

 <b>The University of British Columbia Board of Governors</b>	<b>Policy No.:</b>  <b>SC13</b>
<b>Long Title:</b>  <p style="text-align: center;">Response to At-Risk Behaviour</p>	
<b>Short Title:</b>  <p style="text-align: center;"><b>At-Risk Behaviour Policy</b></p>	

### **Background & Purposes:**

UBC strives to provide a welcoming environment in which all individuals can visit, work, and study without threat to personal safety or property, or disruption. When such threats or disruption occur, it is important that UBC intervene to address such behaviour promptly and effectively. This policy outlines procedures for the UBC community to follow when faced with At-Risk Behaviour, which includes behaviour that threatens personal safety or property, or disrupts lawful or legitimate activities on UBC premises.

### **1. General Principles**

- 1.1 UBC strives to provide a safe and welcoming environment in which all students, faculty members, staff members, and visitors work, study and interact without threat to personal safety or property, or disruption of their lawful and legitimate activities on UBC Premises. UBC will intervene, to the extent of its legal authority, to address At-Risk Behaviour in accordance with this Policy and its Procedures.
- 1.2 Members of the UBC community and visitors to UBC must comply with any Restrictions imposed on them pursuant to this Policy and its Procedures.
- 1.3 Restrictions imposed pursuant to this Policy against Students, faculty members, and staff members are intended to address safe functioning of UBC and are not intended to be disciplinary or indicative of wrongdoing.
- 1.4 When imposing Restrictions under this Policy, UBC must act fairly, considering both the seriousness of the At-Risk Behaviour and the disruption that the Restrictions will create for the Respondent and other people.
- 1.5 UBC will not tolerate retaliation against anyone who, in good faith, complains, gives evidence, or otherwise participates in a process under this Policy. UBC considers retaliation to be a serious matter because it prevents potential complainants, witnesses, and administrators from acting on their concerns and will deal with retaliation as set out in the Retaliation Policy.

- 1.6 UBC is committed to reducing barriers to accessing this Policy, and to taking a trauma-informed approach when responding to and assessing At-Risk-Behaviour.
- 1.7 This Policy and Procedures must be interpreted and applied in accordance with the Senates' Statements on Academic Freedom, as may be amended from time to time.
- 1.8 UBC respects the right of members of the UBC community to conduct their own personal lives. This Policy governs conduct only to the extent necessary to protect the integrity and proper functioning of the academic and non-academic activities of UBC; to ensure the peaceful and safe enjoyment of UBC facilities by members of the UBC community and the public; to protect the freedom of members of UBC to participate reasonably in the programs of UBC and in activities in or on UBC's premises; to provide UBC faculty members and staff members with a safe and secure workplace; and to protect the property of UBC and its members and visitors.

## 2. Relationship to Other Processes

- 2.1 Nothing in this Policy detracts from the powers of UBC and nothing in this Policy shall act to limit or diminish any power or authority that may be exercised by the employees or agents of UBC. Without limiting the generality of the forgoing, nothing in this Policy restricts or governs:
  - 2.1.1 the authority of the UBC administration to manage student residences, faculty housing, and staff housing on UBC Premises; or
  - 2.1.2 the authority of faculty and staff members to manage conduct during research, learning, and teaching activities such as in classrooms, laboratories, and other teaching or research facilities and during field trips and other off campus learning or research activities; or
  - 2.1.3 the authority of any representatives of UBC to carry out their day-to-day responsibilities, including their ability to require people to immediately leave any part of UBC Premises under their authority and to comply with any other reasonable directions.
- 2.2 The exercise of powers pursuant to this Policy does not preclude proceedings being taken regarding the same facts pursuant to other UBC processes, the criminal justice system, or civil law proceedings.
- 2.3 Nothing in this Policy is intended to restrict the lawful exercise of employee rights.

