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|  <b>The University of British Columbia<br/>Board of Governors</b> | <b>Policy No.:</b><br><br><b>SC17</b> |
| <b>Long Title:</b><br><br>Sexual Assault and Other Sexual Misconduct   |                                       |
| <b>Short Title:</b><br><br><b>Sexual Misconduct Policy</b>   |                                       |

**Background & Purposes:**

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.

**1. Principles and Commitments**

- 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.

## **2. The Sexual Violence Prevention and Response Office**

- 2.1 UBC has established a Sexual Violence Prevention and Response Office at each of the UBC Vancouver and UBC Okanagan campuses. Each office consists of a Director who oversees the office and staff or volunteers.
- 2.2 The Sexual Violence Prevention and Response Office acts as a single point of contact and liaison on each campus for Members of the UBC Community who have experienced Sexual Misconduct. This Office will provide individualized information, advice, and assistance. The support services that can be provided by the Office include:
  - 2.2.1 receiving Disclosures;
  - 2.2.2 identifying, accessing, and coordinating appropriate accommodations;
  - 2.2.3 providing information about and referrals to UBC Counselling Services and UBC Student Health Services at UBC Vancouver, the Health and Wellness Centre at UBC Okanagan, and the UBC Employee and Family Assistance Program;
  - 2.2.4 providing information about and referrals to external organizations such as the UBC Hospital, Kelowna General Hospital, the AMS Sexual Assault Support Centre (SASC), the Vancouver Rape Relief and Women's Shelter, Women Against Violence Against Women, the BC Society for Male Survivors of Sexual Abuse, the Central Okanagan Elizabeth Fry Society, and the Family Centre Services Society;
  - 2.2.5 providing information about confidentiality and how confidentiality relates to the information provided through a Disclosure, a Report, or an Investigation;
  - 2.2.6 providing information about Reporting, Investigations, and alternative dispute resolution processes;
  - 2.2.7 providing information about any other relevant UBC policies, such as the Discrimination Policy, and the At-Risk Behaviour Policy;
  - 2.2.8 assisting with the creation of a Report or the submission of a Report to the Director of Investigations, or both;

- 2.2.9 acting as a liaison with the Investigator appointed to conduct an Investigation;
  - 2.2.10 acting as a support person during an Investigation, as referenced in section 3.8.1 of the Procedures to this Policy;
  - 2.2.11 receiving allegations regarding acts of retaliation relating to a Disclosure or Report of Sexual Misconduct and assisting with referral of these allegations to the appropriate employment or student disciplinary process; and
  - 2.2.12 providing information about the differences between the criminal process and UBC's investigatory process, and providing support in reporting to the police if requested.
- 2.3 The Sexual Violence Prevention and Response Office will also:
- 2.3.1 serve all Members of the UBC Community, including those who have received a Disclosure, those who are supporting someone who has experienced Sexual Misconduct, or those who may have witnessed Sexual Misconduct;
  - 2.3.2 establish, oversee, and coordinate sexual misconduct prevention and response protocols and processes, communications, resource materials, and training; and
  - 2.3.3 lead the education program to countering broader social attitudes regarding gender, sex and sexuality that normalize Sexual Misconduct and undermine equality.
- 2.4 Annually, UBC will publicly report on the number of:
- 2.4.1 Disclosures received by the Sexual Violence Prevention and Response Offices;
  - 2.4.2 Reports received by the Directors of Investigations; and
  - 2.4.3 Reports investigated or referred to an alternative dispute resolution process.

### **3. Disclosures**

- 3.1 The decision to Disclose and the decision to Report are separate decisions. An individual may choose to Disclose Sexual Misconduct without making a Report. Consequently, Disclosure does not result in a Report being made, and does not initiate an Investigation or other action by UBC, subject only to section 3.6.
- 3.2 UBC will make appropriate support services and accommodations available to Members of the UBC Community on the basis of a Disclosure, regardless of whether they decide to make a Report or whether UBC has the Jurisdiction to Investigate.
- 3.3 Accommodations that may be available to Members of the UBC Community who have Disclosed or Reported Sexual Misconduct include:
  - 3.3.1 student residence re-location or short term emergency student housing;
  - 3.3.2 class schedule changes;

