

October 17, 2017

File No. 3540-005

VIA EMAIL

BC Human Rights Tribunal
1170 - 605 Robson St.
Vancouver, BC V6B 5J3

Attention: Daniel Varnals

Dear Sirs and Mesdames:

Re: *Glynnis Kirchmeier and Glynnis Kirchmeier obo Others v. University of British Columbia*
BCHRT Case No. 14965

Please find enclosed the Respondent's Form 2 and supplemental response submission.

Yours very truly,

Roper Greyell LLP

Per:

Jennifer Devins

JRD:jrd

cc. Client

Clea Parfitt

BC Human Rights Tribunal

1170 - 605 Robson Street

Vancouver BC V6B 5J3

Phone: 604-775-2000

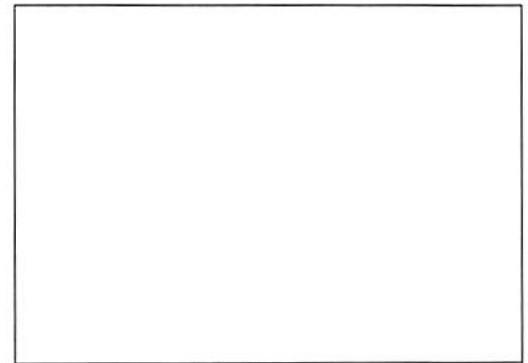
Fax: 604-775-2020

Toll Free: 1-888-440-8844

TTY: 604-775-2021

GENERAL INSTRUCTIONS

- For detailed instructions select the **Help** buttons as you go or check **All Instructions** now
- See the Tribunal's website for further information – www.bchrt.bc.ca
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- **Email** us your form by attaching a saved copy and sending it to BCHumanRightsTribunal@gov.bc.ca
- OR click on **Print** and **fax, mail** or **hand deliver** a copy of your form to us
- Keep a copy of your Response Form and all of your documents



Tribunal Stamp

For assistance with filing your response go to

BC Human Rights Clinic

The Law Centre

Tel: 250-385-1221

www.bchrc.net

www.thelawcentre.ca

YOUR INFORMATION

FIRST NAME:		LAST NAME:	
NAME OF LAWYER OR OTHER PERSON WHO REPRESENTS YOU IN THIS COMPLAINT (IF APPLICABLE): Michael Wagner and Jennifer Devins			
MAILING ADDRESS: 1850 - 745 Thurlow Street			
CITY: Vancouver		PROVINCE: BC	POSTAL CODE: V6E 0C5
<p>Purpose of collecting contact information: The Tribunal uses your contact information to process the complaint and conduct surveys to evaluate and improve its services. The Tribunal will give your mailing address to the other parties for the exchange of information and other documents. Your additional contact information will only be given to the other parties if you agree.</p> <p><input type="checkbox"/> Check here to tell the Tribunal not to disclose the additional contact information below to the other parties.</p>			
TELEPHONE: 604-806-0922	FACSIMILE: 604-806-0933	CELLULAR:	
EMAIL: mwagner@ropergreyell.com and jdevins@ropergreyell.com			

YOUR RESPONSE

STEP 1: NAME OF COMPLAINANT(S)

Print the Complainant's name as it appears on the complaint form.

Print the Tribunal Case Number found in the letter we sent to you notifying you of this complaint.

COMPLAINANT'S NAME: Glynnis Kirchmeier and Glynnis Kirchmeier obo others	TRIBUNAL CASE NUMBER: 14965
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STEP 2: NAME RESPONDENT(S)

This is the response of:

Respondent 1:

NAME: University of British Columbia
EMAIL:

If there is a spelling or other error in the complaint form, the correct version of the Respondent's name is:

--

STEP 3: AUTHORITY IF ACTING ON BEHALF OF ANOTHER (if applicable)

Set out your authority to act for each Respondent you named in STEP 2 (other than yourself if you are a Respondent):

Respondent 1: University of British Columbia

YOUR AUTHORITY: Lawyer

STEP 4: Part A – FACTS ALLEGED IN THE COMPLAINT FORM

A Respondent may agree with some, none, or all of what the complaint says. Your response in STEP 4: Part A will tell the Tribunal where you and the Complainant disagree. Be specific about dates and what happened.