## 3. Definitions

- 3.1 "**At-Risk Behaviour**" means behaviour that:
  - 3.1.1 disrupts lawful and legitimate activities on UBC Premises; or
  - 3.1.2 leads to a reasonable belief that the safety of any person(s) on UBC Premises is threatened; or

- 3.1.3 leads to a reasonable belief that UBC property or the property of another person located on UBC Premises is threatened; or
- 3.1.4 leads to a reasonable belief that the person engaging in the behaviour is at imminent risk of harm; or
- 3.1.5 leads to a reasonable belief that the safety of any person(s) on UBC Premises is threatened, whether or not such threat was communicated to such person(s).

When determining whether repeated behaviours constitute At-Risk Behaviour, the cumulative impact of those behaviours must be considered.



## PROCEDURES ASSOCIATED WITH THE AT-RISK BEHAVIOUR 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 At-Risk Behaviour Policy.*

### 1. Definitions

- 1.1 **“Campus Security”** means the UBC Okanagan Department of Campus Security or the UBC Vancouver Department of Campus Security, as appropriate.
- 1.2 **“Complainant”** means an individual who is directly subjected to At-Risk-Behaviour.
- 1.3 **“Decision Maker”** means the person outlined in section 4.1.4 of the Procedures who is responsible for imposing, modifying, or rescinding Restrictions in each specific instance as outlined in this Policy.
- 1.4 **“Director of Campus Security”** means the Associate Director, Campus Security, UBC Okanagan, or the Director of Campus Security, UBC Vancouver, as appropriate.
- 1.5 **“Director of Health and Safety”** means the Director of the Department of Health, Safety and Environment, UBC Okanagan or the Director, Occupational Health and Research Safety of the Risk Management Services Department, UBC Vancouver.
- 1.6 **“Director of Investigations”** means the Director of Investigations identified in the Sexual Misconduct Policy and the Discrimination Policy.
- 1.7 **“Disaster Response Plan”** means, as appropriate, the plans contemplated under the Disaster Management Policy that are in place for dealing with campus-wide emergencies at UBC Okanagan or UBC Vancouver, as appropriate.
- 1.8 **“Emergency”** means a situation where there is a reasonable belief that At-Risk Behaviour has occurred or may occur and that UBC must take immediate action to protect the safety of any person(s) or property on UBC Premises.
- 1.9 **“Head of Student Affairs”** means the Vice-President, Students in respect of At-Risk Behaviour alleged to have been undertaken by a UBC Vancouver Student and the Associate Vice-President, Students (UBC Okanagan) in respect of At-Risk Behaviour alleged to have been undertaken by a UBC Okanagan Student.

- 1.10 **“Health and Safety”** means the Department of Health, Safety and Environmental Services, UBC Okanagan or the division responsible for workplace health and safety in the Department of Safety and Risk Services, UBC Vancouver, as appropriate.
- 1.11 **“Provost”** means the Provost and Vice-President, Academic (UBC Vancouver) or the Provost and Vice-President, Academic (UBC Okanagan), as appropriate.
- 1.12 **“Report”** means a Report as defined in the Sexual Misconduct Policy.
- 1.13 **“Respondent”** means a person who is reported to have engaged in At-Risk-Behaviour.
- 1.14 **“Restrictions”** means any restrictions on a Respondent’s ability to enter upon or to carry out activities upon UBC Premises, or their ability to use UBC facilities or services, or to interact with members of the UBC community, which may include but are not limited to:
- 1.14.1 prohibiting a Respondent from contacting (directly or indirectly through any means) another person;
  - 1.14.2 excluding a Respondent from all or any part of UBC Premises (this may include restrictions from certain locations at certain times or restricting a person’s options for traversing campus to certain routes);
  - 1.14.3 changing a Respondent Student’s academic schedules for courses, tutorials, lab sections, or providing alternative course work in lieu of attending class;
  - 1.14.4 requiring a Respondent Student to withdraw from courses or other academic activities;
  - 1.14.5 relocating a Respondent Student to a different UBC operated residence room, residence building, or residence complex, or requiring the Respondent Student to leave the UBC operated residence system altogether;
  - 1.14.6 prohibiting activities, or implementing controls over activities that a Respondent may undertake on UBC Premises;
  - 1.14.7 prohibiting access to, or implementing controls over, any facilities or services operated by UBC, including without limitation computer and communication systems; and
  - 1.14.8 imposing requirements on UBC faculty members and staff members (including faculty members who are not employees) in accordance with any applicable employment laws, contracts, policies, or collective agreements;
- 1.15 **“Student”** means a person who is presently enrolled at UBC in a credit course or who is designated by resolution of a UBC Senate as a student.
- 1.16 **“SVPRO”** means the Sexual Violence Prevention and Response Office located at UBC Vancouver or UBC Okanagan, as appropriate.
- 1.17 **“UBC Premises”** means lands and premises over which UBC exercises control.

