



Procedure Information	
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RESPECTFUL WORKPLACE PROCEDURES

Procedures for reporting, resolving and/or investigating respectful workplace and human rights complaints.

The College of New Caledonia (CNC) is committed to providing an effective and consistent process for responding to Respectful Workplace and human rights complaints, regardless of whether the complaint is initiated internally or externally. These procedures also enable CNC to form an accurate picture of emerging issues for the purpose of developing preventative measures.

1. Roles and Responsibilities

College of New Caledonia

Responsibilities:

- Educating individuals (employees, contractors, board members and other individuals who work within the organization) and managers/administrators (supervisors, chairs, directors, deans and executive members), regarding:
 - Human rights, discrimination, harassment and bullying; and
 - Appropriate behaviour in the workplace; and
 - Ways to promote and maintain an environment free of discrimination, harassment and bullying; and
 - Dispute resolution options and prevention
- Making every effort to prevent discrimination, harassment and bullying from occurring within CNC;
- Responding promptly and effectively to complaints;
- Broadly disseminating information regarding the procedures for filing and resolving complaints;
- Providing a process for:
 - Informal resolution of respectful workplace concerns; and
 - Reporting and investigating respectful workplace complaints.

Individuals

Responsibilities:

- Conducting themselves in a respectful and appropriate manner in the workplace and at work-related activities;
- Resolving differences in the workplace, and reporting any violations that they become aware of, either observing or experiencing discrimination, harassment and bullying or disrespectful behaviour in accordance with the Procedures;

- Approaching their manager/administrator if support and assistance to do the above is needed and;
- Applying and complying with the Respectful Workplace Policy and Procedures

Manager/Administrator

Responsibilities:

- Modeling respectful and appropriate conduct in the workplace;
- Taking corrective action, with the assistance of human resources, if they observe or are made aware of harassment, bullying, disrespectful behaviour or discrimination;
- Reviewing the detail of the policy with new individuals during their orientation and providing them with a copy;
- Emphasizing respectful workplace conduct during probationary and/or performance management processes with employees, and
- Providing confidential advice and/or coaching to individuals and managers/administrators regarding harassment issues;
- Arranging for mediated discussions between individuals at the informal level, if appropriate;
- Arranging for facilitated group interventions, before or after a formal complaint;
- Taking all allegations and/or complaints about violations of the Respectful Workplace Policy seriously, addressing them in a timely manner, seeking assistance as necessary to achieve the resolution of complaints in accordance with this Policy and providing ongoing education about this Policy.

Nothing in this Policy is intended to reduce the rights and responsibility of a workplace leader to appropriately and in good faith, manage the work performance of individuals in their work teams.

Vice-Presidents and Associate Director Human Resources

Responsibilities:

- Guiding managers and individuals through the application of the Respectful Workplace Policy;
- Consulting in a timely manner on appropriate interventions;
- Supporting arrangements for facilitated group interventions, before or after a formal complaint;
- Making recommendations to the Executive Director of Human Resources on options including the engagement of external consultants, mediators, educators and coaches as required to help individuals manage differences and foster the skills and knowledge necessary to maintain a respectful workplace;
- Acting as investigators (if appointed) provided that they have had no prior involvement in the situation or recommending external investigators; and
- Providing advice to managers/administrators on appropriate remedies for violations of the Policy.

Executive Director, Human Resources or designate (ED of HR)

The ED of HR has expertise in the identification and handling of respectful workplace issues, in alternative dispute resolution processes, and in human rights complaint handling.

Responsibilities:

- Ensuring the delivery of education about human rights, discrimination, harassment and bullying, and appropriate behaviour in the workplace and dispute resolution;
- Conducting an initial assessment of a formal complaint submission to ensure it falls within the parameters of this Policy; and
- Acting as a case manager for formal complaint processes;
- Deciding whether time limits for filing formal complaints should be extended as per Section 5 of these procedures; and
- Approving the engagement of an investigator or mediator for formal complaints under the Procedures.

2. Reporting, Resolving and/or Investigating Respectful Workplace & Human Rights Complaints

There are two avenues of resolution under the Respectful Workplace Procedures: informal and formal. These procedures encourage direct resolution of disputes and provide individuals with options to assist them in that resolution.

