



Procedures for Protecting Employees and Students from Retaliation

Parent Policies:	<i>Employee Discrimination, Bullying and Harassment Policy</i> <i>Sexual Violence and Misconduct Policy</i> <i>Violent or Threatening Behaviour Policy</i> <i>Student Non-Academic Misconduct Policy</i> <i>Student Complaint Policy</i> <i>Safe Disclosure Policy</i>		
Procedure Reference:	RETPR_2404N_AD/PSV		
Procedure Sponsors:	Associate Vice President, People Services and Dean, Students		
Procedure Contacts:	Associate Vice President, People Services or the Dean, Students		
Stakeholders:	Employees, Students, Unions		
Approved by:	OC Executive Team		
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1. Purpose

Okanagan College is committed to promoting and creating a culture of honesty, accountability, and adherence to the highest ethical standards, and recognizes that an environment in which individuals can report their concerns is important, necessary, and valuable in promoting and creating such a culture.

This Procedure exists to provide assurance to employees and students that Retaliation will not be tolerated and that any instances of Retaliation will be treated seriously.

OC appreciates that on occasions individuals may face personal risks when coming forward to report concerns and wishes to create an environment where the fear of Retaliation is not an impediment to reporting any issues or participating in Investigations.

The purpose of this Procedure is to encourage individuals to report known or suspected instances of Retaliation and to set out OC's Procedure regarding Retaliation for any Complainant who, in good faith, reports Retaliation or participates in an Investigation.

2. Scope and Application

This Procedure applies to all current employees and students of Okanagan College. Any reference to a position in this Procedure includes any person that may be appointed as a designate to that position.

3. Definitions

Complainant	Means the person who seeks recourse under this Procedure based on a belief that they have witnessed or experienced conduct which is prohibited by this Procedure. An employee or student can make a third-party complaint if they are aware of retaliation taking place, and in addition the College may act as a Complainant in appropriate circumstances.
Complaint	Means the statement of alleged facts made by a Complainant seeking recourse under this Procedure. A Complaint may be made anonymously, and employees or students may file a Complaint anonymously under the Safe Disclosure Policy.
Designated Recipient	Means the individual who is responsible for receiving and considering reports of Retaliation. In the case of a student complaining about another student it is the Dean, Students or their designate and for employees making a complaint or for students complaining about an employee the Designated Recipient is the AVP, People Services or their designates.
Investigation	Means an investigation undertaken by Okanagan College in connection with an allegation of Retaliation. The investigation may be carried out by an internal resource, or the College, may choose to engage an external investigator.
Investigator	Means the individual appointed to Investigate, whether under this Procedure or another College policy, or procedure.
Respondent	Means any employee or student against whom an allegation has been made under the Procedure.
Retaliation	Means any actions recommended, taken, or threatened by a Respondent where those actions are motivated in whole or in part by the desire to make reprisal against a Complainant for having engaged in a making a complaint or participated in an investigation and, includes counselling another person to engage in conduct that would constitute Retaliation if it was undertaken by the Respondent.

Some examples of Retaliation include:

- a) Reducing an employee's hours.
- b) Transferring, reassigning, or excluding an employee to a less desirable position, shift, or location.
- c) Denying an employee a positive performance evaluation that they deserve.
- d) Engaging in harassment, abuse, or scrutiny of an employee or student.
- e) Giving students failing grades.
- f) Preventing students from participating in College activities.
- g) Threatening a student with expulsion.

The following will not constitute Retaliation:

- h) For employees making appropriate decisions in connection with matters related to discipline, work assignments, scheduling, and performance reviews.
- i) For students making appropriate decisions in connection with matters related to such things assessments of work, tests, and exams.
- j) Engagement in good faith in any legal or investigatory proceedings.
- k) Responsible exercise of academic freedom, freedom of expression, and freedom of inquiry.
- l) Making a formal complaint in good faith.
- m) Any corrective or disciplinary action made in good faith in respect of an OC Employee pursuant to recommendations made during an Investigation.

Senior Manager Means the President, Vice Presidents, Associate Vice Presidents, Deans or Directors.

Student Means any person who is enrolled as a student at the College.

