

Thompson Rivers University (TRU) Investigation

Terms of Reference

Background

On or around February 8, 2021, a communication from a group who self-identified as “Concerned Members of the TRU Community in Solidarity with the Complainants” was sent to TRU’s Board of Governors and various TRU executives and deans. The subject matter of the communication was described as “Notice of Allegations of Serious Misconduct”.

In this written document (the “Notice of Allegations”), the writers stated that they are in contact with multiple “current and former TRU employees who report directly witnessing, or being the victims of, discriminatory conduct, discriminatory statements and/or harassment on the part of the VP Finance & Administration Matt Milovick and his subordinate the AVP People and Culture Larry Phillips.”

The writers further state that the information they are aware of indicates a pattern of misconduct which is a “clear violation of TRU’s Values, Vision, MOU with Tk’emlúps te Secwépemc and its Equity, Diversity and Inclusion Action Plan”.

In the Notice of Allegations, the writers also state: “...we are in contact with at least eleven (11) individuals who are seeking a safe and independent process where they can confidentially and anonymously report their direct observations of actions and statements in the TRU workplace and at TRU events...”.

As a result of receiving the Notice of Allegations, TRU’s Board of Governors struck a specific committee to address the matters raised therein (the “Sub-Committee”) who, by their authority thereunder, appointed an independent representative with no previous ties to TRU to assist them in retaining Mr. Serbu and Ms. Cartmill-Lane identified below.

Focus and Scope

This process will focus on the reports of the individuals referenced in the Notice of Allegations who come forward and contact Mr. Serbu and Ms. Cartmill-Lane (the “Complainants”) in this process. As such, the scope of this process includes the misconduct set out above and may expand in the event that additional parties and reports arise during this process concerning the allegations set out in the Notice of Allegations.

The process will be conducted in two (2) stages. The initial or inquiry stage will focus on collecting information from the Complainants in order to determine the actual scope of the investigation.

Stage 1 – Inquiry Process

The writers of the Notice of Allegations will be provided with a copy of these Terms of Reference.

The Complainants are invited to contact and meet with Mr. Serbu and Ms. Cartmill-Lane virtually or in person over a 30-day period commencing August 16, 2021 in order to obtain particulars of their individual complaints. A dedicated and confidential email address through which the Complainants can contact Mr. Serbu and Ms. Cartmill-Lane and share information with them will be established specifically for this process. This email address is contact@inquiryandinvestigation.ca. Only Mr. Serbu and Ms. Cartmill-Lane

and their respective administrative support will have access to the emails received at this address. In the event that no Complainants come forward, the process will be concluded.

Stage 2 - Investigation

After obtaining particulars from any Complainants, Mr. Serbu and Ms. Cartmill-Lane will act as investigators (the “Investigators”) and commence an investigatory process through which they will assess the alleged conduct and commentary in the context of the following:

1. *BC Human Rights Code*;
2. TRU’s Values and Vision Plan;
3. The MOU between TRU and Tk’emlúps te Secwépemc;
4. TRU’s Equity, Diversity and Inclusion Action Plan;
5. TRU – Respectful Workplace and Harassment Prevention Policy– BRD 17-0;
6. TRU Sexualized Violence Policy - BRD 25-0;
7. TRU Whistle Blower Policy – BRD 18-0; and
8. *BC Workers Compensation Act* and WorkSafe BC Occupational Safety and Health policies respecting bullying and harassment.

Process

The writers of the Notice of Allegations have requested a “safe, trauma-informed, independent and expert-led process”. The Investigators have been instructed to independently develop a process for this matter.

The following steps will be implemented and adapted where necessary from TRU’s applicable policies:

- the investigation will conform to the principles of natural justice and procedural fairness and as such be:
 - undertaken promptly and diligently;
 - fair and impartial; and
 - sensitive to the interests of all parties involved and maintain confidentiality to the extent reasonably possible. Anonymity cannot be guaranteed.
- after obtaining the particulars of the Complaint, the Investigators will interview the respondents, and such other persons, and/or review documents which, in their view, may have or contain relevant information pertaining to the Complaint;
- all parties will be given the opportunity to present evidence in support of their positions and to defend themselves against reports of misconduct. Where a party has the opportunity to make a submission, response or comment, it will normally be provided within two (2) weeks, but this time frame may be extended where the Investigators consider it to be appropriate to do so;
- all parties and witnesses may be accompanied by legal counsel, an uninvolved support person, and/or a representative of their union or constituency organization throughout the process;

- interviews will be conducted with a trauma-informed approach including but not limited to:
 - interviewing individuals in an appropriate setting or forum of their choice;
 - keeping parties aware of stages of the process, including advising the Complainants when the respondents will be notified of particulars of the Complaint;
 - limiting the number of times disclosures or details of the Complaint are recounted to what is necessary in the circumstances; and
 - allowing for breaks and flexibility in interviews while maintaining a timely process.

A Complainant may withdraw his/her/their complaint at any time. However, the TRU may nonetheless have an ongoing obligation to investigate the concerns raised and instruct the Investigators to continue the investigation.

If a Complainant or a respondent refuses to cooperate with the Investigators, the Investigators will proceed with the investigation with the available evidence.

Process Leaders and Investigators

Kelly J. Serbu, Q.C., Serbu Law Firm Limited
Sharon Cartmill-Lane, Legal Counsel, Pearlman Lindholm LLP

Reporting

At the conclusion of this investigation, the Investigators will provide a non-privileged confidential report to the independent representative of the Sub-Committee. Parties (the Complainants who participate in the process) and the respondents will be advised by the representative of the Sub-Committee of the outcome of the Investigation.