To that end, **we expect that the informal approach be used first where applicable**, except in the instances where there are threats of harm to person or property or previous examples of retaliation. Should the informal process fail to produce resolution, a formal approach may be taken.

These procedures provide navigation to all parties through the internal process, and in no way preclude individuals who think that they may have been the recipient of discriminatory behaviour from pursuing the matter in accordance with the terms of the existing contract of employment or collective agreements and/or via the B.C. Human Rights Tribunal (see section 7.0).

Where collective agreements include specific language for investigating human rights complaints, the collective agreement language will prevail.

At any time during the resolution process any employee covered under a Collective Agreement is entitled to request union representation.

Confidentiality

To protect the interests of the complainant(s), the respondent(s), and any others who may be involved, confidentiality will be maintained throughout the resolution processes to the extent practicable and appropriate under the individual circumstances. Information that must be shared will be disclosed on a "need to know" basis. Parties to a complaint, including witnesses, are not to share information or discuss details of the complaint. If the College determines that the safety of an individual is at risk the procedures and rights outlined in this policy, including confidentiality may be set aside.

The College takes the obligation to maintain Confidentiality very seriously.

Where it has been determined that an individual or individuals have violated the Confidentiality provision in these procedures, this will be considered a violation of the Confidentiality Agreement that every employee signs at the outset of employment with the College, and disciplinary action will be taken. Depending upon the scope and severity of the violation, this may lead to termination of employment.

Retaliation

Any retaliation against any party involved in a complaint or complaint resolution process will not be tolerated.

Bad Faith, Vexatious, Vindictive, False or Frivolous Complaints

Where the complaint is considered vexatious, vindictive, false or frivolous in nature and/or made in bad faith, the ED of HR will recommend action to the appropriate workplace leader.

Any breaches of confidentiality, acts of retaliation or complaints found to be vexatious, vindictive, false, or frivolous in nature or made in bad faith may lead to disciplinary action for the party involved, up to and including termination.

3. Informal Resolution Process

If an individual identifies a situation with another individual that is negatively impacting their work, the individual will attempt to deal with the concern directly by completing the steps outlined below.

- Step 1 - Informal Conversation
- Step 2 - Team Leader Involvement
- Step 3 - Alternative Dispute Resolution

If, for any reason, an individual feels uncomfortable in approaching his/her own Manager/Administrator, s/he can speak to the next level of Manager/Administrator.

Step 1 – Informal Conversation

Step	Who	Action
a	Individual	Ask the other person to meet at a convenient time and in a private place to engage in cooperative problem solving. Either party may choose to have someone with them to act as a witness, observer and support.

b	Individual	<p>Raise the issue with the other person in a way that helps both understand the interaction and achieve resolution by:</p> <ul style="list-style-type: none"> ● Describing the troubling behaviour and the impact; be prepared to be specific about behaviours ● Listening to the other's perspective ● Exploring your respective interests (needs, concerns, hopes) ● Creating options for solving the situation ● Developing an agreement that meets as many as possible of the interests
c	Individual	<ul style="list-style-type: none"> ➤ If the issue is resolved, no further steps are taken ➤ If the issue is not resolved or if the person refuses to participate, <i>proceed to 1d (next step)</i>
d	Individual	Request a meeting with your workplace leader or, in their absence, a designate.

Step 2 – Manager/Administrator Involvement

If an individual has been unsuccessful in Step 1, s/he may approach their workplace Manager/Administrator. If, for any reason, s/he feels uncomfortable in approaching his/her own Manager/Administrator, s/he can speak to the next level of Manager/Administrator.

The Manager/Administrator will make every effort to respond to concerns raised within 10 working days in the following way:

Step	Who	Action
a	Individual	Discuss the issue with your workplace leader. Be specific about the behaviour causing concern.
b	Manager/ Administrator	<p>Attempt to assist the individual by:</p> <ul style="list-style-type: none"> ● Hearing the concern ● Acknowledging the impact on the individual ● Clarifying what the individual wants and needs ● Exploring the formal and informal options for resolution <p>If the individual indicates that s/he wants to resolve the concern informally, proceed to 2c (next step).</p>
c	Manager/ Administrator	<p>Explore a variety of informal resolution options with the individual. Possibilities include, but are not limited to:</p> <ul style="list-style-type: none"> ● Facilitating a discussion between the individuals ● Requesting agreement to contact the other person to explore ways of resolving the concern

d	Manager/ Administrator	<ul style="list-style-type: none"> ➤ If the issue is resolved, take no immediate action as agreed; ➤ If the issue is not resolved: <ul style="list-style-type: none"> - Proceed to Step 3 of the Informal Resolution process; or - Proceed to the Formal Resolution process
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Step 2.1 a. - If a complaint is filed by one Executive Team member against another Executive Team Member

