APPENDIX A - HUMAN RIGHTS POLICY - DEFINITIONS

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Policy Authority: Vice-President, People, Equity and Inclusion

Parent Policy: Human Rights Policy (GP 18)

1.0 PURPOSE

1.1 The definitions in this Appendix define the words used in the Human Rights Policy and in the Human Rights Procedures.

2.0 BACKGROUND INFORMATION

2.1 British Columbia’s Human Rights Code (“Code”) lists the personal characteristics that the Code protects. The personal characteristics protected by the Code and by this Policy are: age, race, colour, ancestry, place of origin, Indigenous identity, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity, gender expression, and, in the case of employment, also includes unrelated criminal convictions and political belief. Any future legislative changes that add to or otherwise alter the prohibited grounds of discrimination in the Code shall automatically be incorporated into this Policy.

2.2 For the purposes of the Policy and these procedures, harassment related to a personal characteristic protected by the Code is a form of discrimination. Harassment is sometimes a series of incidents but can be one severe incident that has a significant and lasting impact on the person affected. Harassment can be committed by one person or multiple people, acting independently or in coordination. Harassment is not:

2.2.1 appropriate and authorized supervision;

2.2.2 imposition of appropriate discipline; or

2.2.3 occasional curtness or lack of friendliness.

2.3 For the purposes of the Policy and these procedures, sexual harassment (as defined below) is a form of discrimination. Sexual harassment may be physical or verbal, overt or subtle, a single incident or persistent. Examples of unwanted or unwelcome behaviour that might constitute Sexual Harassment include:
2.3.1 sexual solicitations, flirtations, or advances;
2.3.2 sexually suggestive comments or gestures;
2.3.3 demeaning or degrading sexual comments or conduct, including remarks, taunting, jokes, or innuendos about a person’s body, sexuality, sexual orientation, or sexual conduct;
2.3.4 display or transmission of a sexually explicit or otherwise sexually suggestive visual record when such display or transmission would not be viewed as having a legitimate purpose by a reasonable person in the situation of the observer or recipient;
2.3.5 demands for sexual favours;
2.3.6 requests for sexual contact after a consensual relationship has ended;
2.3.7 non-consensual touching or physical contact of a sexual nature; and
2.3.8 coerced consent to sexual contact, including misuse of position or authority to secure sexual favours.

2.4 Discrimination is prohibited by the Policy and, if found to have occurred, may result in corrective measures or disciplinary sanctions including, where appropriate, dismissal or permanent suspension.

3.0 DEFINITIONS

3.1 Academic Freedom means the freedom to examine, question, teach, and learn, including the right to investigate, speculate, and comment without reference to prescribed doctrine as well as the right to criticize the University and society at large. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research and teaching on an honest search for knowledge.

3.2 Complainant means the person who seeks recourse under this Policy based on a belief that they have experienced conduct which is prohibited by this Policy. The University may take on the role of Complainant.

3.3 Complaint means a statement of facts alleged by a Complainant seeking recourse under this Policy.

3.4 Constituency Organization means the Administrative and Professional Staff Association (APSA), Canadian Union of Public Employees (CUPE 3338), Poly Party, Simon Fraser Student Society (SFSS), Graduate Student Society (GSS), Simon Fraser University Faculty Association (SFUFA), and the Teaching Support Staff Union (TSSU).

3.5 Director means the Director of the University’s Human Rights Office. The Director is not an advocate for either party to a Complaint.
3.6 **Discrimination** means:

3.6.1 intentional or unintentional differential treatment based on one or more of the personal characteristics protected by the British Columbia’s *Human Rights Code* ("Code"),

3.6.2 for which there is no *bona fide* and reasonable justification, and

3.6.3 which imposes burdens, obligations or disadvantages on specific individuals or groups.

3.7 **Harassment related to a personal characteristic protected by the Code** is a form of discrimination under this Policy. It means behaviour directed towards another person or persons that is:

3.7.1 abusive and demeaning, and

3.7.2 includes a direct or indirect reference to a prohibited ground of discrimination under the *Code*, and

3.7.3 would be viewed by a reasonable person experiencing the behaviour as an interference with their access to a university service or their participation in a University-related activity, or which leads to or implies job or academically related adverse consequences for the person harassed.

3.8 **Sexual Harassment** means behaviour of a sexual nature directed toward another person or persons:

3.8.1 by a person who knows or ought reasonably to know that the behaviour is unwanted or unwelcome, and

3.8.2 that results in adverse consequences for the person harassed, such as interference with their access to a university service or their participation in a University-related activity, or which leads to or implies job or academically related adverse consequences.

3.9 **Duty to Accommodate** means the University’s legal duty to take reasonable steps to accommodate individuals or groups protected from discrimination under the *Human Rights Code*, to the point of undue hardship to the University.

3.10 **Mediation** means a voluntary process in which the parties attempt to resolve the issue(s) that led to the Complaint through an agreement reached between the parties with the assistance of a neutral third party.

3.11 **Respondent** means a person or persons against whom a Complaint has been made pursuant to this Policy.

3.12 **Responsible Office** means the University administrative office designated in section 6.4 of the Policy, responsible for responding to a request for investigation and responsible for overseeing and managing all steps thereafter in relation to the Complaint. The Responsible Office is
determined by the Respondent’s affiliation to the University within the context of the incident(s) described in the Complaint. The Responsible Office is:

3.12.1 Faculty Relations, for Complaints about members of the SFUFA bargaining unit;

3.12.2 Human Resources, for Complaints about employees who are members of the APSA, CUPE, Poly Party, and TSSU employee groups;

3.12.3 Human Resources, for Complaints about excluded employees and members of the University’s Executive or senior administration, including Deans and Associate Deans;

3.12.4 Office of Student Support, Rights, and Responsibilities for Complaints about Students;

3.12.5 Office of General Counsel, for Complaints about members of the University Community whose affiliation with the University does not fall within 3.12.1 to 3.12.4.

3.13 Retaliation means an adverse action or threatened action, direct or indirect, taken or made through any means, against a person who invoked the Policy or its procedures in good faith, or against a person who participated or cooperated in good faith in a University process addressing a Complaint. Retaliation is prohibited conduct.

3.14 Student includes any of the following: an undergraduate who is enrolled at the University for one or more of the last three terms and is eligible to continue in a program of study; a graduate student who is enrolled at the University in the current term and is eligible to continue; a graduate student who is on leave and eligible to enrol at the University when the leave ends; a visiting or exchange or special audit student who has been formally admitted to the University for the purposes of taking courses or to take part in an approved research term; a graduate student who is enrolled in courses at the University as a qualifying student; or a person enrolled at the University in a non-credit program or course.

3.15 Supervisor means the person designated by the University under this policy and responsible for, among other things, determining whether the policy was violated and whether disciplinary sanctions will be imposed.

3.16 University Community means all students and employees of the University and all people who have a status at the University mandated by legislation or other University policies, including research assistants, post-doctoral fellows, members of Senate and the Board of Governors, volunteers, visiting and emeritus faculty, and visiting researchers.

3.17 University-related activity means an event or activity sponsored by, or under the auspices of, the University. All activities on the University’s campuses are University related unless they are within the exclusive control of Constituency Organizations or an organization or group external to the University.