Respondent 1: University of British Columbia

Say which facts, if any, in the complaint form you AGREE with:

See attached.

Say which facts in the complaint form you DISAGREE with and explain your version of what happened:

See attached.

STEP 4: Part B – JUSTIFICATION FOR RESPONDENT'S CONDUCT AND OTHER DEFENCES

Respondent 1: University of British Columbia

Set out any other or additional defence(s) to the complaint:

See attached.

STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer a complaint (put it on hold) until another proceeding capable of dealing with a human rights complaint, such as a grievance, has been completed. If a complaint is deferred, the Tribunal will take no further steps until the deferral ends.

Is there another proceeding?

☐

Yes

☒

No

STEP 6: COMPLETE THE RESPONSE FORM

After you have filled out the response form:

- keep a copy of the response form and your documents
- make a copy of the response form for the Complainant and any other Respondent(s)
- send your response form to the Tribunal

Check the following for:

☒

I confirm that the information in this response form is true and accurate to the best of my knowledge and belief.

☒

I confirm that I am sending a copy of this form with any attachments to the Complainant and any other Respondent(s).

STEP 7: DISMISSAL APPLICATION

A Respondent can apply to dismiss a complaint within the time limit in the *Rules of Practice and Procedure*. You can wait to apply to dismiss the complaint, or you can file an application with your response form.

You must comply with your disclosure requirements when you apply to dismiss a complaint. This includes giving the complainant a copy of all documents that may relate to the complaint. For more information, see "Get help with the Tribunal process" on the website www.bchrt.bc.ca.

I have complied with the disclosure requirements under the Tribunal's Rules and attach a Form 7.2 – Dismiss Application to this response form asking that the Tribunal dismiss the complaint without a hearing.

☐

Yes

☒

No

WHAT HAPPENS NEXT?

After the Tribunal has received your response form, the Tribunal may:

- defer consideration of the complaint pending the outcome of another proceeding
- contact you to advise of the next step or to set up a prehearing conference
- set a schedule for submissions on your application to dismiss (if you attached one to your response form).

PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area and ground of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public.

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GENERAL INSTRUCTIONS

- For more information see the Tribunal's website – www.bchrt.bc.ca
- Follow the instructions for each step
- Fill in the areas for all seven steps
- Use a dark pen and print legibly
- Add extra pages if you need them
- Keep a copy of your Response Form and all of your documents

For assistance with filing your response go to

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www.bchrc.net

The Law Centre

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STEP 1: NAME THE COMPLAINANT(S)

Print the Complainant's name as it appears on the complaint form.

Print the Tribunal Case Number found in the letter we sent to you notifying you of this complaint.

STEP 2: NAME RESPONDENT(S)

Identify the Respondent(s) who are filing this response form.

If one of the Respondents is submitting a separate response, do not include that Respondent's name on this form.

Print the name of the Respondent(s) as they appear on the complaint form.

If a Respondent's name is misspelled or contains some other error on the complaint form, give the corrected name.

STEP 3: AUTHORITY IF ACTING ON BEHALF OF ANOTHER

You must have authority to file a response on behalf of another individual or a company, organization or association.

Set out your authority in **STEP 3**.

If the Respondent is an individual, you must be their lawyer or have their consent. Otherwise, the individual Respondent must file their own response.

If the Respondent is a company, organization or association, you must be their lawyer or be authorized to act, for example, because you are:

- an officer, for example, the president, secretary or treasurer
- the chair or a designated member of the board of directors
- the owner
- a trustee or administrator

STEP 4: Part A – RESPONSE TO FACTS ALLEGED IN THE COMPLAINT FORM

A Respondent may agree with some, none, or all of what the complaint says. Your response in Part A will tell the Tribunal where you and the Complainant disagree. Be specific about dates and what happened.

Complete Part A. Use a separate sheet for each Respondent.