- 3.3.3 academic accommodations;
  - 3.3.4 temporary work reassignment, location reassignment, or scheduling changes;
  - 3.3.5 emergency funding for students;
  - 3.3.6 safety planning; and
  - 3.3.7 the implementation of safety measures.
- 3.4 Records of any Disclosures made to a Sexual Violence Prevention and Response Office will be kept strictly confidential, and access to those records will be limited to the Director and staff members of the relevant Sexual Violence Prevention and Response Office.
- 3.5 UBC recognizes that disclosures of Sexual Misconduct are most often made to someone the individual making the disclosure already knows. If a Disclosure is made to a Member of the UBC Community who is not trained to receive Disclosures, that Member is encouraged to contact the Sexual Violence Prevention and Response Office for support and information on how best to respond to a Disclosure and to support the individual making the Disclosure.
- 3.6 To the greatest extent possible, UBC will respect an individual's choice to not make a Report and will keep the Disclosure confidential. In exceptional circumstances, where required by law or where there is a risk of significant harm to anyone's health or safety, and at the sole discretion of the Director of the relevant Sexual Violence Prevention and Response Office, UBC may do one or both of the following:
- 3.6.1 refer the matter to the relevant Director of Investigations as a Report under section 4, in which case the individual who Disclosed has the right not to participate in any subsequent Investigation;
  - 3.6.2 notify third parties, such as the police or child protection authorities.
- 3.7 If UBC takes any action under section 3.6, the Director of the relevant Sexual Violence Prevention and Response Office will notify the individual who made the Disclosure and will ensure that appropriate support services are made available to that individual.

#### **4. Reports**

- 4.1 Anyone directly subjected to Sexual Misconduct, including an individual who is not a Member of the UBC Community, can make a Report against a Member of the UBC Community under this Policy.
- 4.2 Reports must be submitted to the Director of Investigations on the relevant campus, who will address them in accordance with the Procedures to this Policy, which includes an initial review as set out under section 3 of the Procedures to determine whether the allegations contained in the Report fall within UBC's Jurisdiction to Investigate.
- 4.3 Sexual harassment may fall within the scope of both the Discrimination Policy and this Policy. Reports that contain allegations of Sexual Misconduct other than sexual harassment will be

addressed under this Policy. Reports that contain allegations of sexual harassment alone will be reviewed by the Director of Investigations who will determine, based on the particular facts of the case and in consultation with the individual making the Report, which policy is better suited to address the allegations.

- 4.4 An individual can both submit a Report to UBC and pursue other processes external to UBC against the individual alleged to have committed the Sexual Misconduct. These external processes may include reporting to the police or initiating a civil action (including a complaint under the *BC Human Rights Code*). These are separate processes and Reporting to UBC does not result in a report to the police or the initiation of a civil action, although in exceptional circumstances, where required by law or where there is a risk of significant harm to anyone's health or safety, UBC may notify third parties, such as the police or child protection authorities. If such action is taken, the Director of Investigations will notify the individual who submitted the Report and will ensure that appropriate support services are made available to that individual.
- 4.5 If an Investigation or alternative resolution process is initiated under the Procedures to this Policy and an external process is also being pursued, the Director of Investigations may elect, after consultation with the Complainant, to continue with the UBC process or to suspend the UBC process as appropriate.

## **5. Anonymous and Third Party Allegations**

- 5.1 Anonymous allegations, or allegations of Sexual Misconduct made by a third party (someone other than the individual who was directly subjected to the Sexual Misconduct) can also be submitted to the Director of Investigations on the relevant campus.
- 5.2 UBC may be unable to proceed with an Investigation involving anonymous or third party allegations due to a lack of evidence from the individual who was directly subjected to the Sexual Misconduct, or where proceeding would violate procedural fairness. In such cases, the Director of Investigations will consider whether any other steps can and should be taken. In appropriate cases, the Director may contact the third party who submitted the allegations to find out if the individual who was directly subjected to the Sexual Misconduct would consider submitting a Report. However, where other sufficient evidence exists and where it would not violate procedural fairness, at the sole discretion of the Director of Investigations, UBC may decide to proceed with an Investigation. In such cases, the individual who was directly subjected to the Sexual Misconduct has the right to not participate in the Investigation.
- 5.3 If UBC is unable to proceed with an Investigation involving anonymous or third party allegations, the allegations will be retained by the Sexual Violence Prevention and Response Office on the relevant campus. These allegations will be kept strictly confidential, and access to them will be limited to the Director of Investigations and the Director of the Sexual Violence Prevention and Response Office.