## 2. Assistance and Support

- 2.1 Where a person reasonably believes that a Student, faculty member, or staff member is at risk of harm, appropriate assistance and support should be offered to such person in addition to any action taken pursuant to this Policy. For assistance with these matters please contact the following offices:

Individual is a	Office to Contact
Student of UBC Okanagan	Office of the Associate Vice-President, Students
Student of UBC Vancouver	Office of the Vice-President, Students
Staff member or Faculty member of UBC Okanagan	Department of Human Resources
Staff member of UBC Vancouver	Department of Human Resources
Faculty member of UBC Vancouver	Faculty Relations

## 3. Responding to Emergencies

- 3.1 At-Risk Behaviour may or may not result in an Emergency. Where an Emergency does arise, any member of the UBC community who becomes aware of an Emergency should follow these steps:
- 3.1.1 Wherever possible, get to a safe location and alert those nearby. The first priority is personal safety. Lives take precedence over property.
  - 3.1.2 Dial 911 if appropriate. The individual should provide their location and complete details of the Emergency.
  - 3.1.3 Report the Emergency to either UBC Okanagan Campus Security ((250) 807-8111) or UBC Vancouver Campus Security ((604) 822-2222), as appropriate.
- 3.2 Once Campus Security staff become aware of an Emergency, Campus Security staff are authorized to immediately implement such Restrictions on behalf of UBC as are necessary to respond to the Emergency. Units and employees of UBC must, subject to the provisions of Article 5, provide Campus Security with any information requested to assist Campus Security to manage an Emergency.
- 3.3 Campus Security staff will, if it is appropriate to do so, liaise with any appropriate emergency services (for example the police, fire department, ambulance service, etc.).
- 3.4 Where the Emergency calls for action under the Disaster Response Plan, Campus Security will notify the relevant persons as set out in the Disaster Response Plan and decision-making authority for responding to the Emergency will be transferred to such person or persons as set out in the Disaster Response Plan.

#### 4. General Provisions for Handling Non-Emergency or Post-Emergency Situations

4.1 Where members of the UBC community have a reasonable belief that At-Risk Behaviour has occurred or will occur, but such At-Risk-Behaviour has not resulted in an Emergency or the Emergency has been resolved under Article 3 of these Procedures, they must refer the At-Risk Behaviour to the Director of Campus Security for assessment and management pursuant to this Policy as follows:

4.1.1 Where the At-Risk Behaviour might pose a threat to any UBC employees, Campus Security will notify Health and Safety of the At-Risk-Behaviour and the Director of Health and Safety will be responsible for managing UBC's compliance with the *Workers Compensation Act* and its regulations.

4.1.2 Where At-Risk Behaviour might constitute Sexual Misconduct pursuant to the Sexual Misconduct Policy Campus Security will refer the Complainant to the SVPRO.

4.1.3 Campus Security will refer the matter to the appropriate Decision Maker, or retain responsibility for the matter as Decision Maker in accordance with section 4.1.4. Any Restrictions imposed during an Emergency must be reviewed as soon as practicable by the appropriate Decision Maker. The Decision Maker may maintain, modify or rescind any such Restrictions or impose new Restrictions.