Who	Action
EDHR	Decides if the complaint is valid under the Respectful Workplace Policy
EDHR	Advises the President of the complaint
President	Advises the Chairperson of the Board of Governors
HR Sub-Committee of the Board in consultation with EDHR	Appoint a third party to conduct an investigation

Step 2.1 b. - If a complaint is filed against the President

Who	Action
EDHR	Advises the Chairperson of the Board if the complaint is valid under the Respectful Workplace Policy
HR Sub-Committee in consultation with EDHR	If the complaint is valid, will appoint a third party to conduct an investigation

Step 2.1 c. - If a complaint is filed against the Executive Director of Human Resources or Staff

Who	Action
Complainant	Will submit the complaint directly to the President
President	Will determine if the complaint is valid under the Respectful Workplace Policy and advise the Chairperson of the Board
HR Sub-Committee	Appoints a third party to conduct an investigation

Step 3 – Alternative Dispute Resolution

Alternative Dispute Resolution ("ADR") includes any voluntary process that aims to assist two (or more) people to reach resolution. Parties may gain a better understanding of each other's interests, improve communications and reach cooperative solutions leading to better future relations. Both individuals have to agree to the ADR process.

Step	Who	Action
a	Individual	Requests that their workplace leader initiate the ADR process.
b	Manager/ Administrator	Contacts the ED of HR to initiate the ADR process.
c	ED of HR	Following consultation with the ED HR, may appoint a qualified internal or external <i>mediator or facilitator*</i> not otherwise involved in the process.
<p>Note: During the pre-mediation process, each person will have the opportunity to request that they be accompanied and assisted during the ADR process by a support person which may be a union steward, or another trusted individual. The role of support people will be defined by and is at the discretion of the mediator or facilitator.</p>		
d	Manager/ Administrator	➤ If the issue is not resolved , individuals may consider initiating the Formal Resolution Process.

** A mediator or facilitator is an impartial, neutral third party with expertise in ADR processes whose purpose is to assist parties to formulate their own consensual resolution of the matters at issue between them. The mediator or facilitator will not be asked to represent any party in any future proceedings related to the dispute.*

If the individual decides not to proceed, but concerns are revealed regarding the physical or psychological impact of the alleged behaviour on other members of the CNC Community, CNC retains the right to initiate its own determination and resolution process under the Procedures. The decision to do so will be made in consultation with the ED of HR.

Resolution

Where a resolution is reached, both the Complainant and the Respondent sign a Settlement Agreement to be drafted by the Investigator. This is consistent with the practice of the BC Human Rights Tribunal.

4. Environmental Scan

There may be circumstances in which an environmental scan is considered for situations involving allegations of bullying or personal harassment involving multiple parties. An Environmental Scan is a process in which confidential conversations with individuals are held with a third party to help determine the nature and extent of workplace issues.

Step	Who	Action
a	Manager/ Administrator	Contacts the ED of HR. If the concerns have come directly to the ED of HR and not through the workplace leader, the ED of HR may contact the appropriate workplace leader to discuss an Environmental Scan.

b	ED of HR	Clarifies nature and frequency of contacts related to an individual to determine if an environmental scan is appropriate and if confidentiality of those potentially interviewed can be maintained.
c	ED of HR	Appoints a qualified internal or external party to conduct the environmental scan. Note: the ED of HR will act as a case manager throughout the process.
d	Third Party	Conducts confidential interviews with identified individuals. Prepares a report identifying themes of concern based on information received during the interview process. Provides recommendations for resolutions of issues identified during the scan.
e	ED of HR	Receives and reviews the report with the appropriate workplace leader. Facilitates the preparation of an implementation plan relating to recommendations.