A Respondent may disagree that a Complainant can prove one or more of the following:

1. The Respondent's conduct took place in an area of discrimination (**STEP 2: Part A** of complaint form)
2. The Complainant has a personal characteristic protected as a ground of discrimination (**STEP 2: Part B** of the complaint form)
3. The Respondent's conduct had an adverse impact on the Complainant (**STEP 3** of the complaint form)
4. There is a connection between the Respondent's conduct and the ground(s) of discrimination (**STEP 3** of the complaint form)

If you are responding to a Retaliation Complaint, see **STEP 3** of the retaliation complaint form.

EXAMPLE 1: An employer might respond to a Complainant alleging she was fired because of her pregnancy, as follows:

1. Agreement that the complaint is about the area of employment
2. Agreement that the ground of sex applies to pregnancy
3. Agreement that the Complainant was fired
4. Disagreement that the pregnancy was connected to the firing

In this example, the Respondent would explain why firing the Complainant was not at all related to her pregnancy.

EXAMPLE 2: A store might respond to a Complainant alleging that the manager made rude comments about his disability, as follows:

1. Agreement that the complaint is about the area of services
2. The store might not know if the Complainant has a disability
3. Disagreement that the store manager made the rude comments and the store's version of what the manager said
4. What the manager said had nothing to do with the Complainant's disability

STEP 4: Part B – JUSTIFICATION FOR RESPONDENT'S CONDUCT AND OTHER DEFENCES

The information provided in **STEP 4: Part A** may be the complete response to the complaint. In other cases, a Respondent may instead or in addition defend against the complaint by explaining its justification for what happened, or that another defence in the Code applies. Complete **STEP 4: Part B** if you believe one of the following defences applies.

Justification for the Respondent's conduct

Even if there is a connection between your conduct and a ground of discrimination, your conduct may not be discrimination.

To prove this, you must show that you have taken every reasonable and practical step to avoid the adverse impact on the Complainant. Explain what steps you took. If accommodation was not possible or not successful, explain why.

For example, if an employee with a disability asked her employer to take steps so that she could return to work, the employer may explain:

- each of the steps it took to have the employee return to work
- that there were no other reasonable or practical steps to take because, for example, of the size and resources of the organization, disruption of operations, interference with the rights of others, serious risk, or excessive cost

Also, if you rely on a rule or standard, you must show it was adopted in good faith, and for a purpose related to the function being performed (for example, the job or service).

Other defences that apply in certain situations

- a criminal conviction is related to the employment
- a bona fide seniority scheme based on age
- a bona fide retirement, superannuation or pension plan, or group or employee insurance plans based on marital status, disability, sex or age
- premiums or benefits under health or life insurance contracts based on sex
- shared bathroom, kitchen or sleeping space with the tenant
- tenancy in buildings restricted to persons 55 or over or with a disability (or to two people, one who is 55 or over or has a disability)
- services based on sex to maintain public decency
- legislation or regulations allowing a distinction based on age
- a publication intended to be private
- non-profit organizations with the primary purpose of promoting the welfare and interests of an identifiable group can give preference to group members

STEP 5: OTHER RELATED PROCEEDINGS

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STEP 6: COMPLETE THE RESPONSE FORM

After you have filled out the response form:

- keep a copy of the response form and your documents
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STEP 7: APPLICATION TO DISMISS

A Respondent can apply to dismiss a complaint within the time limit in the Rules of Practice and Procedure. You can wait to apply to dismiss the complaint, or you can file an application with your response form.

You must comply with your disclosure requirements when you apply to dismiss a complaint. This includes giving the complainant a copy of all documents that may relate to the complaint. For more information, see “Get help with the Tribunal process” on the website www.bchrt.bc.ca.

Some of the reasons for dismissal are:

- the complaint is filed past the six-month time limit, but the Tribunal did not ask you to address this issue
- the complaint relates to a federally-regulated entity
- you have taken prompt, effective steps to address the conduct complained of
- the substance of the complaint was resolved in another proceeding
- there is no reasonable prospect the complaint will succeed at a hearing

For more information, see “Respond to a complaint (and apply to dismiss a complaint)” on the website www.bchrt.bc.ca.