4. Retaliation Allegations

- 4.1 OC does not tolerate Retaliation. If an employee or student engages in Retaliation, they may be subject to disciplinary action up to and including suspension or expulsion in the case of a student, and termination of employment in the case of an employee.
- 4.2 If a Complainant raises an issue or makes a formal complaint and has a concern that it may result in Retaliation, the Complainant may bring that concern to the attention of the Designated Recipient even if no Retaliation has yet occurred. The Designated Recipient may work with the applicable manager and the Complainant on an anticipatory basis to implement measures designed to avoid or minimize the risk of Retaliation. Depending on the circumstances, the following are examples of anticipatory protective measures that may be taken:
 - a) Removal of the Complainant from the supervision of a specific supervisor or appointment of additional supervisors for the Complainant.
 - b) Transfer of the Complainant to another department.
 - c) Change in the Complainant's performance evaluators.
- 4.3 If a Complainant believes that Retaliation has occurred, the Complainant may report the Retaliation to the Designated Recipient in accordance with this Procedure. If a Designated Recipient receives a report of Retaliation, the Designated Recipient will:
 - a) Review and conduct a preliminary analysis of the report and determine whether further action (such as, for example, interim protective measures and/or Retaliation Investigation) is warranted.
 - b) Communicate the Designated Recipient's decision as to whether further action is warranted to the Complainant.

- c) If an Investigation regarding the alleged Retaliation (“Retaliation Investigation”) is warranted, conduct the Retaliation Investigation in accordance with *Section 6* of this Procedure.

5. Reporting Alleged Retaliation

- 5.1 A Complainant who wishes to report Retaliation must report the Retaliation to the Designated Recipient in writing and must include the following information in the report:
 - a) The nature of the Retaliation being reported, including any relevant dates and timeframes.
 - b) Names of the parties involved.
 - c) What they believe to be the underlying cause of the Retaliation.
 - d) Whether the Retaliation has already been reported to another person and what response was received.
 - e) The report must provide the Designated Recipient with any other information that is requested by the Designated Recipient in relation to the alleged Retaliation.
- 5.2 If (i) a report of Retaliation relates to the applicable Designated Recipient, or (ii) if the applicable Designated Recipient otherwise has a Conflict of Interest, the Complainant may report Retaliation to the Designated Recipient’s manager who will determine who will take the role of the Designated Recipient in respect of the Retaliation report.
- 5.3 A report of Retaliation to the Designated Recipient can be made on an anonymous basis. If a report is made on an anonymous basis, the identity of the Complainant, if known, will be treated as confidential, meaning that, except as required by applicable laws, only those authorized College representatives who need to know the information to address the allegation of Retaliation will obtain access to such information, for the purpose of investigating the complaint. If the anonymous complainant does not provide contact information it may hamper the ability of the College to fully investigate the complaint.
- 5.4 A Complainant who wishes to report Retaliation on an anonymous basis should be aware that this may limit the College’s ability to respond to, and investigate, the report.
- 5.5 If a third party is aware that an employee or a student is experiencing Retaliation, the third party may bring the matter to the attention of the applicable Designated Recipient, who will then discuss with the Complainant as to whether they wish to proceed with a Retaliation report.
- 5.6 Subject to Section 8 of this Procedure, the Designated Recipients will normally inform or collaborate with the applicable Senior Manager to address Retaliation allegations.

6. Retaliation Investigations

- 6.1 The Designated Recipient will determine whether the Retaliation Investigation will be conducted as part of an ongoing Investigation, or whether the Retaliation Investigation will be conducted separately.
- 6.2 If the Retaliation Investigation is conducted as part of the ongoing Investigation, the Designated Recipient will coordinate, if necessary, with the person who is responsible for the Investigation. In such circumstances, the Retaliation Investigation will be conducted in accordance with the procedure set for the Investigation already underway.

