



SUBJECT NEW POLICY #131 - SEXUAL ASSAULT AND OTHER SEXUAL MISCONDUCT

MEETING DATE FEBRUARY 14, 2017

Forwarded to the Board of Governors on the Recommendation of the President

APPROVED FOR SUBMISSION

Santa Ono, President and Vice-Chancellor

DECISION REQUESTED For Information

Report Date January 25, 2017

Presented By Hubert Lai, Q.C., University Counsel
Louise Cowin, Vice-President Students
Lisa Castle, Vice-President Human Resources

EXECUTIVE SUMMARY

The proposed policy supports UBC’s commitment to a respectful environment where its members can study, work, and live free from concerns of sexual misconduct. It also articulates UBC’s commitment to support members of the UBC community who are affected 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 investigate allegations of sexual misconduct.

INSTITUTIONAL STRATEGIC PRIORITIES SUPPORTED

- Learning
 - Research
 - Innovation
 - Engagement (Internal / External)
 - International
- or Operational

DESCRIPTION & RATIONALE

In late 2015, then-President Piper directed that a sexual assault policy be developed.

A draft policy was presented to the Board of Governors for its information and input at its June 14, 2016 meeting. That draft was informed by an extensive survey and review of the sexual assault policies and protocols instituted at other universities and colleges across Canada and the US, and by an extensive review of the literature on the topic of sexual assault at educational institutions. It also reflected the Committee’s consultation with key stakeholders.

After that draft was presented to the Board, the Office of the University Counsel and the Equity & Inclusion Office undertook an extensive community

consultation exercise over a period of four and a half months. The community was invited to provide written feedback via email to the Office of the University Counsel or through a confidential website set up by the Equity & Inclusion Office. In addition, the Co-Chairs of the Policy Development Committee led four public information sessions to facilitate discussion about the proposed policy, one on the Okanagan campus and three on the Vancouver campus. In addition, 25 separate information sessions and stakeholder meetings were held for a wide variety of groups on both campuses, including the Faculty Association, the AMS and the GSS, and the Vancouver and Okanagan Senates. Numerous broadcast emails were also sent out to the community to ensure that UBC community members were kept informed as the policy development process progressed.

The consultation resulted in over 160 submissions, all of which were considered by the policy committee in creating the draft that is now being presented to the Board of Governors. The feedback that was received touched on virtually every element of the draft policy, but the vast majority focused on the need for a central support office and the need for a separate and distinct investigatory process to investigate allegations of sexual misconduct made against members of the UBC community. Both of these are key issues and the Policy Committee has made significant changes to the proposed policy in response.

In addition to the feedback received through the community consultation, two events occurred which informed the changes that the Policy Committee has now made to the proposed Policy:

- First, the BC government passed Bill 23 -2016, the *Sexual Violence and Misconduct Policy Act*, as anticipated in the docket that was presented to the Board of Governors in June 2016. The *Act* outlines requirements for all BC post-secondary institutions regarding sexual misconduct, including the requirement to establish and implement a sexual misconduct policy that addresses sexual misconduct, including sexual misconduct prevention and responses to sexual misconduct, by May 18, 2017. The *Act* also requires post-secondary institutions to set out procedures for making and responding to complaints and reports of sexual misconduct. As a result, the proposed policy now addresses a broader range of conduct that falls under “sexual misconduct”, and is not confined to cases of sexual assault.
- Second, as a result of the report issued by the University Sexual Assault Panel and the subsequent work by the UBC Steering Committee on Sexual Assault, administrative approval was obtained for the creation and staffing of a central support and intake office (to be known as the Sexual Violence Prevention and Response Office), as well as approval for the creation of a Director of Investigations position and a new investigation process to address reports of sexual misconduct.