5. Formal Resolution Process

The Formal Resolution Process is often, but not always, the most appropriate process for allegations of discrimination and discriminatory harassment complaints due to matters of legal responsibility and liability under the Human Rights code. This process may also be utilized when the informal or ADR processes have failed to produce a resolution for personal harassment or bullying complaints.

This procedure provides navigation to all parties through the internal process, and in no way precludes individuals who think that they may have been the recipient of discriminatory behaviour from pursuing the matter in accordance with the terms of the existing contract of employment or collective agreements and/or via the B.C. Human Rights Tribunal. Where collective agreements include specific language for investigating human rights complaints, the collective agreement language will prevail.

This process includes the following:

- Step 1 – Making a Formal Complaint
- Step 2 – The Investigation Process
- Step 3 – Remedies and Interim Measures
- Step 4 – Closure and Follow-up
- Appeals

Time Limits

The time limit for making a Formal Complaint is 15 days from the time of the last incident.

A Complaint which does not meet this time limit may be accepted for consideration under these Procedures when, in the opinion of the ED of HR:

- Circumstances warrant an extension of this timeline; or

- The delay in filing the complaint was incurred in good faith; or
- No substantial prejudice will result to any person because of the delay.

An application for an extension of the time limit shall be in writing and directed to the ED of HR. The decision of the ED of HR may be appealed to the Vice President, Administration & Chief Financial Officer or designate.

Alternative Dispute Resolution at the Formal Complaint Stage

ADR is again available to both parties to try to resolve the complaint at any point during the Formal Process. Where both parties agree to an ADR process, they will advise the ED of HR who will appoint a qualified internal or external mediator or facilitator not involved in investigating the complaint. Any person may withdraw from the ADR process at any point. Investigation will be suspended during the ADR process and may resume if ADR efforts are not successful.

Withdrawal of a Formal Complaint

At any time during the course of an investigation of a formal complaint, the complainant may choose to withdraw his or her complaint without penalty unless the investigator finds that the complaint was frivolous, vexatious, vindictive, false or made in bad faith.

Powers of the President

Nothing in this policy interferes with the authority of the President under the *College and Institute Act*.

Record Keeping

All records of Formal Complaints, including any and all oral or written information gathered, received, or compiled throughout the Formal Process shall be maintained by the ED of HR in a secured confidential file.

All records shall remain in the secure file for two years [24 months], after which they shall be destroyed. Anonymous data, however, shall continue to be recorded for statistical purposes only.

Access to the confidential files shall be governed by the provisions of the [Freedom of Information and Protection of Privacy Act](#).

Definitions:

Complainant(s) – The person(s) making a complaint that a violation of this Policy has occurred.

Respondent(s) – The person(s) alleged to have committed a violation of this Policy.

Investigator – An internal or external investigator (i.e. appointed or engaged by CNC to conduct an investigation in relation to these Procedures).

Step 1 – Making a formal complaint

Step	Who	Action
a	Manager/ Administrator	In consultation with the HRC, explain to the individual the various avenues that are available to address the complaint (CNC policy, collective agreement and/or the B.C. Human Rights Tribunal). It is important to note that anonymity cannot be maintained when filing a formal complaint. If the complaint proceeds under this policy, continue to 1b (next step). Where collective agreements include specific language for investigating human rights complaints, the collective agreement language will prevail.
b	Manager/ Administrator	Immediately contact the ED of HR.
c	Complainant(s)	Fill in and submit a Respectful Workplace Formal Complaint form, obtained from the CNC policy webpage, or by emailing hr@cnc.bc.ca . Be specific when completing a complaint form, including dates, locations and witnesses. Email or mail a completed, dated Complaint form to the ED of HR.
d	ED of HR	Confirm that the Complaint falls under the Respectful Workplace Policy. Assign an internal or external investigator within five working days of receipt of the Formal Complaint form.

Step 2 – The Investigation Process

The College of New Caledonia will appoint an investigator who has the necessary experience and training to properly deal with the complaint.

