Human Rights Office

2018 Annual Report
Abstract and Introductory Remarks

2018 was a year of transition and change in the Human Rights Office:

- From January till April 2018, Brenda Taylor was serving as an off-campus, part-time consultant. (For the first four months of 2018, there was no staff presence on campus and the office was closed as a campus resource).
- In April 2018, Marie Brunelle was appointed as the new Director of the Human Rights Office.
- In September 2018, Roya Ghorab joined the Human Rights Office as a Confidential Administrative Professional.
- The physical space of the HRO was reorganized with a meeting room, reception area, and an office.

Our top priority is to respond to all requests addressed to the Human Rights Office in a timely manner. In addition to this core mandate, the office undertook the following priorities:

- Building collaborative relationships with the major stakeholders and senior management;
- Raising people’s awareness on the role of the HRO;
- Supporting the Human Rights Policy Board in the Human Rights Policy review process;
- Supporting the Equity, Diversity, Inclusion Initiative;
- Developing a new client-tracking system, data collection system, and filing system.

All the activities listed in this report are inspired by the desire to make the Human Rights Policy a lived document, endorsed by all.

This Human Rights Annual Report is prepared for the University Community as mandated by article 14 of The Human Rights Policy: “This annual report will be reviewed and commented on by the Human Rights Policy Board and forwarded to the University Secretary, who will distribute it widely.”

Marie Brunelle
Director of the Human Rights Office
May 2019
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Introduction and Acknowledgements

This report provides a brief overview of the activities of the Human Rights Office from January 2018 to December 31, 2018.

I would like to take this opportunity to express my gratitude to the following individuals for their ongoing support and guidance:

- Ian Forsyth, University Secretary
- Barry Cartwright, Chair, Human Rights Policy Board

I would also like to thank the members of the Human Rights Policy Board for their advice and expertise.

I would like to thank Roya Ghorab for the ongoing commitment and dedication she has shown, supporting the Human Rights Office as the Confidential Administrative Professional.

Thanks to all individuals with whom I have worked in 2018, both those people who consulted the Office, and the members of the University community who engaged with the Human Rights Office in an effort to resolve issues.
A Brief Overview of Cases

From January 2018 to December 31, 2018, a total of 125 persons contacted the Office looking for advice about situations they were either experiencing or managing.

In the 2018 calendar year, the majority of consultation work consisted of management consultations. This year, the HRO undertook 70 management consultations and 55 individual consultations. From these 55 consultations, 6 complaints were filed.

The work of the Human Rights Office has shifted from a complaint-driven focus to that of a University resource, becoming more proactive than reactive.

Total number of consultations over a five year period 2014-2018

(The data from previous years are taken from the previous Annual Reports prepared by Brenda Taylor.)

The decline in the number of consultations can be explained by two factors. First, there was a part-time human rights consultant and no staff presence in the Human Rights Office from January 2017 to April 2018, which most likely had an impact on its visibility. Second, there was a transition period of several months during which the new Human Rights Director became familiar with SFU’s operations and developed working relationships within the university community.
1. The Work of the Office

1.1 Staffing

The HRO has been staffed by two employees since September 2018:

- Marie Brunelle is the Director of the Human Rights Office
- Roya Ghorab is the Confidential Administrative Professional

1.2 Mandate of the Director

The mandate of the Director is to provide human rights information, assistance, education, training, and informal complaint resolution to all members of the University community with regard to discrimination and harassment. As specified by the Human Rights Policy, the Director reports to the University Secretary, Ian Forsyth.