4.1.4 The appropriate Decision Maker will be determined in relation to the identity of the Respondent as follows:

<b>Respondent is a</b>	<b>Decision Maker</b>
Student	Head of Student Affairs
Student who is also an employee	Head of Student Affairs and Vice-President, Human Resources jointly
Staff member	Vice-President, Human Resources
Faculty member (whether an employee or not)	Vice-President, Human Resources
Any other person	Director of Campus Security

4.1.5 A Decision Maker may delegate all or any portion of their authority to act or to make any decision contemplated by this Policy to one or more persons, provided the delegation is made in writing. The Vice-President, Human Resources will ensure that persons on both the Vancouver campus and the Okanagan campus can exercise the Vice-President, Human Resources' authority pursuant to this Policy.

4.2 A Decision Maker may seek advice or information from any persons or groups of persons the Decision Maker believes may assist them to exercise their authority pursuant to this Policy, including but not limited to:

4.2.1 the SVPRO and the UBC Investigations Office regarding matters that may involve Sexual Misconduct; and

- 4.2.2 Campus Security and the Office of the University Counsel as a general resource regarding the matters contemplated in this Policy.
- 4.3 Where Restrictions are imposed or reviewed pursuant to section 4.1.3 of these Procedures, such Restrictions must take into consideration the factors listed in Article 6.
- 4.4 Unless and until modified or rescinded in writing as provided in 4.1.3 of these Procedures, all Restrictions implemented under Article 3 of these Procedures will remain in effect.

## **5. Communication**

- 5.1 The Decision Maker should take steps where appropriate, as soon as reasonably practicable, to notify persons who have been directly threatened or impacted by At-Risk-Behaviour of the status of any threats and UBC's response. The Office of the University Counsel should be consulted where appropriate regarding any privacy considerations with respect to such notifications.
- 5.2 All Decision Makers, after imposing, modifying, or rescinding Restrictions, must promptly provide a copy of such decision to the Respondent with a copy to the Director of Campus Security.
- 5.3 If the Decision Maker believes At-Risk Behaviour may compromise the health or safety of UBC's workplace, teaching, or research environments, the Decision Maker will report this behaviour where required under the Health and Safety Policy.
- 5.4 Information about At-Risk Behaviour will be treated as confidential and may only be provided to others, including others at UBC, where to do so is necessary under the terms of this Policy, or as otherwise authorized by the BC *Freedom of Information and Protection of Privacy Act*.
- 5.5 Nothing in this Policy requires employees of UBC to provide information, where doing so would cause an employee who has a professional designation in the medical or mental health fields to breach the code of ethics governing their profession.

## **6. Considerations when Imposing or Reviewing Restrictions**

- 6.1 Restrictions can only be imposed where the At-Risk Behaviour:
  - 6.1.1 occurred on UBC Premises; or
  - 6.1.2 occurred in a context with a real and substantial connection to UBC. Each incident and its connection to UBC will be considered on its particular factual circumstances.
- 6.2 Restrictions must, in the opinion of the person imposing, modifying, or rescinding Restrictions, be reasonably necessary to properly respond to the At-Risk Behaviour while balancing the rights and interests of the Complainant (if any), the Respondent, UBC, and any other impacted members of the UBC community. Restrictions must be the least restrictive measures for the shortest period of time necessary to:



- 6.2.1 protect members of the UBC community;
  - 6.2.2 preserve the confidence of the UBC community in UBC's ability to maintain a safe environment;
  - 6.2.3 preserve the integrity of any subsequent investigation; and
  - 6.2.4 avoid interference, to the extent possible, with the Complainant's or Respondent's UBC activities.
- 6.3 When determining what Restrictions to impose, modify, or rescind, the Decision Maker must consider, as applicable:
- 6.3.1 the nature of the allegation(s), assessed objectively, with regard to:
    - (a) the degree of threat to any person's safety;
    - (b) the degree of threat to any property;
    - (c) the existence of a power imbalance between the Complainant and the Respondent;
    - (d) where an incident involves multiple Respondents, the degree of participation of the Respondent who is the subject of the Restrictions; and
    - (e) any information regarding mitigating circumstances;
  - 6.3.2 the Senates' Statements on Academic Freedom and UBC's commitment to freedom of expression; and
  - 6.3.3 the principles of trauma-informed decision making.
- 6.4 When determining what Restrictions to impose, modify, or rescind, the Decision Maker may consider any other information the Decision Maker considers relevant including but not limited to, as applicable:
- 6.4.1 without being required to conduct an investigation, the prima facie strength of the case against the Respondent including initial information available to the Decision Maker regarding the At-Risk Behaviour;
  - 6.4.2 any previous relevant findings regarding the Respondent from previous UBC investigations of which the Decision Maker is aware; and
  - 6.4.3 the Respondent's compliance with existing or past Restrictions.
- 6.5 The Decision Maker will provide the Respondent with the reason for the imposition, modification or rescission of Restrictions.

- 6.6 Where a report of At-Risk-Behaviour is made anonymously or by someone who wishes to remain anonymous, UBC may be unable to impose Restrictions where doing so would violate procedural fairness.

## **7. Special Provision for Reports of Sexual Misconduct**

- 7.1 Where the Director of Investigations has received a Report that may include At-Risk Behaviour and has determined that UBC has jurisdiction to investigate pursuant to the Sexual Misconduct Policy, the Director of Investigations will provide the Decision Maker with a written description of the reported At-Risk Behaviour to enable the Decision Maker to determine what, if any, Restrictions should be imposed on the Respondent in accordance with the provisions of this Policy. Before making this determination, the Decision Maker may request information from the SVPRO and any other UBC units. Information will only be provided to the Decision Maker in accordance with UBC's privacy obligations.

## **8. Special Provisions for Faculty Members and Staff Members**

- 8.1 The implementation of Restrictions in respect of a Respondent who is a UBC faculty member or staff member (including faculty members who are not employees) must not be inconsistent with any applicable employment laws, contracts, policies, or collective agreements.

## **9. Special Provisions for Students**

- 9.1 Imposing Restrictions on a Student pursuant to Article 3 or Article 4 of these Procedures is not a disciplinary action or a finding of wrongdoing, however, imposing Restrictions may nonetheless affect the ability of a Student to study or participate in student life. If it appears that Restrictions (other than Restrictions voluntarily agreed to pursuant to Article 10) will need to be maintained for more than 21 days and such Restrictions would materially:

9.1.1 affect the Respondent's ability to continue with their studies at UBC; or

9.1.2 interfere with the Respondent's participation in student life at UBC;

then the Respondent will be notified that one of the following actions will take place:

9.1.3 if the At-Risk Behaviour or some component of the At-Risk Behaviour appears to constitute misconduct pursuant to the UBC Student Code of Conduct, the Head of Student Affairs will consult with the person responsible for managing that process, and if that person agrees, refer the matter to be handled as a misconduct case pursuant to section 61 of the *University Act*, in which case the Restrictions will be automatically rescinded upon a decision being made by the President and replaced by whatever discipline, if any, that may be imposed by the President; or

9.1.4 if the At-Risk Behaviour becomes known as result of a Report made pursuant to the Sexual Misconduct Policy, the matter will be adjudicated pursuant to that policy in which case the Restrictions will be automatically rescinded upon a decision being made by the President and replaced by whatever discipline, if any, that may be imposed by the President; or