## **6. Conflicts of Interest**

- 6.1 If a Director or staff member of the Sexual Violence Prevention and Response Office, a Director of Investigations, an Investigator, or a UBC authority empowered to impose discipline has a real or apparent conflict of interest in a particular matter, or there is a reasonable apprehension of

bias, then that individual will not continue their involvement in the matter and UBC will appoint an appropriate individual to act in that role for the purposes of that matter.

## 7. Policy Review

- 7.1 UBC is committed to reviewing this Policy at least once every three years, in consultation with students and other Members of the UBC Community.

## 8. Definitions

- 8.1 **“Sexual Misconduct”** is any sexual act or act targeting an individual’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against an individual without that individual’s Consent. The following list sets out examples of Sexual Misconduct. The list is intended to help Members of the UBC Community understand the kinds of acts that will be considered Sexual Misconduct. The list is not exhaustive and other acts can still be considered Sexual Misconduct under this Policy even if they do not appear in the list below. Sexual Misconduct includes, but is not limited to, the following:

8.1.1 sexual assault, which is any form of sexual touching or the threat of sexual touching without the individual’s Consent;

8.1.2 sexual harassment, which is unwelcome conduct of a sexual nature that detrimentally affects the working, learning, or living environment, or leads to adverse consequences for the one directly subjected to the harassment;

8.1.3 stalking, which is engaging in conduct that causes an individual to fear for their physical or psychological safety, such as repeatedly following or communicating through any means with someone, engaging in threatening conduct, or keeping watch over the place where the individual happens to be;

8.1.4 indecent exposure, which is exposing one’s body to another individual for a sexual purpose or coercing another individual to remove their clothing in order to expose their body, without their Consent;

8.1.5 voyeurism, which is non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing or recording is done for a sexual purpose; and

8.1.6 the distribution of a sexually explicit photograph or recording of an individual to one or more individuals other than the individual in the photograph or recording without the consent of the individual in the photograph or recording.

- 8.2 **“Consent”** is the voluntary agreement to the act or acts in question and to continue to engage in the act or acts. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct. For clarity:

8.2.1 Consent cannot be implied, and it can be revoked at any time during the act or acts in question.

- 8.2.2 Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent only applies to each specific instance of sexual activity.
- 8.2.3 No consent is obtained where an individual is incapable of consenting. An individual may be incapable of consenting if they are intoxicated, or if they are induced to engage in the activity by fraud, by someone exercising a position of trust, power or authority, or through coercion or the threat of violence.
- 8.2.4 Evidence that an individual was impaired by alcohol or drugs is a relevant consideration for determining whether they consented to the sexual activity in question.
- 8.3 **“Members of the UBC Community”** are individuals who fall under one or more of the following categories:
  - 8.3.1 students, defined as individuals enrolled at UBC, including co-op and exchange students;
  - 8.3.2 employees, including faculty and staff members;
  - 8.3.3 holders of teaching appointments;
  - 8.3.4 post-doctoral fellows; and
  - 8.3.5 anyone contractually obligated to comply with this Policy.
- 8.4 **“Disclose”** or **“Disclosure”** is the sharing of information with UBC regarding any incident of Sexual Misconduct. Further information about Disclosures is provided in section 3 of this Policy.
- 8.5 **“Report”** or **“Reporting”** is providing a statement of allegations to the Director of Investigations on the relevant campus about a Sexual Misconduct. Further information about Reporting is provided in section 4 of this Policy.
- 8.6 **“Jurisdiction to Investigate”** is the legal authority to investigate under this Policy, which is limited by the following: the allegations must be made against an individual who was a Member of the UBC Community at the time of the alleged Sexual Misconduct and at the time the Report was submitted; the alleged conduct must fall within the definition of Sexual Misconduct; and the alleged conduct must have a real and substantial connection to UBC, as that term has been interpreted under BC law.
- 8.7 **“Investigation”** is an investigation carried out by UBC on the basis of a Report, as set out in the Procedures to this Policy.
- 8.8 **“Investigator”** is the individual appointed to Investigate a Report under the Procedures to this Policy.