Basic elements of the first version of the proposed policy that have been largely preserved in the current version of the proposed policy are as follows:

- a. The proposed policy sets out the commitments and principles the University will adhere to with regard to sexual misconduct.
- b. The proposed policy defines key terms, such as “sexual misconduct” and “consent”.

c. The proposed policy defines the terms “disclosure” and “report”, and clearly sets out the implications and effect of taking each of these separate steps.

d. The proposed policy sets out information regarding the support services, including accommodations, available to members of the UBC community on the basis of a disclosure.

e. The proposed policy sets out the University’s commitment to its members’ confidentiality and privacy, and the circumstances under which the University may be legally obligated to disclose personal information.

Other elements that are new or significantly different from the first version of the proposed policy are as follows:

a. The scope of the proposed policy has been broadened to address all forms of sexual misconduct and is no longer confined to sexual assault.

b. There is now a section describing the mandate of the new Sexual Violence Prevention and Response Office, including a detailed list of the kinds of support services the Office can provide.

c. There are now Procedures setting out a separate and distinct investigatory process that the University will follow when a Report of sexual misconduct is made to UBC. Under this process, individual, highly trained, trauma-informed investigators will now handle all allegations of sexual misconduct made against members of the UBC community.

d. The definitions have been moved to the end of the policy, and the confidentiality and privacy section has been moved into the Procedures.

e. The related University policies and processes section has been deleted, as it is no longer required due to the new procedures and other amendments.

BENEFITS
Learning, Research,
Financial,
Sustainability &
Reputational

The proposed policy provides a clear articulation of the commitments and principles the University will adhere to and the expectations the University has for its members with regard to sexual misconduct, which will assure all members of the UBC community that the University takes seriously its responsibility to ensure their safety and security. The policy now also refers to the new Sexual Violence Prevention and Response Office, and clearly outlines its mandate and provides an extensive list of the services the Office can provide. This ensures that every member of the UBC community can easily locate the support and information they need. Having these services in one central location will reduce confusion and will improve the University’s ability to respond to disclosures and reports of sexual misconduct in a timely manner. Finally, the creation of a separate and distinct investigatory process to address allegations of sexual misconduct made against members of the UBC community ensures that the two key concerns our community had with the prior processes – that a student committee would hear allegations made against a student, and that administrative heads of unit would be responsible for addressing allegations of sexual misconduct made against faculty and staff – have been addressed. Finally, the policy complies with the provincial legislation requiring

all BC post-secondary institutions to have a policy in place that addresses sexual misconduct.

CONSULTATION Relevant Units, Internal & External Constituencies The proposed policy has been developed by a Policy Development Committee, constituted by the Office of the University Counsel at the request of the President to consider and advise on the proposed new policy. Due to changes in the student leadership and the retirement of the former Director, Health Services at UBC Vancouver, the Committee is now comprised of the following members:

- Kimberley Beck, Legal Counsel (Co-Chair)
- Sara-Jane Finlay, AVP Equity and Inclusion (Co-Chair)
- Susan Frohlick (Professor, Anthropology and Gender and Women’s Studies, UBCO)
- Isabel Grant (Professor, Allard School of Law, UBCV)
- Daniel Justice (Professor, English, and Chair First Nations and Indigenous Studies, UBCV)*
- Shannon Dunn (Director, Business Operations, UBCO)
- Linda McKnight (Director, HR Advisory Services, UBCV)
- Roger Wilson (Director, Health and Wellness, UBCO)
- Janice Robinson (Director, Residence Life, UBCV)
- Kimberly Rutledge (UBCSUO, VP External)
- Samantha So (AMS, VP Academic)
- Gen Cruz (GSS, President)


The proposed policy is unanimously recommended by the Policy Development Committee.

* Stepped down from the Committee effective January 10, 2017

Additional Materials

A clean copy of the proposed policy is attached. In addition, in accordance with the Board’s standing request, a black-lined version is also attached that highlights the changes that have been made compared to the version that was presented to the Board of Governors in June of 2016.

