if warranted by the circumstances, include the Respondent’s Supervisor in this discussion. The purpose of any such discussions must be educational and preventative.

3.5. **Informal Procedures**

3.5.1. If the RO accepts an Informal Complaint for processing:

a. the RO must make every reasonable effort to facilitate a consensus-based resolution of the Informal Complaint;

b. the Informal Procedure does not require the RO to identify the Complainant automatically to the Respondent. However, if the Respondent asks the RO to identify the Complainant, the RO must provide the Respondent with an opportunity to explain why knowing the Complainant’s identity would make a material difference to the outcome of the Informal Complaint. If the RO is satisfied that disclosing the identity of the Complainant to the Respondent would make a material difference to the outcome of the Informal Complaint, then before disclosing the Complainant’s identity to the Respondent the RO must notify the Complainant of this determination and provide the Complainant

- with a reasonable opportunity to consider her/his further course of action;
- c. the RO may use all such means to address an Informal Complaint as are consistent with achieving a consensus-based resolution. Such means may include but are not limited to: interviews of any person identified in the Informal Complaint; mediation, always provided that mediation must not occur without the express consent of both the Complainant and the Respondent to both the process and the proposed mediator; facilitation; and remedial education;
 - d. if mediation is used to resolve the Informal Complaint, the mediator must arrange for the preparation of a written agreement (“Agreement”) recording the terms and conditions of the resolution. Both the Complainant and the Respondent must sign the Agreement. An Informal Complaint will not be concluded until the resolution recorded in the Agreement has been fully implemented;
 - e. a copy of the Agreement must be kept in a sealed envelope in each of the Complainant’s and the Respondent’s files at Quest for a period of five years from the date on which the resolution recorded in the Agreement has been fully implemented. If there is a further Complaint against the Respondent during that five year period, the RO responsible for the further Complaint may obtain and refer to the Agreement. Any remedial measures implemented as a result of the further Complaint must take into account the contents of the Agreement into account;
 - f. however, if the five year period referred to above has elapsed without a further Complaint against the Respondent, then Quest must destroy both sealed copies of the Agreement on receipt of a written request to do so from either the Complainant or the Respondent;
 - g. in all cases where an Informal Complaint has been resolved by means other than mediation, the RO must both prepare and retain a confidential report of the resolution in her/his file about the Informal Complaint;
 - h. whenever an employee is the Respondent to an Informal Complaint, the RO, in consultation with the DHR or, if the DHR is the RO, the DHR, must also prepare a summary of the Informal Complaint and its outcome and provide it to the manager responsible for the employee. However, this step is not required if the RO, in consultation with the DHR, or, if the DHR is the RO, the DHR determines that the Informal Complaint was of a sufficiently minor nature that such a summary would not serve a useful operational purpose; and
 - i. if the RO provides a summary to the manager of the employee in question, the information contained in the summary should be anonymized to the greatest possible degree and should not exceed what is reasonably necessary to allow the manager to discharge her/his duties and responsibilities to Quest.

3.6. Formal Complaints

3.6.1. A Complaint (“Formal Complaint”) submitted under the formal procedure (“Formal

Procedure”) is intended to deal with allegations of fact which are serious or complex or both and which, assuming them to be true, would constitute a significant breach of this Policy. A Formal Complaint must be the subject of a full investigation and written report.