More specifically the Director carries out the following functions as defined in the policy:

- providing assistance and advice to people who believe they are the target of harassment and/or discrimination;
- conducting management consultations with supervisors;
- providing advice and guidance on a full range of human rights issues;
- assessing the admissibility of the complaints to determine whether they fall within the scope of the policy;
- investigating allegations made by complainants, by conducting interviews, and determining whether a prima facie case of discrimination or harassment exists and/or is legitimate;
- providing conflict resolution services at the request of the parties;
- negotiating and drafting legally binding agreements and settlements and resolving disputes;
- referring matters for external investigation;
- providing information sessions and presentations to faculty, staff, and students;
- working in collaboration with the University Secretary and other senior managers to provide strategic and advisory support on human rights compliance, policy and processes;
- ensuring that the University meets or exceeds its obligations under the BC Human Rights Code.

1.3 The Intake Process

The majority of people who come to the HRO are looking for advice. They are either people who believe they are or have been targets of discrimination or harassment, or people (such as managers and supervisors) who believe that harassment or discrimination may have occurred or be occurring in their environment. For individual consultations, people seek advice about how to deal with what they perceive to be harassing or discriminatory behaviour, while managers want advice about how to manage such behaviour. Such cases are categorized as “Consultations.”
A consultation usually consists of a combination of information provided through emails and face-to-face meetings. It is not uncommon that a consultation would take several hours and require a number of meetings.

The next category is “Complaints”, in which the HRO is asked to act on a complaint and to contact the respondent. Typically, these cases involve assisting the parties through informal resolution or mediation.

The final category of cases is “External Investigations”. These are cases in which the complainant requests the appointment of an external investigator (see article 9 of the Human Rights Policy).

1.3.1 Harassment

To bring a specific complaint of harassment within the scope of the policy, all of the following factors must be present:

- the impugned activity or behaviour is University-related and has occurred within the preceding twelve months;
- both parties are members of the University community (students, faculty, employees), and/or the University itself as a legal entity;
- the behaviour is persistent;
- there is evidence that the behaviour was not welcomed by the complainant;
- the respondent knew or should have known that the behaviour was not welcomed; and
- if true, the behaviour would constitute a violation of the policy.

All of the foregoing conditions must be met to establish proper jurisdiction.

Three types of harassment fall under the policy.

(i) Harassment Based on a Prohibited Ground of Discrimination. This is defined as behaviour directed towards a person which is abusive or demeaning, is based on a ground of discrimination enumerated in the British Columbia Human Rights Code, and which would be viewed by a reasonable person as interfering with a University-related activity.

(ii) Sexual Harassment is defined as sexual behaviour by a person who knows or ought reasonably to know that the behaviour is unwelcome and which either interferes with another person’s participation in a University-related activity or which leads to or implies employment or academic consequences for the person at whom it is aimed.

(iii) Personal Harassment is defined as behaviour directed at an individual which serves no legitimate purpose and which would create an intimidating, humiliating or hostile work or learning environment.
1.3.2 Discrimination

To bring a particular complaint of discrimination within the scope of the policy, all of the following factors must be present:

- the impugned activity or behaviour is University-related and has occurred within the preceding twelve months;
- both parties are members of the University community (students, faculty, employees), and/or the University itself as a legal entity; and
- it meets the legal definition for discrimination in that either:
  - the behaviour intentionally or unintentionally, and without bona fide justification, imposes a burden or an obligation on an individual by virtue of that person’s membership in a group which is enumerated under the B.C. Human Rights Code;
  - or -
  - there is evidence that the University has failed to accommodate up to the point of undue hardship an individual protected from discrimination.

Discrimination, as defined in the Human Rights Policy (GP 18), section 1:

“The University expressly adopts the definition of discrimination articulated by the Supreme Court of Canada,”^1 i.e., intentional or unintentional differential treatment for which there is no bona fide and reasonable justification. Such discrimination imposes burdens, obligations, or disadvantages on specific individuals or groups as defined by the B.C. Human Rights Code.”

Currently, grounds of discrimination prohibited by the B.C. Human Rights Code are age, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity and gender expression, and, in the case of employment, unrelated criminal convictions.

The University is under a legal duty to accommodate individuals or groups protected from discrimination under the B.C. Human Rights Code unless doing so would create undue hardship to the University.