Step	Who	Action
a	Investigator	Review all relevant documents (Formal Complaint form and any other documentation presented as evidence). Conduct in-person interviews with the complainant, the respondent and all necessary witnesses.
The investigation will normally commence within two weeks of its authorization by the ED of HR and be completed within 30 working days of the authorization.		
b	Investigator	Meet with the respondent and provide them with the nature of the complaint and relevant information obtained in the course of the investigation.
c	Respondent	The respondent will be given a reasonable chance to respond to the allegations.
d	Investigator	Follow up on any explanations provided by the respondent regarding the allegations. Submit to the ED of HR a report with conclusions as to whether the evidence supports or does not support the allegations. Makes recommendations for a resolution to the complaint.
<p>Unsubstantiated Complaints</p> <p>If the investigator finds insufficient evidence to support the complainant's allegations, the investigator will submit a finding of "unsubstantiated." There will be no record of the complaint on the complainant or respondent's file and no penalty to anyone concerning the incident. A finding of "unsubstantiated" is a simple reflection of an absence of evidence to support the claim – nothing more. It is important to differentiate between a finding of "unsubstantiated" and a "bad faith, vexatious, vindictive, false or frivolous complaint."</p>		
e	ED of HR	Within 15 working days after receipt of the investigator's findings and recommendations, the ED of HR will: <ul style="list-style-type: none"> • Consult with all stakeholders • Facilitate the preparation of an implementation plan for corrective action and remedies. Then: <ul style="list-style-type: none"> • Inform the complainant and the respondent through a letter of decision of the results of the investigation and the plan for corrective action and remedies • Provide information on the appeal process under this Policy.

Step 3 – Remedies and Interim Measures

a. Remedies

The range of remedies for the complainant, if the complaint is upheld, may include, but are not limited to, the following:

- Oral and/or written apology from the respondent and/or CNC; and
- Any administrative changes that are appropriate.

Outcomes for the respondent, if the complaint is upheld, may include but are not limited to the following:

- Coaching
- Counseling
- Oral or written apology
- Education
- Re-orientation to this Policy and its purposes
- Transfer
- Discipline up to and including termination with or without notice

In circumstances where the complaint was found by the investigator to have been made in bad faith or to be vexatious, vindictive, false or frivolous, appropriate action will be taken which could include discipline for the complainant, up to and including dismissal. Remedies for respondents found to be falsely accused may include steps to restore any lost reputation and any other remedies that the ED of HR may consider appropriate.

b. Interim Measures

Interim measures may be imposed during the complaint resolution process to ensure the work environment is safe and service within the involved area is not compromised. These measures will be determined and implemented by the appropriate workplace leader in consultation with the ED of HR and other relevant parties (e.g.'s, unions, Vice Presidents, professional associations).

Step 4 - Closure and Follow-up

Step	Who	Action
Closure		
a	ED of HR	Inform the complainant and the respondent of the results of the final implementation plan, including if appropriate, remedies, changes in work, and any disciplinary action. Advise other parties involved in the complaint (witnesses and others) that the investigation has been concluded. Note: This will take place once the appeal period (set out under Appeals on page 12) has expired.

Step	Who	Action
<p>Follow-Up:</p> <p>It is recognized that experiences with discrimination or other behaviour contrary to this Policy can be difficult for the complainant, the respondent and any other parties involved. CNC is committed to providing support, information, and opportunities for an evaluation and feedback of the process to those involved in resolution under this Policy. There are several steps involved in the follow-up process, which include:</p>		
b	Individuals	<p>May access support available through the Employee and Family Assistance Program (“EFAP”).</p> <p>May provide feedback to the ED of HR at any time.</p>
c	Manager/ Administrator	<p>May contact the ED of HR to arrange for a unit debriefing. This debriefing may include, but is not limited to, advising the unit that the situation has been resolved and actions to remedy the complaint have been taken.</p> <p>May request further education, including information on conflict management, and training on the Policy and its objectives.</p>
d	ED of HR	<p>May request formal feedback on the Formal Process from the complainant and the respondent within <i>two months</i> after the complaint is resolved.</p>

Appeals

If the complainant or respondent is dissatisfied with the outcome or process, s/he may appeal directly to the *Executive Director of Human Resources within ten days of receipt of the Letter of Decision*. This request must clearly outline the reason(s) for the appeal.

- a. If the complaint was filed against the Executive Director of Human Resources or any HR team member, s/he may appeal directly to the President who will advise the Chairperson of the Board of Governors. The Chairperson in consultation with the HR Sub-Committee will request a review of the decision.
- b. If the complaint was against the President, s/he may apply in writing for a reconsideration of the decision directly to the Chairperson of the Board of Governors, who will direct the HR Sub-Committee to request a review of the decision.

