



**The University of British Columbia
Board of Governors**

Policy No.:

95

Approval Date:

February 1997

Last Revision:

XXXXXXXXXXXXXX

Responsible Executive:

University Counsel
Vice-President, Human Resources

Title:

Investigations

Background & Purposes:

To provide direction to University officials who commission or conduct investigations of situations or incidents at UBC. This Policy only applies to formal processes that may result in discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations. This policy does not apply to informal inquiries or fact-finding that are intended to determine whether to commence an investigation.

1. General

- 1.1. Investigations must be conducted in accordance with the processes established by UBC under policies such as Policy #3, Discrimination and Harassment; Policy #85, Scholarly Integrity; or procedures such as the Student Code of Conduct.
- 1.2. When no such process exists, the authorized UBC representative must conduct Investigations in accordance with the principles and confidentiality requirements set out in this Policy. In addition, they should refer to the non-binding Guidelines for Responding to and Investigating Complaints issued by the University Counsel and the Department of Human Resources. They may seek additional advice from the Office of the University Counsel (for situations/incidents involving students) or the Department of Human Resources (for situations/incidents involving members of faculty or staff).

2. Principles

- 2.1. **Fairness:** Investigations must be conducted in accordance with the principles of procedural fairness. Respondents have a right to know the nature of the allegations against them, to have an opportunity to respond to those allegations, to have those allegations investigated in an unbiased manner, and to receive reasons for any decision that impacts their privileges, entitlements, rights, or obligations.
- 2.2. **Timeliness:** Investigations must be concluded in a timely manner.
- 2.3. **Confidentiality:** Investigations are confidential, and Personal Information must only be disclosed as set out in section 3 of the Policy.

3. Confidentiality and Privacy

- 3.1. In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with the *Freedom of Information and Protection of Privacy Act*, all participants in an Investigation must act in accordance with the requirements set out below.
- 3.2. Individuals, including the Complainant and Respondent, who have obtained Personal Information through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. This section does not prevent:
 - 3.2.1. any participants in the Investigation from disclosing information about themselves, or information they have obtained outside the Investigation;
 - 3.2.2. UBC employees, contractors, or volunteers from disclosing Investigation-related information as authorized under section 3.3; or
 - 3.2.3. Complainants and Respondents from disclosing the information they have received under sections 3.4 and 3.5.
- 3.3. UBC will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:
 - 3.3.1. expressly authorized by the affected individual;
 - 3.3.2. to a UBC employee, contractor, or volunteer, if necessary for the performance of that individual's duties;
 - 3.3.3. to a Complainant, Respondent, witness or other participant in the Investigation, if necessary for the conduct of the Investigation;
 - 3.3.4. to a Complainant or Respondent in accordance with sections 3.4 and 3.5;
 - 3.3.5. authorized by the University Counsel for compelling health or safety reasons;
 - 3.3.6. authorized by the University Counsel to correct misleading or inaccurate information if necessary to protect the integrity of the Investigation; or
 - 3.3.7. authorized or required under law or University policy.
- 3.4. For reasons of fairness, Complainants and Respondents will be provided with a copy of the Investigation Report, subject to the removal of Personal Information where required under the *Freedom of Information and Protection of Privacy Act*. If there are multiple Complainants or multiple Respondents, they will only receive the portions of the Investigation Report that are relevant to them.
- 3.5. Complainants do not have the right to know whether UBC has taken any disciplinary action against the Respondent because the disclosure of such information is considered to be an unreasonable invasion of the Respondent's privacy. However, if necessary for health or safety reasons, Complainants will be informed of any relevant restrictions that may have been imposed upon the Respondent's movements or activities.
- 3.6. Section 3.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 3.4 and 3.5. However, Complainants or Respondents who choose to disclose such information

are responsible for the consequences of their decisions, and should be aware that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim).

4. Definitions

- 4.1. **“Complainant”** is an individual who has alleged that they have been directly subjected to Misconduct by a Respondent;
- 4.2. **“Investigation”** is the process undertaken by UBC to ascertain whether a Respondent has engaged in Misconduct;
- 4.3. **“Investigation Report”** sets out the alleged Misconduct and UBC’s findings as to whether this Misconduct occurred;
- 4.4. **“Misconduct”** is any conduct that warrants discipline, restrictions on movements or activities, or any other limitation of the Respondent’s privileges, entitlements, rights, or obligations;
- 4.5. **“Personal Information”** is information about an identifiable individual; and
- 4.6. **“Respondent”** is the person who is the subject of the Investigation.