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IN THE MATTER OF THE *HUMAN RIGHTS CODE*,
R.S.B.C. 1996, C. 210 (AS AMENDED)

AND IN THE MATTER OF A COMPLAINT BEFORE
THE BRITISH COLUMBIA HUMAN RIGHTS TRIBUNAL

BETWEEN:

GLYNNIS KIRCHMEIER AND GLYNNIS KIRCHMEIER OBO OTHERS

COMPLAINANT

AND:

THE UNIVERSITY OF BRITISH COLUMBIA

RESPONDENT

RESPONSE
FORM 2, STEP 4, PARTS A AND B

1. The Respondent denies that it discriminated as alleged in the Complaint or at all.
2. The Respondent reserves the right to apply to dismiss the Complaint without a hearing pursuant to section 27(1) of the *Human Rights Code*, R.S.B.C 1996, c. 210 (the "Code").

Background

3. The Respondent, The University of British Columbia ("UBC"), is established by the *University Act*, R.S.B.C. 1996, c. 468.
4. The Complainant is an alumna of UBC having been a masters student in the History Department from September 2011 to November 2013.
5. The Complainant does not allege that she was sexually assaulted or harassed.
6. There are two aspects to the Complaint: those allegations relating to the conduct of Dmitry Mordvinov ("DM") with individuals other than the Complainant and those allegations

relating to UBC's processes for dealing with allegations of sexual assault and/or sexual harassment, including its response to the allegations regarding DM's conduct.

7. DM is not a party to the Complaint.

Policies and Resources

8. UBC acknowledges its obligation to provide a safe, harassment-free workplace and educational environment, which is an obligation that it takes very seriously.

9. UBC maintains an Equity and Inclusion office, which is committed to heightening campus awareness of UBC's discrimination and harassment policies, and issues related to equity and inclusion, human rights, and intercultural understanding.

10. UBC faculty, staff, or students who are experiencing any difficulties related to a human rights conflict at UBC can contact the Equity and Inclusion office to receive confidential advice and support. The staff in the Equity and Inclusion office can also provide referrals to other appropriate campus service.

11. UBC has in place a number of policies relating to student conduct, including discrimination and harassment. UBC's policies are accessible through UBC's website.

12. Policy 3: Discrimination and Harassment ("Policy 3") commits UBC to providing a discrimination and harassment free environment for students, faculty, and staff.

13. Policy 3 sets out procedures available for those members of the UBC community with concerns about harassment or discrimination, including an informal consultation procedure and a formal complaint procedure. Policy 3 additionally contains procedures for managing and resolving complaints.

14. UBC also publishes a Statement on Respectful Environment for Students, Faculty and Staff (the "Statement"). Under that Statement, UBC envisions a climate in which students, faculty and staff are provided with the best possible conditions for learning, researching and working, including an environment that is dedicated to excellence, equity and mutual respect.

15. UBC strives to realize this vision by establishing employment and educational practices that respect the dignity of individuals and make it possible for everyone to live, work, and study in a positive and supportive environment.

16. The Statement prohibits personal harassment, which is harassment not based on a ground protected by the *Code*.

17. UBC also maintains a Student Code of Conduct, under which it can discipline students for non-academic misconduct. Students are expected to conduct themselves in a manner that contributes positively to an environment in which respect, civility, diversity, opportunity, and inclusiveness are valued.

18. The purpose of the Code of Conduct is to define the general standard of conduct expected of students, provide examples of conduct that may be subject to disciplinary action, and set out the processes and procedures that UBC will follow when an allegation of non-academic misconduct is made.

19. Among the explicitly prohibited conduct is any physically aggressive conduct, assault, and harassment, as well as unwelcome or persistent conduct that a student knows, or ought to reasonably know, would cause another person to feel demeaned, intimidated, or harassed.

20. The Code of Conduct contemplates discipline up to and including expulsion from UBC.

21. The Code of Conduct contemplates various options for resolving complaints of misconduct, including informal resolutions and hearings before the Non-Academic Misconduct Committee (the "Committee").

22. If allegations of non-academic misconduct are heard by the Committee, the Committee reports to the President of UBC, who must then issue reasons and a description of any disciplinary measures imposed.

23. Policy 14: Response to At-Risk Behaviour ("Policy 14") permits UBC to respond to at-risk behaviour, including behaviour that may threaten personal safety.