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| Previous Report Date | June 14, 2016 |
| Decision | Presented to the Board for information and input, following which community consultation was undertaken. |

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|  <p>The University of British Columbia Board of Governors</p> | Policy No.: 131 | Approval Date: |
| | Responsible Executive: Vice-President, Students Vice-President, Human Resources | |
| Title: Sexual Assault and Other Sexual Misconduct | | |
| Background & Purposes: <p>UBC has a responsibility to maintain a respectful environment where its members can study, work, and live free from concerns of sexual misconduct. This policy articulates UBC’s duty and commitment to support members of the UBC community who are affected 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 investigate allegations of sexual misconduct.</p> | | |

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. These factors impact individuals’ experience of Sexual Misconduct, their ability to access supports, and their choices with regard to recourse. UBC will take these factors into account when carrying out any of its responsibilities under this Policy.
- 1.3 UBC is committed to providing comprehensive and inclusive Sexual Misconduct education and prevention initiatives. Through these initiatives, it is committed to combatting 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.
- 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 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 will respond to and address Disclosures and Reports, and conduct Investigations, in a timely manner.
- 1.9 UBC is committed to procedural fairness and to UBC's legal obligation to protect privacy when responding to Disclosures and Reports, and conducting Investigations.
- 1.10 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.
- 2.2 The Sexual Violence Prevention and Response Office acts as a single point of contact and liaison for Members of the University Community who have experienced Sexual Misconduct at any time, and can provide individualized information, advice, and assistance. The services that can be provided by the Office include:
 - 2.2.1 receiving Disclosures;
 - 2.2.2 identifying, accessing, and coordinating support services and 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, the Vancouver Rape Relief and Women's Shelter, Women Against Violence Against Women, and the Elizabeth Fry Society;
 - 2.2.5 providing information about confidentiality and how it relates to the information they provide 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 Policy #3 – Discrimination and Harassment, and Policy #14 – Response to At-Risk Behaviour;
 - 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;

- 2.2.11 receiving allegations regarding acts of retaliation for referral to the Director of the Sexual Violence Prevention and Response Office;
 - 2.2.12 providing information about reporting to the police, including information about the police's ability to put measures into place to protect the individual's safety off campus; and
 - 2.2.13 assisting with the creation of a report for the police or the submission of a report to the police, or both.
- 2.3 The Sexual Violence Prevention and Response Office will also:
- 2.3.1 provide support and information to Members of the UBC Community who receive Disclosures or who are supporting someone who has experienced Sexual Misconduct;
 - 2.3.2 establish, oversee, and coordinate sexual misconduct prevention and response protocols and processes, communications, resource materials, training, and a volunteer program; and
 - 2.3.3 raise awareness of and provide education on social attitudes about gender, sex and sexuality that normalize Sexual Misconduct and undermine equality.
- 2.4 Annually, UBC will publically report on the number of:
- 2.4.1 Disclosures received by the Sexual Violence Prevention and Response Office;
 - 2.4.2 Reports received by the Director of Investigations; and
 - 2.4.3 Reports investigated or referred to an alternative dispute resolution process.

3. Disclosures

- 3.1 Through the Sexual Violence Prevention and Response Office, UBC will make appropriate support services and accommodations available to Members of the UBC Community on the basis of any Disclosure, regardless of whether they decide to make a Report, or whether UBC has the Jurisdiction to Investigate.
- 3.2 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.
- 3.3 Appropriate accommodations can 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, including restrictions under Policy #14 – Response to At-Risk Behaviour.
- 3.4 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 support the individual making the Disclosure.
- 3.5 To the greatest extent possible, UBC will respect an individual’s choice not to 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 Sexual Violence Prevention and Response Office, UBC may do one or both of the following:
- 3.5.1 initiate an Investigation, in which case the individual who Disclosed has the right not to participate in the Investigation; and
 - 3.5.2 notify third parties, such as the police or child protection authorities.