- 3.6.2. Except as otherwise stated in this Policy, a Complainant may elect to submit her/his Complaint directly under the Formal Procedure. However, use of the Formal Procedure should normally follow an unsuccessful attempt to use the Informal Procedure. Complainants are, therefore, encouraged to consider the advantages of using the Informal Procedure before filing a Formal Complaint.
- 3.6.3. A Formal Complaint must be made in writing and submitted to the RO designated under this Policy. The Complainant must specify the nature of and factual basis for the Formal Complaint. The factual basis for the Formal Complaint must be stated in sufficient detail for the RO who receives the Formal Complaint to determine whether the factual allegations in the Complaint, if true, would constitute a breach of this Policy.
- 3.6.4. If the factual allegations in a Formal Complaint are not sufficient to meet this standard, then the RO may ask the Complainant to provide supplementary factual allegations. If the factual allegations then made by the Complainant, assuming them to be true and taken as a whole, do not disclose a breach of this Policy, the RO must so inform the Complainant and decline to proceed with the Formal Complaint. When making this determination, the RO may consult, as she/he thinks necessary and appropriate, with the Supervisors who are responsible for the Complainant and the Respondent.
- 3.6.5. An RO’s determination not to proceed with a Formal Complaint may be appealed in writing to the President or, if the President is a party to the Complaint, to the Chair of the Board. The appeal must set out in reasonable detail the basis for the Complainant’s disagreement with the RO’s determination. The decision of the President or, as the case may be, the Chair, is final.
- 3.6.6. If the RO accepts a Formal Complaint, she/he is responsible for initiating and coordinating the resulting investigation.
- 3.6.7. In every case in which all parties to a Formal Complaint are students, the DS will normally act as the investigator. However, before assuming the investigator's role, the DS must consider and decide whether, in the particular circumstances of the case, the obligation to conduct a fair investigation requires the appointment of either the DHR or an external investigator in her/his place. Acting in conformity with her/his decision, the DS must then either conduct the investigation or appoint an alternate investigator. In the latter event, the DS will continue as the RO.
- 3.6.8. Except as otherwise stated in this Policy, when an employee is either the Complainant or the Respondent in a Formal Complaint, the DHR will act as the RO and the investigation must be conducted by an external investigator.
- 3.6.9. During every Formal Procedure, the RO must consult actively with the

Complainant's and Respondent's Supervisors before making any significant decision about the conduct of the Formal Procedure. During every Formal Procedure to which both parties are students, the RO may, as she/he thinks necessary, consult with the DHR or any of Quest's executive employees other than an executive employee who may be required to make a decision about the Complaint.

- 3.6.10. On an ongoing basis during every Formal Procedure, the RO must consider whether interim measures ("Interim Measures") are required to reduce the impact of the Formal Procedure on both the Complainant and Respondent and, in particular, given the confined nature of the Quest Community, whether Interim Measures are required to reduce or eliminate points within the Quest Community of potential contact or conflict or both between the Complainant and the Respondent.
- 3.6.11. If the RO concludes that Interim Measures are required, she/he must consult with the Supervisors who are responsible for both the Complainant and the Respondent to determine which Interim Measures should be introduced and in what manner. The introduction of an Interim Measure does not reflect any pre-judgment by the RO about the merits of a Formal Complaint and must not be so interpreted.
- 3.6.12. Allowing for the seriousness and complexity of a given investigation, every investigation into a Formal Complaint should proceed expeditiously and efficiently. In this regard, the RO is responsible for:
 - a. informing the Complainant and the Respondent about the identity and background of the investigator, the manner in which the investigation will be conducted, and the way in which the results of the investigation will be reported;
 - b. co-ordinating the general progress of the investigation;
 - c. consulting actively with the investigator about the schedule of, overall timeline for, and progress of the investigation;
 - d. identifying impediments, whether anticipated or not, to the general progress of the investigation and, where reasonably possible, taking steps to reduce or eliminate those impediments; and
 - e. keeping the Complainant and Respondent informed about the progress of the investigation.
- 3.6.13. The investigator must prepare a written report ("Interim Report") after concluding her/his investigation. The Interim Report must reflect the following structure and content:
 - a. an *Introduction* describing the nature of the Complaint; the scope of the investigator's mandate; the investigator's methodology, including a description of the means by which the investigator has resolved issues of credibility; and a

formal acknowledgement that the investigator must base her/his factual findings on a balance of probabilities;

- b. a *Review of the Information Gathered during the Investigation* containing a summary of the Formal Complaint; a summary of the Formal Response; a narrative description of the investigatory process; summaries of any witness statements, whether written or oral; summaries of any critical documents or other records; and, if applicable, summaries of any other types of information obtained by the investigator including but not limited to information obtained through observation of physical events, expert opinion, information obtained through demonstration and observation, and information obtained from direct inspection;
- c. an *Analysis of the Information Gathered during the Investigation* containing an analytical review of the information gathered during the investigation which is material to the investigator's factual conclusions including the weight attached to each component of such information; and an analytical review and resolution of any credibility issues which are material to the investigator's factual conclusions;
- d. the *Findings of Fact* containing a descriptive summary of the findings of fact made by the investigator on a balance of probabilities;
- e. *Conclusion* containing the investigator's conclusion about whether the Respondent breached this Policy with an analytical statement of the reasons why the investigator reached that conclusion; and
- f. the *Recommendations*, if the Report Recipient ("RR") has asked for them, providing the investigator's recommendations about what remedial measures should be implemented to address the findings made in the Interim Report.