## PROCEDURES ASSOCIATED WITH THE SEXUAL MISCONDUCT POLICY

*Pursuant to the Regulatory Framework Policy, the President may approve Procedures or the amendment or repeal of Procedures. Such approvals must be reported at the next meeting of the UBC Board of Governors or as soon thereafter as practicable.*

*Capitalized terms used in these Procedures that are not otherwise defined herein shall have the meanings given to such terms in the accompanying Policy, being the Sexual Misconduct Policy.*

### **1. General**

- 1.1 The Director of Investigations and the Investigators will exercise their authority and discretion under these Procedures in conformity with the principles of procedural fairness in the university context.
- 1.2 The Director of Investigations will liaise with the Sexual Violence Prevention and Response Office to ensure that appropriate support services and accommodations remain in place, or are established, for the duration of the Initial Review and the Investigation.

### **2. Reports**

- 2.1 Reports must be made in writing, and should set out the relevant details with regard to the alleged Sexual Misconduct. Reports should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included in the Report.

### **3. Initial Review**

- 3.1 Upon receipt of a Report, the Director of Investigations will conduct an initial review to determine if UBC has the Jurisdiction to Investigate. This review will occur within 14 calendar days of receiving a Report unless exceptional circumstances exist that prevent the Director from meeting this timeline, in which case the Director of Investigations will contact the individual making the Report as soon as possible to inform them of the revised timeline.
- 3.2 If the Director of Investigations determines that UBC has the Jurisdiction to Investigate, the individual directly subjected to the Sexual Misconduct will be referred to as the Complainant in any subsequent process, and the individual against whom the allegations have been made will be referred to as the Respondent.
- 3.3 If the Director of Investigations determines that UBC has the Jurisdiction to Investigate, and the Respondent has an employment relationship to UBC, the Director will notify the appropriate UBC authority who may make any appropriate workplace arrangements required to ensure an effective investigation process.



- 3.4 If the Director of Investigations determines that UBC has the Jurisdiction to Investigate, they will do one of the following:
  - 3.4.1 appoint an Investigator to Investigate the Report under section 4 of these Procedures;  
or
  - 3.4.2 subject to sections 3.5 and 3.6, refer the matter to an alternative resolution process.
- 3.5 If the Director of Investigations believes that an alternative resolution process may be appropriate in the circumstances, they will discuss this option with the Complainant. If the Complainant agrees that an alternative resolution process may be appropriate, the Director of Investigations will contact the Respondent to advise them that a Report was made, and will discuss this option with the Respondent. If the Respondent agrees to participate in an alternative resolution process and the Director is satisfied that an alternative resolution process is appropriate, then the Director of Investigation will explore the options available and, with the agreement of both parties, will refer the matter to that process for resolution.
- 3.6 Participation in an alternative dispute resolution process is entirely voluntary. If either the Complainant or the Respondent decides they no longer wish to participate in the alternative resolution process at any time, then the Director of Investigations will appoint an Investigator to Investigate the Report under section 4 of these Procedures.
- 3.7 If the Director of Investigations determines that UBC does not have the Jurisdiction to Investigate, the Director of Investigations will advise the individual making the Report of this decision along with their reasons. If the Director of Investigations believes that the Report discloses other kinds of misconduct or information that UBC may need to act on under another UBC policy or process, the Director may refer the Report or the relevant portions of the Report to the appropriate UBC authority. When appropriate, the Director will consult with the person making the Report before referring it elsewhere.
- 3.8 If an Investigation is initiated, the Director of Investigations will:
  - 3.8.1 contact the Complainant to advise them that the Report has been referred to an Investigator, and provide them with information about the resources available and the investigation process, including their right to have an advisor, support person, or union representative present whenever they meet with the Investigator;
  - 3.8.2 contact the Respondent to advise them that a Report has been made and has been referred to an Investigator, and provide them with a copy of the Report along with information about the resources available and the investigation process, including their right to have an advisor, support person, or union representative present whenever they meet with the Investigator.

#### **4. Investigations**

- 4.1 Except in exceptional circumstances, Investigations (including the preparation of the Investigative Report) will be completed within 60 calendar days of the Investigator's receipt of the Report from the Director of Investigations. If during the course of the Investigation the Investigator believes that this timeline cannot be met, the Investigator will contact the

Complainant, the Respondent, and the Director of Investigations as soon as possible to inform them of the revised timeline.