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 who will address them in accordance with the Procedures under 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 Policy #3 – Discrimination and Harassment and this Policy. Reports that contain allegations of any other Sexual Misconduct in addition to allegations of sexual harassment will be addressed under this Policy. Reports that contain allegations of sexual harassment alone will be reviewed by the Director of Investigations and assessed to 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 processes external to UBC against the individual alleged to have committed the Sexual Misconduct, such as reporting to the police or initiating a civil action (including a complaint under the BC *Human Rights Code*). These are separate decisions 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.

5. Anonymous and Third Party Reporting

- 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.
- 5.2 UBC may be unable to proceed with an Investigation involving an anonymous or third party Report due to a lack of evidence from the individual who was directly subjected to the Sexual Misconduct. In such cases, the Director of Investigations will consider whether any other steps can and should be taken. Other steps may include practical measures, such as increased Campus Security presence at certain times or in certain places or, in appropriate cases, contacting the third party who submitted the Report to find out if the individual who was directly subjected to the Sexual Misconduct would consider submitting a Report or participating in an Investigation. However, where other sufficient evidence exists, and 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 an anonymous or third party Report, the Report will be retained by the Sexual Violence Prevention and Response Office.

6. Policy Review

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

7. Definitions

- 7.1 **“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:
 - 7.1.1 sexual assault, which is any form of sexual touching or the threat of sexual touching without the individual’s Consent;
 - 7.1.2 sexual harassment, which is unwelcome conduct of a sexual nature that detrimentally affects the work, learning, or living environment, or leads to adverse consequences for the one directly subjected to the harassment;
 - 7.1.3 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;

- 7.1.4 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;
- 7.1.5 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
- 7.1.6 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.
- 7.2 **“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:
- Consent cannot be implied, and it can be revoked at any time during the act or acts in question.
 - 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.
 - 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.
 - Evidence that an individual was impaired by alcohol or drugs will always be a relevant consideration for determining whether they consented to the sexual activity in question.
- 7.3 **“Members of the UBC Community”** are individuals who fall under one or more of the following categories:
- 7.3.1 students, defined as individuals enrolled at UBC, including co-op and exchange students;
- 7.3.2 employees, including faculty and staff members;
- 7.3.3 holders of teaching appointments;
- 7.3.4 post-doctoral fellows; and
- 7.3.5 anyone contractually obligated to comply with this Policy.
- 7.4 **“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.
- 7.5 **“Report”** or **“Reporting”** is providing a statement of allegations to the Director of Investigations about a Sexual Misconduct. Further information about Reporting is provided in sections 4 and 5 of this Policy.
- 7.6 **“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.

- 7.7 **“Investigation”** is an investigation carried out by UBC on the basis of a Report, as set out in the Procedures to this Policy.

PROCEDURES

Approved: [DATE]

Pursuant to Policy #1: Administration of Policies, "Procedures may be amended by the President, provided the new procedures conform to the approved policy. Such amendments are reported at the next meeting of the Board of Governors." Note: the most recent procedures may be reviewed at <http://universitycounsel.ubc.ca/policies/index/>.

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, and will take a trauma-informed approach to their work.
- 1.2 Investigations are not adversarial processes. Complainants and Respondents may have an advisor or support person present at any time during their participation in an Investigation.
- 1.3 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, although the Director of Investigations has the discretion in exceptional circumstances to defer this requirement.
- 2.2 The Report should set out the relevant details with regard to the alleged Sexual Misconduct. Reports should also identify any potential witnesses, along with a description of the information witnesses are expected to provide. Any relevant documents, including any available social media communications, should also be provided with 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 Once the Director of Investigations determines that UBC has the Jurisdiction to Investigate, the individual directly subjected to the Sexual Misconduct becomes the Complainant, and the individual against whom the allegations have been made becomes the Respondent.
- 3.3 If the Director of Investigations determines that UBC has the Jurisdiction to Investigate, they will do one of the following:
 - 3.3.1 appoint an Investigator to Investigate the Report under section 4 of these Procedures;
or
 - 3.3.2 subject to section 3.4, refer the matter to an alternative resolution process.