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^1 Discrimination is defined as intentional or unintentional differential treatment of a person or group based on a prohibited ground in the Human Rights Code, R.S.B.C. 1996, c. 210 (“Code”), for which there is no bona fide or reasonable justification. (Simon Fraser University Policies, GP18: Human Rights Policy, Section 1, and Code; see also, British Columbia (Public Service Employee Relations Commission) v. British Columbia Government and Service Employees’ Union (B.C.G.S.E.U.), [1999] 3 S.C.R. 3 (“Meiorin”))
1.4 The Human Rights Policy Board

This eleven-person body consists of a Chair, three faculty members (appointed to three-year terms), three staff members (each of whom serves a three-year term), and four students (each of whom serves a one-year term). The Human Rights Policy Board provides policy advice to the University Secretary who has the ultimate authority for the administration of the policy. In this context, the Board is now leading the Human Rights Policy Review process. The last revision of the Policy was made on November 27, 2014 and the Policy states that this Policy will be formally reviewed at least every five years” (article 15). As well, the Board comments on this Annual Report.

2. The Policy in Practice

2.1 Consultations

The Director regularly provides guidance to students, staff members, faculty members, and managers on a variety of matters related to discrimination, harassment, and conflict resolution/management. This includes providing options and strategies for resolving conflicts, referring them to the proper internal or external resources, helping them where possible to resolve their issues themselves, and informing them about the Human Rights Policy complaint procedures.

It is relevant to note that in order to help resolving conflicts on 3 different occasions, the Human Rights Office was able to hold successful informal meetings (in the absence of the complaint).

Consultation Process:

Consultations involve direct intervention with the complainant only. If intervention beyond that stage (e.g., mediation) is requested, the case is classified as a “Complaint”.

There are two categories of consultations as follows:

Individual Consultation: The person seeking advice believes that they are the target of harassment or discrimination.

Management Consultation: A manager, supervisor or an entity such as an employee group or union (or someone who is handling discrimination cases) seeks advice on how to manage and resolve harassment or discrimination that is alleged to be taking place in their department, faculty, or program.
Consultation Data:

In the 2018 calendar year, the HRO conducted 125 consultations:

- 55 Individual consultations
- 70 Management consultations

**Distribution by Affiliation to SFU**

<table>
<thead>
<tr>
<th>Affiliation</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXTERNAL</td>
<td>5</td>
</tr>
<tr>
<td>FACULTY</td>
<td>15</td>
</tr>
<tr>
<td>MANAGERS</td>
<td>61</td>
</tr>
<tr>
<td>STAFF</td>
<td>13</td>
</tr>
<tr>
<td>STUDENTS</td>
<td>31</td>
</tr>
</tbody>
</table>

**2.1.1 Individual consultations: N=55**

- Nature of the request:

**Distribution by Nature of the Request (Individual Consultations)**

<table>
<thead>
<tr>
<th>Nature of Request</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACCOMMODATION</td>
<td>4</td>
</tr>
<tr>
<td>DISCRIMINATION</td>
<td>16</td>
</tr>
<tr>
<td>DISCRIMINATION AND HARASSMENT</td>
<td>3</td>
</tr>
<tr>
<td>HARASSMENT</td>
<td>24</td>
</tr>
<tr>
<td>INFORMATION AND CLARIFICATION</td>
<td>6</td>
</tr>
<tr>
<td>OTHER</td>
<td>2</td>
</tr>
</tbody>
</table>
• Harassment: N=24

The following is a breakdown of consultations related to harassment:

**Distribution by Harassment Type**

(Individual Consultations)

- Personal Harassment: 19
- Discriminatory Harassment: 2
- Sexual Harassment: 3

• Discrimination: N=19

The following is a breakdown of consultations related to discrimination:

**Distribution by Discrimination Ground**

(Individual Consultations)

- Race and Sex: 7
- Age: 1
- Disability/Duty to Accommodate: 3
- Gender Identity & Sexual Orientation: 2
- Political Belief: 1
- Religion: 1
- Sex: 3
- Race/Ancestry/Nationality: 1
• **Accommodation: N=4**

The following is a breakdown of consultations related to accommodation:

![Distribution by Accommodation Type](image)

2.1.2 **Management Consultations: N=70**

The HRO dealt with 70 management consultations in 2018. This high number of managers who used the services of the Human Rights Office appears to indicate that these managers are aware of their human rights obligations, and are seeking appropriate assistance in meeting these obligations.