- 4.2 Investigations are not adversarial processes, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.
- 4.3 In all Investigations, the Respondent will be fully informed of the allegations made against them, and will be given the opportunity to respond.
- 4.4 Subject to sections 4.2 and 4.3, the Investigator may investigate in any manner they deem appropriate in order to obtain the information required to make the necessary findings of fact. This may include, but is not limited to, the following:
  - 4.4.1 requesting a written response to the Report from the Respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications;
  - 4.4.2 meeting with or requesting further information from the Complainant;
  - 4.4.3 meeting with or requesting further information from the Respondent;
  - 4.4.4 meeting with or requesting further information from any other individuals who may have information relevant to the Investigation, including any witnesses identified by the Complainant or the Respondent;
  - 4.4.5 inviting the Complainant and the Respondent to submit questions they believe should be asked of the other party or any witness, though the decision as to whether such questions will actually be asked of the other party or a witness is entirely within the discretion of the Investigator; and
  - 4.4.6 obtaining any other evidence that may be relevant to the Investigation.
- 4.5 At the completion of the Investigation, the Investigator will prepare a written Investigative Report for the Director of Investigations. The Investigative Report will normally include the following information:
  - 4.5.1 a summary of the evidence considered;
  - 4.5.2 any assessment of credibility that is required to render a determination; and
  - 4.5.3 the findings of fact, and a determination as to whether, on a balance of probabilities, Sexual Misconduct has occurred.

## 5. Outcome and Disciplinary Measures

- 5.1 If the Investigative Report includes a determination that Sexual Misconduct has occurred, the Director of Investigations will provide a copy of the Investigative Report to the appropriate UBC authority or authorities if the Respondent has more than one relationship to UBC, as follows:
  - 5.1.1 in the case of a student Respondent, to the President, who will then determine what disciplinary or other measures are appropriate based on the findings of fact, up to and including suspension or expulsion;
  - 5.1.2 in the case of a faculty member Respondent, to the faculty member's Dean or, in the case of a librarian, to the University Librarian, who will meet with them and provide the Respondent with a copy of the Investigative Report in accordance with section 6.4 of these Procedures, and will then determine what disciplinary or other measures are appropriate based on the findings of fact. If suspension or termination of a faculty member or librarian's appointment for cause is considered appropriate by the Dean or University Librarian, a recommendation will be made to the President who will then, in turn, make a decision on appropriate discipline. If the President's decision is that suspension for cause is the appropriate discipline, then the President will inform the Board of Governors. If that decision is that termination for cause is the appropriate discipline, the President will make a recommendation to the Board of Governors who will then decide if termination for cause is appropriate; and
  - 5.1.3 in the case of a staff member Respondent, to the staff member's Administrative Head of Unit, who will provide the Respondent with a copy of the Investigative Report in accordance with section 6.4 of these Procedures, and will then determine what disciplinary or other measures are appropriate based on the findings of fact, up to and including suspension. If termination of a staff member is considered appropriate by the Administrative Head of Unit, they will consult with the applicable Vice-President, or Deputy Vice-Chancellor and Principal Okanagan Campus, who will then decide whether to authorize the termination.
- 5.2 Once the appropriate UBC authority has made a decision regarding the appropriate disciplinary or other measures under section 5.1 above, that decision will be communicated in writing to the Respondent, and student Respondents will also be provided with a copy of the Investigative Report in accordance with section 6.4 of these Procedures. A copy of the decision will also be provided to the Director of Investigations. The Director of Investigations will then provide a copy of the Investigative Report to the Complainant and will inform the Complainant of any disciplinary outcomes that the University Counsel has authorized the Director to disclose for compelling health or safety reasons, in accordance with section 6.5 of these Procedures.
- 5.3 If the Investigation Report includes a determination that Sexual Misconduct has occurred, the Director of Investigations will also provide a copy of the Investigative Report to the following:
  - 5.3.1 UBC Student Housing and Hospitality Services, if the Respondent is subject to a UBC residence contract or agreement;