- 3.4 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. 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 matter will be referred back to the Director of Investigations and the Director of Investigations will appoint an Investigator to Investigate the Report under section 4 of these Procedures.
- 3.5 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, the Director may refer the Report to the appropriate UBC authority and will inform the individual making the Report when appropriate.
- 3.6 If an Investigation is initiated, the Director of Investigations will:
- 3.6.1 contact the Complainant to advise them that the Report has been referred to an Investigator, and provide the Complainant with information about the investigation process and the resources available to them; and
 - 3.6.2 contact the Respondent to advise them that a Report has been made and has been referred to an Investigator, and will provide the Respondent with a copy of the Report, along with information about the investigation process and information on the resources available to them for support.

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 The Investigator may carry out the investigation in any manner they deem appropriate in the circumstances. This may include, but is not limited to, the following:
- 4.2.1 meeting with or requesting further information from the Complainant;
 - 4.2.2 meeting with or requesting further information from the Respondent;
 - 4.2.3 meeting or requesting further information from any other individuals who may have information relevant to the Investigation; and

- 4.2.4 obtaining any other evidence that may be relevant to the Investigation.
- 4.3 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:
 - 4.3.1 a summary of the evidence considered;
 - 4.3.2 any assessment of credibility that is required to render a determination; and
 - 4.3.3 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 Investigator determines that Sexual Misconduct has occurred, the Director of Investigations will provide a copy of the Investigative Report to the appropriate UBC authority, 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 then determine what disciplinary or other measures are appropriate based on the findings of fact. If suspension or termination of a faculty member is considered appropriate by the Dean or University Librarian, a recommendation will be made to the President who will then, in turn, make a recommendation to the Board of Governors. The Board of Governors will then decide if suspension or termination 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 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 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, along with a copy of the Investigative Report in accordance with section 6.4 of these Procedures. A copy of the decision and the Investigative Report 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 relevant restrictions that may have been imposed upon the Respondent's movements or activities, in accordance with sections 6.4 and 6.5 of these Procedures.
- 5.3 If the Investigator determines that Sexual Misconduct has not 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.

- 5.4 If the Investigator has determined that Sexual Misconduct has occurred and the Director of Investigations believes that other UBC authorities may need to act on that determination in addition to the authority identified in section 5.1, the Director of Investigations may refer the Investigative Report to the appropriate UBC authority. This may include one or more of the following authorities: an Administrative Head of Unit, a Student Conduct Manager, UBC Student Housing, a student's program if that student is in a program that has standards of professional conduct, and a student's Administrative Head of Unit if the student is also a UBC employee.
- 5.5 If the Director of Investigations believes that the Investigative Report discloses other kinds of misconduct or information that UBC may need to act on, whether or not the Investigator has determined that Sexual Misconduct has occurred, the Director of Investigations may refer the Investigative Report to the appropriate UBC authority.
- 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*, 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. 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, or other individual who participated 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
- 6.3.7 authorized or required under law or UBC policy.
- 6.4 For reasons of fairness, Complainants and Respondents will be provided with a copy of the Investigative 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 Investigative Report that are relevant to them.
- 6.5 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.
- 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 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).

7. Appeal Processes

- 7.1 Student Respondents may appeal any discipline that is imposed 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 under these Procedures in accordance with the provisions of their collective agreements or their terms and conditions of employment.