3.6.14. The investigator must provide the Interim Report to the RO who must, in turn, provide it to the Complainant and the Respondent with, at the same time, an invitation to comment on the Interim Report. The Complainant and the Respondent must provide any comments on the Interim Report to the RO in writing within the time limit determined by the RO.

3.6.15. The Complainant and the Respondent may comment on any of the following matters:

- a. the investigator's findings including her/his finding about whether this Policy was breached;
- b. the recommended remedial measures, if any;
- c. whether this Policy was followed during the investigation; and
- d. any new information which is likely to be material to the investigator's findings

but only if the new information became available after the investigation concluded and it could not reasonably have been provided to the investigator before she/he wrote the Interim Report.

3.6.16. The RO must provide any comments received from the Complainant and the Respondent to the investigator who must, after giving the comments full consideration, write a final report ("Final Report"). The investigator must include any comments received from the Complainant and the Respondent as an appendix to the Final Report and also prepare an addendum to the Final Report which describes any changes made to the Interim Report as a result of any comments made by the Complainant or the Respondent. The investigator must then submit the Final Report to the RO who must, in turn, provide it to the Complainant, the Respondent, and the RR.

3.6.17. After reviewing and considering the Final Report, the RR must determine which, if any, remedial measures should be implemented as a result of the findings made in the Final Report. Normally, before making her/his determination, the RR must consult with the Supervisors who are responsible for the Complainant and the Respondent, and, in the case of a Final Report which makes findings against one of Quest's executive officers, the Chair.

3.6.18. The RR must notify the Complainant, the Respondent, the RO, and the Supervisor/s who is/are responsible for the Complainant and the Respondent of her/his determination about which, if any, remedial measures should be implemented. The RO will be responsible for ensuring that those with the authority to implement the remedial measures determined by the RR do so in a timely way.

3.7. **Appeals**

3.7.1. Both the Complainant and the Respondent have the right to appeal the RR's determination(s) based on the Final Report and may do so by submitting a written appeal ("Appeal") to the AO designated under this Policy.

3.7.2. An Appeal must be submitted by the person making the appeal ("Appellant") within thirty days after the Appellant has been notified by the RR of the remedial measures which she/he has determined should be implemented as a result of the findings made in the Final Report.

3.7.3. The designated AOs are:

- a. a complaint by a student against a student: the President;
- b. a complaint by a student against an employee or by an employee against a student involving an internal investigation conducted by the DS: the President;
- c. a complaint by a student against an employee or by an employee against a student involving an external investigation coordinated by the DS: the Chair of the Board;

- d. a complaint by an employee against an employee: the Chair of the Board;
 - e. a complaint by anyone other than the Chair of the Board against the President: the Chair of the Board must appoint a person from the pool of external investigators used by Quest to hear the appeal always provided that the person who undertook the investigation giving rise to the appeal must not be the person appointed to hear the appeal;
 - f. a complaint by anyone other than the President against a member, including the Chair, of the Board: the President must appoint a person from the pool of external investigators used by Quest to hear the appeal always provided that the person who undertook the investigation giving rise to the appeal must not be the person appointed to hear the appeal; and
 - g. a complaint by the President against the Chair of the Board or by the Chair of the Board against the President: the Chief Academic Officer must appoint a person from the pool of external investigators used by Quest to hear the appeal always provided that the person who undertook the investigation giving rise to the appeal must not be the person appointed to hear the appeal
- 3.7.4. An Appeal must set out the grounds for the Appeal (“Grounds”) and, with a reasonable level of analytical detail, the argument made in support of each of the identified Grounds. An Appeal must not exceed thirty double-spaced pages without the approval of the AO.
- 3.7.5. The available Grounds are:
- a. the investigator erroneously concluded that this Policy had been breached given the factual findings made in the Final Report;
 - b. the remedial measures determined by the RR were unreasonable given the findings made in the Final Report;
 - c. the investigator failed to follow or apply or failed both to follow and apply this Policy during the investigation or while writing the Final Report or both and the failures are sufficiently serious that they are likely to have prejudiced in a material way the course of the investigation or the conclusions reached in the Final Report or both;
 - d. the investigator or the RR or both were in a conflict of interest, exhibited bias or conduct that would give rise to a reasonable apprehension of bias, or breached this Policy in her/his/their dealings with the Appellant; and
 - e. new information has become available which is likely to be material to the conclusions reached by the investigator in the Final Report but only if the new information became available after the Final Report was submitted to the RR and it could not reasonably have been provided to the RR before she/he determined what remedial measures should be implemented.
- 3.7.6. The AO must provide a copy of the Appeal to the other party to the Formal

Complaint (“Appeal Respondent”) and offer the Appeal Respondent the opportunity to respond to the Appeal by submitting a written response (“Response”).