24. Under Policy 14, UBC may respond to at-risk behaviour by prohibiting a student or other individual from attending on the UBC campus.

25. In late 2015, a committee was established by UBC to develop a sexual assault policy.

26. In February 2016, UBC established a Sexual Assault Panel to make recommendations for UBC's policy and practice.

27. The Panel's terms of reference were as follows:

1. To advise on the key components of a vision and mission statement relating to sexual assault.
2. To review literature, research, and best practice from the higher education sector and beyond in relation to point 3 immediately below including consultation with Community Organizations and Experts.
3. To provide advice and recommendations on items such as:
 - a. Policy and practice at UBC around receiving, investigating, and resolving complaints of sexual assault, including survivor rights.
 - b. Education and information programmes and activities aimed at generating cultural change in the area of sexual assault.
 - c. Support for those who have experienced sexual assault and those against whom allegations have been made.
 - d. Jurisdictional issues related to justice, health, collective agreements, human rights, and the like.
 - e. Issues related to accountability and monitoring of progress toward the goal of effectively responding to sexual assault on campus.

28. In April 2016, the Provincial government passed legislation, the *Sexual Violence and Misconduct Policy Act*, S.B.C. 2016, c. 23 (the "Act") requiring public post-secondary institutions to institute sexual misconduct policies.

29. The *Act* does not require any particular form of process for dealing with complaints or reports of sexual misconduct. Rather, the *Act* requires the following:

2 (1) A post-secondary institution must establish and implement a sexual misconduct policy that

- (a) addresses sexual misconduct, including sexual misconduct prevention and responses to sexual misconduct,
- (b) sets out procedures for the following:
 - (i) making a complaint of sexual misconduct involving a student;
 - (ii) making a report of sexual misconduct involving a student;
 - (iii) responding to a complaint of sexual misconduct involving a student;
 - (iv) responding to a report of sexual misconduct involving a student, and
- (c) addresses any other matter prescribed by regulation.

(2) A post-secondary institution must make the post-secondary institution's sexual misconduct policy publicly available on an internet site maintained by or on behalf of the post-secondary institution.

30. UBC's Sexual Assault Panel released its report in June 2016.
31. UBC drafted Policy 131: Sexual Assault ("Policy 131") based on the Panel's recommendations. The draft policy was presented to UBC's Board of Governors in June 2016.
32. Members of the UBC community were invited to provide comments and feedback regarding Policy 131 until October 31, 2016.
33. UBC incorporated the feedback into a comprehensive rewrite of Policy 131. UBC also convened a Steering Committee to assist in reviewing the Policy and making further recommendations.
34. Following extensive consultations with the UBC community, Policy 131 was approved by UBC's Board of Governors on April 13, 2017, and came into effect on May 18, 2017.
35. Policy 131 sets out its Background and Purposes as follows:

UBC has a responsibility to maintain a respectful environment where its members can study, work, and live free from sexual misconduct. This policy articulates UBC's duty and commitment to support members of the UBC community who are impacted by sexual misconduct, to provide a central site for information regarding the resources and options available to those affected by sexual misconduct, to create and make available programs and resources to educate its community on the prevention of sexual misconduct, and to provide a process to respond to and to investigate allegations of sexual misconduct.

36. The Principles and Commitments of Policy 131 are as follows:

1.1 UBC will not tolerate sexual assault or any other Sexual Misconduct.

1.2 UBC recognizes that people's experiences will be affected by factors such as their access to power and privilege, their sex, sexual identity, gender identity or expression, racialization, age, family status, religion, faith, ability, disability, national or ethnic origin, Indigeneity, immigration status, socio-economic status, class, and language. UBC also recognizes that the university is a unique environment, in which power imbalances are inherent. These factors, along with an individual's personal history, impact individual experiences of Sexual Misconduct, the ability to access supports, and choices with regard to recourse. UBC will take this into account when carrying out its responsibilities under this Policy.

1.3 UBC is committed to providing comprehensive and inclusive Sexual Misconduct education, prevention, and response initiatives. Through these initiatives, UBC is committed to countering rape culture, a term that describes broader social attitudes about gender, sex and sexuality that normalize Sexual Misconduct and undermine equality.

