

 <b>The University of British Columbia Board of Governors</b>	<b>Policy No.:</b>  <b>95</b>	<b>Approval Date:</b> February 1997  <b>Last Revision:</b> June 2017
	<b>Responsible Executive:</b> University Counsel Vice-President, Human Resources	
<b>Title:</b>  <p style="text-align: center;"><b>Investigations</b></p>		
<b>Background &amp; Purposes:</b>  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. This Policy does not apply to Investigations that are conducted in accordance with the processes established by UBC under policies such as Policy #3, Discrimination and Harassment; Policy #85, Scholarly Integrity; Policy #111, Internal Audit, Investigations and Financial Whistleblower; 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* (FIPPA), 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. However, 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 UBC's investigatory processes; or
  - 3.3.7. authorized or required under law.
- 3.4. To maintain the integrity of the Investigation process, UBC must ensure that both Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. The FIPPA may require UBC to withhold Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive the information that is relevant to them.
- 3.5. Under the FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Counsel for compelling health or safety reasons. For example, UBC will normally inform Complainants of any 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 should keep in mind 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) and may wish to seek advice before doing so.

#### 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. **“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;
- 4.4. **“Personal Information”** is information about an identifiable individual; and
- 4.5. **“Respondent”** is the person who is the subject of the Investigation.