• **Nature of the Request:**

![Distribution by Nature of Request](image)

*Coaching*: These consultations involved managers seeking advice on how to prevent, manage, and resolve harassment and discrimination that was alleged to be taking place in their department.

*Feedback*: These consultations involved managers seeking feedback/advice on draft policies or documents (e.g., Student Conduct Policy).
• Harassment-related Consultations: N=17

The following is a breakdown of consultations related to harassment:

![Distribution by Harassment Type](image)

- Personal Harassment: 8
- Sexual Harassment: 9

• Discrimination-related Consultations: N=8

The following is a breakdown of consultations related to discrimination:

![Distribution by Discrimination Ground](image)

- Age: 2
- Gender Identity and Sexual Orientation: 1
- Race: 4
- Religion: 1

• Accommodation-related Consultations: N=21

The following is a breakdown of consultations related to accommodation:

![Distribution by Accommodation Type](image)

- Mental & Physical Disability: 16
- Religion: 5
2.2 Complaints

A complaint occurs when a member of the University community, who believes that they may have experienced discrimination or harassment, is asking the Human Rights Office to act on this situation and to contact the respondent. On intake, the individual will be asked to provide a full account of the behaviours that are alleged to fall within the Policy.

As stated in the Policy, all complaints that proceed beyond the informal consultation must be submitted in writing. The Director will then assess the admissibility of the complaint:

- If the complaint is dismissed for not falling within the scope of the Policy, the Director will issue a decision, including reasons for that decision. This decision may be appealed to the Chair of the HRPB;
- If the complaint proceeds, the Office will commence an informal inquiry and will assist the parties with informal resolution or mediation.

Over the reporting period, the Human Rights Office received six complaints.

<table>
<thead>
<tr>
<th>Nature of Allegation</th>
<th>Ground</th>
<th>Status of the Complainant</th>
<th>Status of the Respondent</th>
<th>Resolution Process</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discrimination</td>
<td>Place of Origin (Nationality)</td>
<td>Student</td>
<td>Faculty</td>
<td>Following informal inquiry: complaint without merit. A reference to the country of origin does not amount to discrimination</td>
<td>Dismissed</td>
</tr>
<tr>
<td>Harassment</td>
<td>Personal</td>
<td>Student</td>
<td>Student</td>
<td>Following informal inquiry: complaint without merit. A conflict between two students does not amount to personal harassment</td>
<td>Dismissed</td>
</tr>
<tr>
<td>Harassment</td>
<td>Personal</td>
<td>Student</td>
<td>Faculty</td>
<td>Following informal inquiry: complaint without merit. A lack of support from a faculty member does not amount to personal harassment</td>
<td>Dismissed</td>
</tr>
<tr>
<td>Discrimination</td>
<td>Race</td>
<td>FIC student</td>
<td>SFU student</td>
<td>No jurisdiction (FIC)</td>
<td>Dismissed (referred to Student Conduct Coordinator)</td>
</tr>
<tr>
<td>Discrimination</td>
<td>Disability</td>
<td>Student</td>
<td>SFU</td>
<td>Ongoing discussion on Terms of Reference for accommodation</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Discrimination</td>
<td>Disability</td>
<td>Faculty</td>
<td>Faculty</td>
<td>The admissibility of the complaint was previously assessed by Brenda Taylor. Allegations did not fall within jurisdiction of GP18.</td>
<td>Dismissed</td>
</tr>
</tbody>
</table>

2.3 External Investigations

No files were sent for external investigation during 2018.