1.4 UBC is committed to reducing barriers to Disclosing and Reporting, and to taking a trauma-informed approach when responding to and addressing Disclosures and Reports, and conducting Investigations.

1.5 UBC will provide support services and accommodations to Members of the UBC Community who Disclose or Report Sexual Misconduct.

1.6 UBC is committed to respecting the rights of those who Disclose to make their own decisions about accessing support services and accommodations, making a Report, or pursuing external processes such as a criminal or civil action.

1.7 UBC will provide support to Members of the UBC Community who have had Reports of Sexual Misconduct made against them.

1.8 UBC is committed to procedural fairness and will respond to and address Disclosures and Reports, and will conduct Investigations, in a timely manner.

1.9 UBC will not tolerate any retaliation, direct or indirect, against anyone involved in a Disclosure, a Report, or an Investigation.

37. UBC also established a Sexual Violence Prevention and Response Office, which is a single point of contact and liaison for UBC students, faculty, and staff who have experienced sexual assault, sexual harassment, or any other form of sexual violence.

38. UBC has hired a Director of the Sexual Violence Prevention and Response Office and a Sexual Assault Intervention and Prevention Advisor. UBC has also contracted with Peak Resilience, a counselling practice with expertise in supporting survivors of sexual violence, to provide support to individuals who have experienced sexual violence or who are supporting survivors of sexual violence.

39. UBC has also hired a Director of Investigations, who will oversee investigations and engage third party investigators and alternative dispute resolution practitioners as appropriate under Policy 3 and Policy 131.

Dmitry Mordvinov

40. DM was a PhD student in the History Department at UBC from September 2011 to November 2015.

41. Green College is a UBC residence of primarily graduate students.

42. In January 2012, Stephen Hay, a UBC student, reported to Clark Lundeen, who at the time held the position of Administration Manager of Green College, that he was concerned

about violence and alcohol consumption at Green College social events. Mr. Hay did not name DM in his report to Mr. Lundeen.

43. In February 2013, a female student was allegedly sexually assaulted by DM. The alleged assault was not reported to UBC at the time.

44. In April 2013, Caitlin Cunningham was allegedly grabbed by DM and held in a headlock at a private social event that occurred off-campus. She alleged that DM had held her head to his crotch and called her a "prude". This incident was not reported to UBC at the time.

45. In October 2013, another female student was allegedly sexually assaulted by DM after a party at Green College. This alleged assault was not reported to UBC at the time.

46. In January 2014, DM allegedly engaged in conduct with a female student that DM knew or ought to have known would reasonably cause that student to be intimidated.

47. In January 2014, the Complainant contacted Michel Ducharme, Associate Professor and Graduate Advisor in the History Department, to report aggressive flirting by DM with other women.

48. Mr. Ducharme spoke to the Department Head, Anne Gorsuch, to seek guidance regarding the Complainant's disclosure of her concerns. Ms. Gorsuch recommended that he contact Monica Kay at UBC's Equity and Inclusion office regarding the Complainant's concerns, which he did. Ms. Kay requested that the Complainant be referred to her by Mr. Ducharme. Mr. Ducharme emailed the Complainant and invited her to contact Ms. Kay.

49. In February 2014, Ms. Kay spoke with the Complainant about her concerns, as well as the distinction between a formal complaint and an informal complaint. The Complainant reported that she had seen DM being aggressively flirtatious with women. Ms. Kay asked her if she would make a complaint, and the Complainant responded that she would think about it. The Complainant did not ever contact Ms. Kay to file a complaint.

50. Despite the lack of any complaint, Ms. Kay suggested that Mr. Ducharme make arrangements for an education session to be provided to History Department students regarding human rights and harassment. Mr. Ducharme did so.

51. Contrary to the Complainant's assertion, Ms. Kay did not tell the Complainant that her information could not be acted upon because she was an alumna. Ms. Kay did, however, inform the Complainant that there may be an issue with respect to the timeliness of some of her information.

52. The same month, in February 2014, DM requested a leave from Green College for academic purposes from May 2014 to September 2015.