Reasons for reconsideration of a decision include:

- A party made an error in submission that affected the decision.
- A party had new evidence that s/he could not have provided at the time the complaint was filed or a response to the complaint was filed.

Refusal to accept an appeal includes:

- The party is dissatisfied with the outcome.
- The new evidence would not have affected the outcome of the decision.

Note: Usually the same person who made the original decision will make the decision to reconsider the outcome of the investigation. The investigator has a duty to be fair; therefore, it is not enough for the complainant/respondent to say that the decision was not in his/her favour. The complainant/respondent must explain what would lead a reasonable informed person to think the member would not fairly decide the application for appeal.

This procedure provides navigation to all parties through the internal process, and in no way precludes individuals who think that they may have been the recipient of discriminatory behaviour from pursuing the matter in accordance with the terms of the existing contract of employment of collective agreements and/or via the B.C. Human Rights Tribunal.

Where collective agreements include specific language for investigating human rights complaints, the collective agreement language will prevail.

6. Procedure for Non-CNC Employees

Volunteers

In the event that the respondent is a volunteer, the appropriate manager/administrator, in consultation with the HRC will implement the appropriate process for investigation and remediation.

Guests and Visitors

In the event that the respondent is a guest or visitor, the appropriate manager/administrator for the service in conjunction with the ED HR will implement the appropriate process for investigation and remediation.

Suppliers and Contractors

In the event that the respondent is a supplier/contractor, the appropriate manager/administrator for the service, in conjunction with the ED HR, will initiate contact with the appropriate personnel within either the CNC Purchasing department or the external agency to determine the appropriate process for investigation and remediation.

7. Multiple Proceedings

CNC recognizes that a person who reasonably believes that his or her rights are being violated may have, in addition to access to this Policy, a number of other internal and external avenues available to address their concerns. These avenues may include, but are not limited to:

- Collective agreement processes; where collective agreements include specific language for investigating human rights complaints, the collective agreement language will prevail
- Filing a complaint with the British Columbia Human Rights Tribunal
- Filing a complaint to relevant professional bodies, and;

- Pursuing private proceedings

In the case where an individual has opted to exercise his or her rights under more than one avenue of redress, CNC may request the employee to defer proceeding with the other avenues while the complaint under this Policy is being investigated.

If the employee does not wish to defer other proceedings, CNC may, at its discretion, stop its investigation under the Policy pending the outcome of other proceedings. There may be circumstances where it is appropriate for both the internal and external processes to proceed simultaneously, in which case both the complainant and respondent will be notified.

8. Handling of Complaints Initiated through the B.C. Human Rights Tribunal

In addition to our internal intake and investigation process, the British Columbia Human Rights Tribunal has published a number of guides and information sheets that explain the B.C. Human Rights Code and the Tribunal's process for complaint intake and investigation. Further, Tribunal staff is also available to assist the parties.

The B.C. Human Rights Tribunal is an independent, quasi-judicial body created under the B.C. Human Rights Code. The Tribunal is responsible for accepting, screening, mediating and adjudicating human rights complaints. The Tribunal offers the parties to the complaint the opportunity to try to resolve the complaint through mediation. If the parties do not resolve the complaint, the Tribunal holds a hearing.

More information about the B.C. Human Rights Tribunal and Code is available at <http://www.bchrt.bc.ca/>.

Procedure

When any department at CNC receives a complaint initiated through the B.C. Human Rights Tribunal, the complaint will be immediately forwarded to the ED of HR. The ED of HR shall:

- 1) Notify the VP Finance/Admin/Bursar who will forward the complaint to Risk Management Branch and Government Security Office, Ministry of Finance of the nature of the complaint, in a timely manner, if the complaint was initiated by an external party ;
- 2) Determine the appropriate means for responding to the complaint and establish a system for tracking the progress of the complaint resolution;
- 3) Ensure all time lines are complied with;
- 4) Upon resolution of the complaint, coordinate collection of any and all oral or written information gathered, received, or compiled throughout the process and maintain these records in a secured confidential file; and
- 5) In consultation with ED HR and other stakeholders, make recommendations for follow-up action.