3.7.7. If the Appeal Respondent submits a Response, she/he must do so within 30 days of the receiving the Appeal and it must not exceed thirty double-spaced pages without the approval of the AO. The Response must set out with a reasonable level of analytical detail the argument made against the Appeal.

3.7.8. After the time for filing a Response has passed, the AO must review the Final Report, the Appeal and, if one has been submitted, the Response and may review any other information gathered during the investigation. Having done so, the AO must decide the Appeal. In deciding the Appeal, the AO must not conduct any independent or further investigation of the Formal Complaint.

3.7.9. In deciding the Appeal, the AO may accept, reject, or modify any remedial measures determined by the RR, may direct that a further investigation, whether internal or external, be conducted by a new investigator, or may dismiss the Appeal.

3.7.10. The AO must issue a written decision setting out her/his conclusions and, with a reasonable level of analytical detail, the basis for them.

3.7.11. The AO’s decisions are final.

4. GENERAL PRINCIPLES & PRACTICES

4.1. Application of this Policy

4.1.1. This Policy applies to interactions between Members and between Members and external contractors without regard to the location of those interactions always provided that the interactions in question take place within the context of an activity that would reasonably be regarded as linked to the participants’ status as Members or external contractors.

4.2. Administration

4.2.1. This Policy is intended and designed to address the management of the Quest Community by ensuring that Members have access to an effective internal process for addressing complaints about Discrimination and Harassment.

4.2.2. For this reason, while those responsible for administering this Policy are not expected to have legal qualifications, they are expected and required to take such training and obtain such legal advice as may be necessary from time to time to ensure that they apply to their determinations under this Policy a current and informed understanding of the applicable law.

4.3. Responsibilities under this Policy

4.3.1. Subject to the responsibilities expressly assigned to investigators, RRs, and AOs

under this Policy, for which investigators, RRs, and AOs are solely responsible, the RO will be responsible at all times for the efficient, effective, and expeditious management of the procedures established under this Policy including, except when this Policy expressly sets a time limit, setting the time limit for completion of a procedural step required by this Policy.

4.3.2. An RO who is not the DS or the DHR must provide to the DS and the DHR a summary of any Complaint for which she /he was responsible in a given fiscal year and the summary must be sufficient to allow the DS and DHR to prepare their annual report to the President.

4.3.3. Those persons who have responsibilities under this Policy must ensure that they discharge their responsibilities at all times in a fair, reasonable, and evenhanded manner. In this regard, the RO is responsible for ensuring that all parties to a Complaint are informed in a timely way about the procedures established by and their rights and obligations under this Policy.

4.4. **Responsibility to Report**

4.4.1. If a Member brings to the attention of an employee or a Member of the Board allegations which, if true, would constitute a breach of this Policy and the Member making those allegations does not intend to make a Complaint, the person who receives those allegations must bring both the existence of this Policy and the right to make a Complaint under this Policy to the attention of the Member who made the allegations.

4.4.2. Furthermore, if a student brings to the attention of an employee or a Member of the Board allegations which, if true, would constitute a breach of this Policy and the student making those allegations does not intend to make a Complaint, the person who receives those allegations must report the Complaint to the appropriate RO. The RO who receives those allegations must then take reasonable and appropriate steps, including steps under this Policy, to address the reported allegations.

4.5. **Representation**

4.5.1. At her/his sole discretion, a party to a Formal Complaint may be represented by legal counsel, assisted by a support person, or both. At her/his sole discretion, a party to an Informal Complaint may be assisted by a support person.

4.6. **Exercise of Legal Rights**

4.6.1. Remedial measures available under this Policy necessarily relate to a person's status in the Quest Community and will not include an award of monetary compensation from a Respondent to a Complainant. For this reason, nothing in this policy is intended to or should be construed as preventing or interfering with a person's right to: file a complaint under the *Code*; start a civil claim; file a police complaint; file a claim or complaint under the Workers Compensation Act; or

initiate other legal proceedings.