53. In March 2014, the workshop regarding human rights and harassment following the Complainant's report about DM was delivered to graduate students in the History Department. The workshop was mandatory for all graduate students. DM attended the workshop.

54. In April 2014, DM contacted the Green College Membership and Accommodations Coordinator, Lyn Pedro, to inform her that he would return briefly to Green College on May 20-21, 2014.

55. On May 21, 2014, DM contacted Ms. Pedro to indicate that he had returned the previous night and would be leaving again on May 23, 2014.

56. Following his brief stay at Green College in May 2014, DM attended a conference in Toronto. While there, DM allegedly sexually assaulted a former UBC student.

57. Shortly thereafter, the former student reported the alleged assault to Mr. Hay.

58. In early June 2014, Mark Vessey, Green College Principal, and Mr. Lundeen learned of the alleged assault by DM in Toronto. Mr. Lundeen contacted Ms. Kay, who referred him to Campus Security. Mr. Lundeen then contacted Campus Security to report the alleged assault in Toronto.

59. Shortly thereafter, Mr. Lundeen contacted another of the students who had raised a concern about DM's conduct and asked if she would be willing to add her information to the report regarding DM with Campus Security.

60. That student contacted Campus Security and added her allegations to the report regarding DM.

61. Campus Security in turn informed Ms. Kay of the alleged sexual assault in Toronto and the second incident added to the report.

62. Later in June 2014, the former student who was allegedly assaulted in Toronto contacted Campus Security to provide a report of the incident.

63. On or about July 21, 2014, Tina Loo, who had become the Head of the History Department on July 1, 2014 became aware of concerns regarding DM from a colleague who had been approached by students regarding DM's conduct.

64. The next day, on or about July 22, 2014, Ms. Cunningham and three other graduate students contacted Ms. Loo regarding their concerns about physical safety in the History Department. Ms. Loo in turn sought guidance from the Equity and Inclusion office.

65. On or about July 24, 2014, Ms. Cunningham and other students met with Ms. Loo and Ms. Kay regarding DM's conduct. Although the Complainant was no longer a student in the Department, she also attended the meeting. In response to an invitation from Ms. Loo to provide details of the concerns, Ms. Cunningham disclosed her own alleged assault by DM, as described above.

66. Ms. Kay informed the students of the difference between a formal complaint and an informal complaint.

67. Ms. Kay also said words to the effect that if the students told people about DM it would be like telling people that there was "a snake in the room and turning out the lights". By her comments, Ms. Kay intended to caution the students against making serious allegations of DM being a perpetrator of sexual assaults when those assaults were still unsubstantiated, and intended to convey the fear those allegations could cause.

68. Ms. Kay urged those present to pursue complaints rather than repeat gossip and rumours regarding DM.

69. Ms. Loo told the students that at the first meeting of the History Department in the coming school year, she would address issues of discrimination and harassment. At the meeting, she would affirm the Department's commitment to a sexual assault and harassment-free environment.

70. On or about August 28, 2014, Ms. Cunningham met with a representative from Campus Security, Ms. Loo, Ms. Kay, and others to discuss the resources available on campus to address issues of safety, harassment, and assault.

71. On September 11, 2014, Ms. Loo attended the first meeting of the History Department and reminded those present of the bullying and harassment policy. She subsequently emailed to students and staff Policy 3 and the Statement.

72. In December 2014, Ms. Cunningham met with Ms. Kay to discuss a complaint against DM. Ms. Cunningham and Ms. Kay discussed the Non-Academic Misconduct process, which can result in a hearing and subsequent discipline. It is unclear whether Ms. Cunningham intended to file a formal complaint or an informal complaint at this time.

73. Later in December 2014, the Complainant contacted Ms. Kay to add her evidence regarding DM. The Complainant seemingly believed that she had initiated a "formal" process by contacting Ms. Kay, but she did not, in fact, file a formal complaint. Rather, the Complainant indicated to Ms. Kay that she might bring her own complaint or might be a witness in Ms. Cunningham's complaint.

74. The Complainant apparently believed that she was a co-complainant with Ms. Cunningham, although she had not been assaulted by DM or personally experienced any inappropriate conduct by him directed at her.