- 6.3 If the Retaliation Investigation is conducted as a stand-alone, separate Investigation, the Designated Recipient will appoint themselves or another internal or external person as the Investigator and the Retaliation Investigation will be conducted in accordance with the procedures set out below.
- 6.4 The Designated Recipient will:
- a) Contact the Complainant to advise them that the alleged Retaliation will be investigated, and to provide them with information about the investigation process, including their right to have an advisor, support person, or union representative present whenever they meet with the Investigator.
 - b) Contact the Respondent to advise them that a report of Retaliation has been made and has been referred to an Investigator, and to provide the Respondent with a copy of the report together with information about the resources available and the investigation process, including the right of the Respondent to have an advisor, support person, or union representative present whenever the Respondent meets with the Investigator.
- 6.5 It is intended that, except in exceptional circumstances, Retaliation Investigations will be completed within 90 calendar days following the Designated Recipient's receipt of the written report of Retaliation. If during the Retaliation Investigation the Investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the Designated Recipient as soon as possible to inform them of the revised timeline.
- 6.6 In all Retaliation Investigations, the Respondent will be informed of the allegations made against them and will be given the opportunity to respond.
- 6.7 Subject to the requirement to conduct the Retaliation Investigation in conformity with the principles of procedural fairness, the Investigator may investigate in any manner the Investigator deems appropriate to obtain the information required to make the necessary findings of fact. This may include, but is not limited to, the following:
- a) Requesting a written response to the Retaliation allegation from the Respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications.
 - b) Meeting with or requesting further information from the Complainant.
 - c) Meeting with or requesting further information from the Respondent.
 - d) Meeting with or requesting further information from any other individuals who may have information relevant to the Retaliation Investigation, including any witnesses identified by the Complainant or the Respondent.
 - e) Obtaining any other evidence that may be relevant to the Retaliation Investigation.
- 6.8 At the completion of the Retaliation Investigation, the Investigator will prepare a written report for the Designated Recipient. The report will normally include a summary of the evidence considered; any assessment of credibility that is required to render a determination; and the findings of fact, and a determination as to whether, on a balance of probabilities, Retaliation has occurred.

7. Outcome and Disciplinary Measures

- 7.1 If there is a finding that the Employee Respondent has engaged in Retaliation, the Designated Recipient will report the finding to the appropriate Vice President for the determination of any actions or disciplinary measures.
- 7.2 If there is a finding that the Student Respondent has engaged in Retaliation the matter will be referred to the Student Conduct Committee for the determination of any actions or disciplinary measures.
- 7.3 If the Investigative Report determines that Retaliation did not occur, the Designated Recipient will provide a letter to the Complainant and the Respondent confirming this finding, with a summary of the basis for that finding.

8. Confidentiality and Privacy in Retaliation Investigations

- 8.1 To protect the integrity, fairness, and effectiveness of Retaliation Investigations and ensure compliance with the Freedom of Information and Protection of Privacy Act ("FIPPA"), all participants in a Retaliation Investigation must act in accordance with the requirements set out below.
- 8.2 Individuals, including the Complainant and the Respondent, who have obtained information about an identifiable individual ("Personal Information") through their participation in a Retaliation Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:
 - a) Any participants in the Retaliation Investigation from disclosing information about themselves.
 - b) From disclosing information as part of the Retaliation Investigation to the Investigator.-
- 8.3 The College will not disclose any Personal Information related to a Retaliation Investigation except to the extent such disclosure is:
 - a) Expressly authorized by the affected individual.
 - b) Is necessary for the performance of that individual's duties.
 - c) To a Complainant, Respondent, witness, or other participant in the Retaliation Investigation, if necessary for the conduct of the Retaliation Investigation.
 - d) To a Complainant or Respondent for compelling health or safety reasons.
 - e) Required under law.

9. Appeal Process

- 9.1 Student Respondents may appeal any discipline that is imposed on them under these Procedures through the Student Non-Academic Misconduct process.
- 9.2 Employee Respondents may appeal any discipline that is made or imposed on them under these Procedures in accordance with the provisions of their collective agreements or their terms and conditions of employment or appointment.

10. Related Acts and Regulations*College and Institute Act**Freedom of Information and Protection of Privacy Act**Workers Compensation Act***11. Supporting References, Policies, Procedures and Forms***Employee Discrimination, Bullying and Harassment Policy**Procedures for Reporting and Investigating Employee Complaints**Sexual Violence and Misconduct Policy**Procedures for Complaints or Disclosures of Sexual Violence and Misconduct**Violent or Threatening Behaviour Policy**Student Non-Academic Misconduct Policy**Procedures for Filing Complaints of Student Non-Academic Misconduct**Procedures for Student Non-Academic Misconduct Investigations**Student Complaint Policy**Safe Disclosure Policy***History / Revisions**

Date	Action
2024-04-03	<i>New Procedure Approved by OC Executive Team: Procedures for Protecting Employees and Students from Retaliation (RETPR_2404N_AD/PSV)</i>