4.6.2. However, a Complainant's decision to start any form of legal proceedings which relate wholly or in part to the matters giving rise to an Informal or a Formal Complaint will stay all further proceedings under this Policy.

4.7. **Improper Complaints**

4.7.1. The submission of either an Informal or a Formal Complaint which has been found to be frivolous, vexatious, malicious, or made in bad faith at the conclusion of the procedures, including any Appeal, established by this Policy will be treated as a serious violation of this Policy. Such a finding will be referred to the President or the Chair, if the President is a party to the Complaint, who must address the finding by determining which remedial measures should be implemented to address the conduct of the Complainant and the impact of the Complainant's conduct on the Respondent.

4.8. **Retaliation**

4.8.1. Retaliation against a person as a result of her/his participation in any aspect of a proceeding under this Policy will be treated as a serious breach of this Policy. A complaint that a Member or an external contractor has retaliated against a person as a result of her/his participation in any aspect of a proceeding under this Policy will be treated as a Formal Complaint and investigated and addressed in conformity with the applicable provisions of this Policy.

4.9. **Inquiry without a Complaint**

4.9.1. On an exceptional basis and without receiving a Complaint, an RO may, after consulting with the appropriate Supervisor, inquire into the conduct of a Member if the RO and the Supervisor conclude that there is a reasonable basis for thinking that the Member who will be the subject of the inquiry has engaged in conduct that would constitute Discrimination or Harassment. The purpose of such an inquiry will be to determine what conduct the Member has engaged in and, if it appears to the RO and the Supervisor that the conduct would constitute Discrimination or Harassment, to introduce appropriate remedial measures.

4.9.2. Quest recognizes that a risk of injustice is inherent in the conduct of an inquiry because the subject of the inquiry is not the subject of a Complaint. For this reason, inquiries should be conducted with caution and care including careful attention to the confidentiality requirements which exist under this Policy.

4.9.3. An RO who is conducting an inquiry must, at the start of the inquiry, provide the Member who is the subject of the inquiry with a written statement of her/his reasonable basis for thinking that the Member has engaged in conduct that would constitute Discrimination or Harassment.

4.9.4. A Member who is the subject of an inquiry has the right to appeal any determinations made by the RO, including the determination that there is a

reasonable basis for conducting an inquiry, to the President before any steps are taken to implement the RO's determinations.

4.9.5. On an appeal, a finding by the President that an RO has determined to conduct an inquiry without, in fact, having a reasonable basis for thinking that the Member who was the proposed subject of the inquiry had engaged in conduct that would constitute Discrimination or Harassment must be investigated and may result in the implementation of remedial measures.

4.10. **Representative Complainant**

4.10.1. In exceptional circumstances, a Supervisor may act as a representative Complainant in a Formal Complaint.

4.10.2. Exceptional circumstances include but are not limited to:

- a. the submission of a Complaint, whether Informal or Formal, against a Respondent who has previously retaliated against a Complainant;
- b. the submission of a Complaint against a Respondent who has previously been the subject of three or more Complaints, whether Formal or Informal, within a five year period;
- c. a situation in which, in the reasonable opinion of the Supervisor, a Member is engaged in conduct constituting Discrimination or Harassment but it is unlikely that a Member experiencing the Discrimination or Harassment will make a Complaint; or
- d. a situation in which a Complainant has exercised her/his right to withdraw a Complaint but it is, in the reasonable opinion of the Supervisor, in the best interests of the Quest Community to continue with the Complaint.

4.11. **Disqualification for Bias**

4.11.1. A Complainant or a Respondent who reasonably believes that there is a basis for alleging that a person who is required to make decisions about the Complaint to which she/he is a party is biased, or that that person's involvement in a Complaint gives rise to a reasonable apprehension of bias, or that that person is in a conflict of interest, may provide a written statement ("Statement") to this effect to the designated AO for the Complaint or, if the AO is the subject of the Statement, to the RR. The Statement must be supported by reasons.

4.11.2. On her/his receipt of the Statement, the AO must provide a copy to the RO, Supervisor, or RR who is identified in the Statement.

4.11.3. On receipt of the Statement, the RO, Supervisor, or RR in question may either withdraw from further involvement in the Complaint or provide the AO with a response to the Statement. The AO must, in turn, provide the response to the person who made the Statement.