75. In February 2015, Ms. Kay provided Chad Hyson, Associate Director, Student Conduct, with the materials regarding Ms. Cunningham's complaint. Ms. Kay also provided Mr. Hyson with the Complainant's statements.

76. At a meeting between Mr. Hyson, Ms. Kay, and Ms. Cunningham, Mr. Hyson described to Ms. Cunningham the Non-Academic Misconduct process, including the hearing process, as well as the option to mediate the issue. Ms. Cunningham indicated that she wished to pursue the Non-Academic Misconduct process.

77. In April 2015, four graduate students in the History Department met with Ms. Loo and asked for time at the next Department meeting to present a statement prepared by the History Graduate Students Association ("HGSA") entitled Statement Concerning Harassment (the "Harassment Statement"). After seeking advice regarding the Harassment Statement, Ms. Loo advised the students that portions of the Harassment Statement were potentially defamatory and inflammatory.

78. In response, the HGSA issued a statement that graduate students were boycotting the Department meeting and that the HGSA would instead host its own Faculty-Student Forum on Harassment.

79. The HGSA later sent out the Harassment Statement after editing the portions flagged by Ms. Loo as being problematic.

80. On or about April 21, 2015, Mr. Ducharme contacted Ms. Loo after learning that DM would be returning to campus. Ms. Loo in turn contacted Ms. Kay and Mr. Hyson.

81. On or about April 23, 2015, the HGSA hosted its Faculty-Student Forum on Harassment. The Department complied with every request made by the students at the Forum.

82. On or about April 24, 2015, Mr. Hay became aware that DM would be returning to Canada to attend a conference. He emailed Mr. Hyson to express his concern for the safety of students at the conference with DM in attendance.

83. On or about April 30, 2015, DM was banned from the UBC campus under Policy 14 on the basis of the May 1, 2014 report of sexual assault that had been brought forward to the Non-Academic Misconduct process on March 3, 2015.

84. On or about May 1, 2015, Mr. Hay notified Mr. Vessey and Mr. Lundeen of the alleged sexual assault that occurred at Green College in February 2013. Mr. Vessey and Mr. Lundeen then notified Mr. Hyson of the assault, although Mr. Hay also informed Mr. Vessey and Mr. Lundeen that the student intended to contact Mr. Hyson directly.

85. In May 2015, Mr. Hyson and the Complainant exchanged emails regarding the information that the Complainant had brought forward to Ms. Kay. Mr. Hyson was uncertain as to whether the Complainant had made a separate complaint against DM or whether she was supporting Ms. Cunningham's complaint.

86. On or about May 15, 2015, Mr. Hyson informed the former student who had been assaulted by DM in Toronto that her experience could not be used for the Non-Academic Misconduct process because it had occurred off campus.

87. In July 2015, Mr. Hyson sent emails to the Complainant, Ms. Cunningham, and another woman raising the possibility of a resolution process with DM rather than proceeding with the formal Non-Academic Misconduct hearing process.

88. None of those women were interested in the informal resolution process offered by Mr. Hyson.

89. In August 2015, another woman submitted a formal statement regarding an alleged sexual assault by DM for inclusion in the Non-Academic Misconduct process.

90. Shortly thereafter, Mr. Hyson submitted the Statement of Allegations to the Committee. A strategic decision was made by UBC to not include the Complainant's information in the Statement out of the concern that it would be used by DM to cast doubt on the more serious, first-hand allegations raised in the other statements from other women.

91. Mr. Hyson subsequently informed the Complainant that her information had not been included for strategic reasons, so her name was not included in the Statement of Allegations. Mr. Hyson offered to the Complainant, however, that he would speak with DM regarding her information.

92. On or about September 30, 2015, members of the Committee received training to assist them in dealing with sexual assault allegations.

93. On or about October 19, 2015, the Committee held its hearing regarding DM's alleged misconduct with respect to Ms. Cunningham and two other women. Ms. Cunningham was provided with an opportunity to supplement her written complaint with an oral presentation to the Committee.

94. On or about November 19, 2015, the then Interim President of UBC, Martha Piper, informed DM in writing that he had been expelled from UBC as a result of his misconduct and that he was permanently barred from reapplying for admission to UBC.