- 5.3.2 the UBC authority charged with addressing concerns under a faculty or school's standards of professional conduct, if the Respondent is a student subject to those standards; and
- 5.3.3 UBC Athletics and Recreation, if the Respondent is subject to a varsity student athlete agreement.
- 5.4 Whether or not the Investigative Report includes a determination that Sexual Misconduct has occurred, if the Director of Investigations believes that the Investigative Report discloses other kinds of misconduct or information that UBC may need to act on under another UBC policy or process, the Director may refer the Investigative Report or the relevant portions of the Investigative Report to the appropriate UBC authority. When appropriate, the Director will consult with the person making the Report before referring it elsewhere.
- 5.5 If the Investigative Report does not include a determination that Sexual Misconduct has occurred, the Director of Investigations will provide a copy of the Investigative Report to the Complainant and the Respondent in accordance with section 6.4 of these Procedures.
- 5.6 The Director of Investigations will conclude the investigatory process by ensuring all necessary communications are made to those responsible for implementing decisions, providing or adjusting support services and accommodations, providing education, or conducting administrative transactions.

## **6. Confidentiality and Privacy**

- 6.1 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.
- 6.2 Individuals, including the Complainant and the Respondent, who have obtained information about an identifiable individual ("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:
  - 6.2.1 any participants in the Investigation from disclosing information about themselves, or information that they have obtained outside the Investigation;
  - 6.2.2 UBC representatives from disclosing Investigation-related information as authorized under section 6.3; or
  - 6.2.3 Complainants and Respondents from disclosing the information that they have received under sections 6.4 and 6.5.
- 6.3 UBC will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:
  - 6.3.1 expressly authorized by the affected individual;
  - 6.3.2 to a UBC representative, if necessary for the performance of that individual's duties;

- 6.3.3 to a Complainant, Respondent, witness, or other participant in the Investigation, if necessary for the conduct of the Investigation;
  - 6.3.4 to a Complainant or Respondent in accordance with sections 6.4 and 6.5;
  - 6.3.5 authorized by the University Counsel for compelling health or safety reasons;
  - 6.3.6 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
  - 6.3.7 authorized or required under law.
- 6.4 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. For this reason, Complainants and Respondents will be provided with a copy of the Investigation Report. The FIPPA may require UBC to remove 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 portions of the Investigative Report that are relevant to them.
- 6.5 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.
- 6.6 Section 6.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 6.4 and 6.5. 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.

## **7. Appeal Processes**

- 7.1 Student Respondents may appeal any discipline that is imposed on them under these Procedures through the UBC Vancouver Senate Student Appeals on Academic Discipline Committee if they are a UBC Vancouver student, or the UBC Okanagan Senate Appeals of Standing and Discipline Committee if they are a UBC Okanagan student.
- 7.2 Staff or faculty may appeal any decision or discipline that is made or imposed on them under these Procedures in accordance with the provisions of their collective agreements or their terms and conditions of employment.



## EXPLANATORY NOTES REGARDING THE SEXUAL MISCONDUCT POLICY AND ASSOCIATED PROCEDURES

Issued July 2019 by the Office of the University Counsel

*The OUC has prepared these Explanatory Notes to provide context and background regarding the Sexual Misconduct Policy. These Explanatory Notes do not replace or supersede the content of the Sexual Misconduct Policy and its Procedures.*

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| <b>Policy Long Title:</b>           | Sexual Assault and Other Sexual Misconduct   |
| <b>Policy Short Title:</b>          | Sexual Misconduct Policy   |
| <b>Policy Number:</b>               | SC17   |
| <b>Responsible Executive:</b>       | Vice-President, Students<br>Vice-President, Human Resources  |
| <b>Responsible Board Committee:</b> | People, Community & International Committee  |
| <b>Related Policies:</b>            | GA2 - Regulatory Framework Policy<br>HR10 - Employment Equity Policy<br>SC7 - Discrimination Policy<br>SC13 - At-Risk Behaviour Policy   |
| <b>History:</b>                     | <ul style="list-style-type: none"><li>• The Sexual Misconduct Policy was first approved by the Board of Governors in April 2017;</li><li>• The Sexual Misconduct Policy was updated in July 2019 to reflect a new policy identification system; it is currently identified as the Sexual Misconduct Policy, its long title is Sexual Assault and Other Sexual Misconduct, and its number is SC17. The previous identification number for this policy was #131.</li></ul> |
| <b>Related Legislation:</b>         | <i>Human Rights Code (R.S.B.C. 1996, c. 210)</i><br><i>Freedom of Information and Protection of Privacy Act (R.S.B.C. 1996, c. 165)</i>  |