- 9.1.5 if the At-Risk Behaviour is investigated under another existing UBC process with adequate procedural protections, the Head of Student Affairs may rely upon the factual findings of that process, and upon receipt of the findings of that process, may modify or rescind existing Restrictions or impose new Restrictions; or
- 9.1.6 if the At-Risk Behaviour is not dealt with pursuant to sections 9.1.3 to 9.1.5 the Head of Student Affairs will either rescind the existing Restrictions or undertake an investigation in accordance with the Investigations Policy. Upon completion of this investigation the Head of Student Affairs will make a finding, based on a balance of probabilities, regarding whether the Respondent engaged in the At-Risk Behaviour, and if so, may modify or rescind existing Restrictions on a Student or impose new Restrictions.
- 9.2 If the Head of Student Affairs has imposed Restrictions on a Student pursuant to section 9.1.6 of these Procedures, the Student may request a review of the decision of the Head of Student Affairs. The review will be carried out by the Provost. The following provisions will apply to such review:
- 9.2.1 The Student must provide the Provost with a request for a review in writing within 14 days of the decision of the Head of Student Affairs pursuant to section 9.1.6 of these Procedures. The request for review will state the Student's concerns regarding the decision of the Head of Student Affairs and will include any documentation upon which the Student wishes to rely.
- 9.2.2 The Provost may modify the decision of the Head of Student Affairs and modify any Restrictions if:
- (a) the Provost determines that, based upon the evidence considered or the process followed by the Head of Student Affairs, the decision of the Head of Student Affairs, or the Restrictions imposed by the Head of Student Affairs, are unfair or unreasonable; or
- (b) the Student provides the Provost with new information that was not reasonably available to the Student at the time the decision of the Head of Student Affairs was made and such information, in the opinion of the Provost, would have changed the decision of the Head of Student Affairs if it had been considered by the Head of Student Affairs.
- 9.2.3 The Provost will review the Student's request for review, and may solicit a written response from the Head of Student Affairs. The Provost will not rehear the matter or conduct a new investigation into the matter.
- 9.2.4 Any Restrictions imposed on the Student will remain in force until such time as the Provost has provided a written decision regarding the request for review.
- 9.2.5 The Provost may accept a request for review pursuant to section 9.2.1 later than 14 days from the decision of the Head of Student Affairs if the Provost is satisfied, in the Provost's absolute discretion, that the Student was unable to provide it within 14 days.

- 9.2.6 Each of the Provosts may establish a process to follow with respect to requests for review, provided that such process is consistent with this Policy. The Provosts may establish different processes for UBC Okanagan and UBC Vancouver.

## 10. Voluntary Measures

- 10.1 If the Decision Maker believes that an alternative process for addressing the At-Risk Behaviour may be appropriate in the circumstances, they will discuss this option with the Complainant (if any) and the Respondent. The Decision Maker must clearly explain to the Complainant (if any) and the Respondent that their participation in an alternative process is entirely voluntary. If the Complainant (if any) and Respondent agree to participate in an alternative process and the Decision Maker is satisfied that an alternative process is appropriate, then the Decision Maker will explore the options available and will refer the matter to that process and may modify or rescind existing Restrictions or impose new Restrictions as a result of that process.
- 10.2 Participation in an alternative process is entirely voluntary. If either the Complainant (if any) or the Respondent decides at any time that they no longer wish to participate in the alternative process, then the Decision Maker will deal with the matter in accordance with the other provisions of this Policy. However, once Restrictions have been established with the voluntary agreement of the Complainant (if any) and the Respondent they are binding on the Respondent, are no longer voluntary, and must be complied with by the Respondent.
- 10.3 Nothing in this Policy restricts UBC from taking measures to protect, or provide comfort and assistance, to a Student, faculty member, or staff member, provided such measures are voluntary, do not constitute a Restriction, and comply with and are approved in accordance with UBC's rules and procedures. Examples of possible measures include but are not limited to:
- 10.3.1 access to counseling and medical services;
  - 10.3.2 assistance in arranging rescheduling of exams and assignments and extensions of deadlines;
  - 10.3.3 academic support;
  - 10.3.4 changing a Student's class schedule, including the ability to transfer course sections or withdraw from a course without penalty;
  - 10.3.5 changing a person's UBC work schedule or job assignment;
  - 10.3.6 changing a Student's housing where provided by UBC;
  - 10.3.7 safety planning;
  - 10.3.8 voluntary leaves of absence; and
  - 10.3.9 any other voluntary remedial measure that can be used to achieve the goals of this Policy.