For the Human Rights Policy to have the maximum impact, this policy and the nature of the services provided by the Human Rights Office have to be well known and understood by all University community members. Therefore, the HRO works to increase the visibility of the Office and in doing so to enhance awareness of rights and responsibilities related to discrimination and harassment. The Director uses every possible opportunity to inform and to raise people’s awareness about the Policy and on the role of the Human Rights Office.

Reaching out to students:
- Welcome Week events on the three campuses, September 2018 (more than 100 students stopped at the information booth and filled out a Human Rights Quiz);
- Information table at the Graduate Student Orientation, Burnaby, August 2018;
- Presentation to the GSS Student Council, December 2018;
- Meeting with the staff from both student unions to identify the best ways to inform the student body.

Reaching out to Employees:
- Presentation at the New Faculty Orientation, August 2018;
- Presentation at the TA/TM Day organized by TSSU, September 2018;
- Presentations at the monthly New Staff Orientations;
- Presentation to Campus Security Staff;
- Meeting with employee groups staff members (SFUFA, CUPE, TSSU).

Developing collaborative relationships with senior management and various stakeholders:
Stepping into this new role, the Director initiated many contacts with the key players on campus to improve links between the Human Rights Office and other services in order to ensure that the Policy becomes embedded in the daily management of the University. More specifically, she had meetings with the following individuals, groups, teams, offices:

- Vice-Presidents, Executive Directors of Surrey and Vancouver campus;
- Deans’ Council, October 2018;
- Academic Chairs and Directors meeting, September 2018;
- Student Services Senior Management Team;
- Student Affairs Directors Team
- Centre for Accessible Learning, Student Conduct Coordinator, Residences Services, Safety and Risks Services, Athletics and Recreation, Sexual Violence Support & Prevention Office, Graduate & Postdoctoral Studies Office, Labour Relations, Faculty Relations, Return to Work Office;
- Monthly meetings with the Ombudsperson;
- Participating in the Personal Harassment/Bullying in the Workplace Working Group, initiative led by the Associate VP Human Resources;
- Supporting the EDI (Equity, Diversity, Inclusion) initiative, by attending the Equity Advisory Committee meetings and attending the EDI events.
4. Support of the Policy Review Process

Both employees of the HRO are fully engaged supporting the work of the Human Rights Policy Board in the GP 18 Policy review process. This revision scheduled every five years is particularly relevant and timely. Since the last revision of this policy in 2014, the institutional landscape has changed significantly: there is a new Student Conduct Policy (November 2018), a standalone Sexual Violence and Misconduct Prevention, Education and Support Policy (March 2017), and a new Workplace Bullying & Harassment Program. In the context of a new institutional and policy framework, the Human Rights Policy has to be revisited, redefined, and clarified. The Human Rights Policy Board held its first meeting on the policy review on December 5, 2018.

5. Professional Development

External Conferences:
- Attended CLEBC (Continuing Legal Education, British Columbia) 2 day conference in Vancouver in November 2018, Human Rights Law Conference

SFU Workshops:
- Attended 2 day HR workshop, Leading through Conflict: Building capacity and Confidence, June 2018;
- Attended 3 hour HR workshop, Intercultural Understanding: working effectively across differences, September 2018;
- Attended Teaching and Learning Centre workshop: Safer Spaces- Strategies for Anti-Oppression in the classroom, October 2018.

I was admitted to the British Columbia Law Society (BCLS) as a practicing lawyer, in November 2018.

6. Concluding Comments

In my first year in this position, I feel that I have accomplished my initial goal to raise people’s awareness about the role of the Human Rights Office, and that I was able to build positive relationships with many major stakeholders and to maintain a high level of professionalism and integrity. While it has been a steep learning curve for me, nonetheless this working environment has been vibrant, challenging, and rewarding.