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|  <p>The University of British Columbia Board of Governors</p> | <p>Policy No.:</p> <p>131</p> | <p>Approval Date:</p> |
| | <p>Responsible Executive: Vice-President, Students Vice-President, Human Resources</p> | |
| <p>Title:</p> <p>Sexual Assault <u>and Other Sexual Misconduct</u></p> | | |
| <p>Background & Purposes:</p> <p>The purpose of this policy is to articulate UBC's commitment to the safety and security of all its members, recognizing that this is essential to the functioning of the institution. UBC has a responsibility to maintain a respectful environment where its members can study, work, and live free from concerns of sexual assault. It takes seriously its misconduct. This policy articulates UBC's duty <u>and commitment</u> to support members of the UBC community who experience <u>are affected by</u> sexual assault <u>misconduct</u>, <u>to provide a central site for information regarding the resources and options available to those affected by sexual misconduct</u>, to create and make available programs and resources to educate its community on the prevention of sexual assault <u>misconduct</u>, and to provide a policy which is a central source of information for its members regarding the resources <u>process to respond to</u> and options available to those affected by <u>investigate allegations of</u> sexual assault <u>misconduct</u>.</p> | | |

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. These factors impact individuals' experience of Sexual Misconduct, their ability to access supports, and their choices with regard to recourse. UBC will take these factors into account when carrying out any of its responsibilities under this Policy.
- 1.3 UBC is committed to providing comprehensive and inclusive Sexual Misconduct education and prevention initiatives. Through these initiatives, it is committed to combatting 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.
- 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 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 will respond to and address Disclosures and Reports, and conduct Investigations, in a timely manner.
- 1.9 UBC is committed to procedural fairness and to UBC's legal obligation to protect privacy when responding to Disclosures and Reports, and conducting Investigations.
- 1.10 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.
- 2.2 The Sexual Violence Prevention and Response Office acts as a single point of contact and liaison for Members of the University Community who have experienced Sexual Misconduct at any time, and can provide individualized information, advice, and assistance. The services that can be provided by the Office include:
 - 2.2.1 receiving Disclosures;
 - 2.2.2 identifying, accessing, and coordinating support services and 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, the Vancouver Rape Relief and Women's Shelter, Women Against Violence Against Women, and the Elizabeth Fry Society;
 - 2.2.5 providing information about confidentiality and how it relates to the information they provide 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 Policy #3 – Discrimination and Harassment, and Policy #14 – Response to At-Risk Behaviour;
 - 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;

2.2.11 receiving allegations regarding acts of retaliation for referral to the Director of the Sexual Violence Prevention and Response Office;

2.2.12 providing information about reporting to the police, including information about the police's ability to put measures into place to protect the individual's safety off campus; and

2.2.13 assisting with the creation of a report for the police or the submission of a report to the police, or both.

2.3 The Sexual Violence Prevention and Response Office will also:

2.3.1 provide support and information to Members of the UBC Community who receive Disclosures or who are supporting someone who has experienced Sexual Misconduct;

2.3.2 establish, oversee, and coordinate sexual misconduct prevention and response protocols and processes, communications, resource materials, training, and a volunteer program; and

2.3.3 raise awareness of and provide education on social attitudes about gender, sex and sexuality that normalize Sexual Misconduct and undermine equality.

2.4 Annually, UBC will publically report on the number of:

2.4.1 Disclosures received by the Sexual Violence Prevention and Response Office;

2.4.2 Reports received by the Director of Investigations; and

2.4.3 Reports investigated or referred to an alternative dispute resolution process.

3. Disclosures

3.1 Through the Sexual Violence Prevention and Response Office, UBC will make appropriate support services and accommodations available to Members of the UBC Community on the basis of any Disclosure, regardless of whether they decide to make a Report, or whether UBC has the Jurisdiction to Investigate.

3.2 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.

3.3 Appropriate accommodations can 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, including restrictions under Policy #14 – Response to At-Risk Behaviour.

3.4 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 support the individual making the Disclosure.