- 4.11.4. Unless the person who made the Statement then withdraws the Statement, the AO must determine whether to require the RO, the Supervisor, or the RR in question to withdraw from further involvement in the Complaint and, if a withdrawal is required, appoint a replacement at her/his earliest reasonable opportunity.
- 4.11.5. For good and sufficient reason, an RO, a Supervisor, or an RR may withdraw at any time from further involvement in a Complaint. A withdrawal must be submitted in writing to the AO and must provide the reason for the withdrawal. If the AO is satisfied by the reason provided, she/he must accept the withdrawal and appoint a replacement at her/his earliest reasonable opportunity.

4.12. **Confidentiality**

4.12.1. All persons who are involved in any capacity in either a Complaint or the administration of this Policy must treat any information (“Information”) they receive about a Complaint as a matter requiring the utmost confidentiality.

4.12.2. A disclosure of Information which is not required:

- a. by law;
- b. to assist with the proper administration of this Policy; or
- c. to address a reasonable apprehension that a person’s health, safety, or welfare would be threatened by a failure to disclose the Information;

must be investigated using the Formal Procedure and will be subject to the same range of remedial measures as a breach of this Policy of commensurate seriousness.

4.13. **Permanent Records**

4.13.1. The outcome of a Formal Complaint will be recorded in Quest’s permanent records in the following manner:

- a. if a Formal Complaint, including a complaint of retaliation, is allowed, a summary of the outcome including a description of any remedial measures provided to the Complainant or others, anonymized other than with respect to the Respondent’s name, will be recorded in the Respondent’s employee or student file;
- b. if a Formal Complaint, including a complaint of retaliation, is dismissed, the RO must maintain an anonymized summary of the outcome in her/his central file but no other record will be kept unless there is also a finding that the Formal Complaint was frivolous, vexatious, malicious, or made in bad faith;
- c. if a Formal Complaint is found to be frivolous, vexatious, malicious, or made in bad faith, a summary of the outcome including a description of any remedial

measures provided to the Respondent or others, anonymized other than with respect to the Complainant's name, will be recorded in the Complainant's employee or student file;

d. if a Complainant starts any form of legal proceedings wholly or in part as a result of the matters giving rise to an Informal or a Formal Complaint, a summary of those legal proceedings including their outcome will be recorded in the RO's central file unless the legal proceedings are subject to a publication ban or other form of absolute confidentiality in which case no record will be kept other than an anonymized record that a Complaint was made but discontinued due to the initiation of legal proceedings.

4.13.2. A record placed in a person's employee or student file must be provided to that person automatically and in a timely way under confidential cover.

4.14. **Annual Reports**

4.14.1. At the end of each fiscal year, the DHR and the DS must jointly prepare and submit an annual report to the President. The annual report must contain anonymized statistical summaries of all Informal and Formal Complaints filed during the reporting year including, if then known, their outcomes.

4.14.2. The statistical summaries must include but are not limited to:

a. the number of Informal and Formal Complaints:

b. their distribution according to type of complaint (discrimination including the alleged ground(s) and harassment including the type(s));

c. the basis for the Complaint;

d. the number, Member status, and age (using the designations under 19/over 18) of the Complainants and the Respondents;

e. preliminary determination (rejection or investigation);

f. the number of times, if any, Interim Measures, were directed; and

g. final outcomes including the outcomes of Appeals.

4.14.3. If the DHR and DS have any concerns about the reliability of the statistical information presented in the annual report, those concerns must be identified in the annual report.

4.14.4. The annual report must also include both an analytical commentary about the operation of the Policy during the reporting year and recommendations about revisions to the Policy.

4.14.5. Annual reports submitted under this Policy must be made available to anyone in the Quest Community on request.

4.15. **Review and Revision**

4.15.1. This policy replaces the Quest University Canada Human Rights Policy (no number or date) and the Quest University Canada Harassment Policy (Policy #TL0, 06 October 2006).

4.15.2. To ensure that this Policy remains current and effective, Quest must:

a. review this Policy every three years with an initial review taking place at the end of the third full fiscal year which falls after the fiscal year in which the Board adopted this Policy;

b. consider at the time of each review such revisions to the Policy as seem reasonable or necessary in light of Quest's experience with this Policy; and

c. implement such revisions as seem necessary or appropriate.

4.15.3. Despite section 4.14.2 above, should any aspect of this Policy prove at any time to be inadequate to its intended purpose, Quest may review and revise the Policy immediately for the purpose of addressing that inadequacy.