3.5 To the greatest extent possible, UBC will respect an individual’s choice not to 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 Sexual Violence Prevention and Response Office, UBC may do one or both of the following:

3.5.1 initiate an Investigation, in which case the individual who Disclosed has the right not to participate in the Investigation; and

3.5.2 notify third parties, such as the police or child protection authorities.

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 who will address them in accordance with the Procedures under 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 Policy #3 – Discrimination and Harassment and this Policy. Reports that contain allegations of any other Sexual Misconduct in addition to allegations of sexual harassment will be addressed under this Policy. Reports that contain allegations of sexual harassment alone will be reviewed by the Director of Investigations and assessed to 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 processes external to UBC against the individual alleged to have committed the Sexual Misconduct, such as reporting to the police or initiating a civil action (including a complaint under the BC *Human Rights Code*). These are

separate decisions 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.

5. Anonymous and Third Party Reporting

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.

5.2 UBC may be unable to proceed with an Investigation involving an anonymous or third party Report due to a lack of evidence from the individual who was directly subjected to the Sexual Misconduct. In such cases, the Director of Investigations will consider whether any other steps can and should be taken. Other steps may include practical measures, such as increased Campus Security presence at certain times or in certain places or, in appropriate cases, contacting the third party who submitted the Report to find out if the individual who was directly subjected to the Sexual Misconduct would consider submitting a Report or participating in an Investigation. However, where other sufficient evidence exists, and 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 an anonymous or third party Report, the Report will be retained by the Sexual Violence Prevention and Response Office.

6. Policy Review

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

1-7. Definitions

~~1.1 “**Sexual Assault**” means any form of sexual contact without a person’s consent, including the threat of sexual contact without Consent. Sexual Assault can range from unwanted sexual touching to forced sexual intercourse. It can involve situations where sexual activity is obtained by someone abusing a position of trust, power, or authority.~~

7.1 “**Consent**” means “**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:

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

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

7.1.3 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;

7.1.4 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;

7.1.5 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

7.1.6 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.

7.2 "Consent" is the voluntary agreement to ~~engage in the sexual activity~~act or acts in question and to continue to engage in the ~~activity~~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:

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

- ~~1.2~~• 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. ~~No consent is obtained where a person is incapable of consenting, for example by intoxication, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.~~

- 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.

- Evidence that an individual was impaired by alcohol or drugs will always be a relevant consideration for determining whether they consented to the sexual activity in question.

7.3 "Members of the UBC Community" ~~means UBC~~are individuals who fall under one or more of the following categories:

7.3.1 students ~~(as defined in the University Act),~~ as individuals enrolled at UBC, including co-op and exchange students;

~~1.3~~7.3.2 employees, including faculty, and staff members;

7.3.3 holders of teaching appointments;

7.3.4 post-doctoral fellows; and

7.3.5 anyone contractually obligated to comply with this Policy.

1.4.7.4 “Disclose” or “Disclosure” means the sharing of information with UBC regarding any incident of Sexual Assault with a Member of the UBC Community Misconduct. Further information about Disclosures is provided in section 3 of this Policy.

7.5 “Report” or “Reporting” means providing a statement of allegations to the Director of Investigations about a Sexual Assault to UBC with the intention of initiating one Misconduct. Further information about Reporting is provided in sections 4 and 5 of this Policy.

1.5.7.6 “Jurisdiction to Investigate” is the processes set out in section 4.2 legal authority to investigate under this Policy, which could result in disciplinary action being taken is limited by the following: the allegations must be made against the an individual who was a Member of the UBC Community at the time of the alleged to have committed the Sexual Assault 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.

2. Commitments and General Principles

2.1 UBC is committed to providing and maintaining a positive learning, working and living environment where Sexual Assault will not be tolerated, and where Sexual Assault is treated with the seriousness it deserves.

2.2 This Policy applies to all Members of the UBC Community.

2.3 UBC recognizes that individuals of all gender identities, gender expressions, and sexual orientations may experience Sexual Assault. UBC is committed to ensuring that this Policy and all UBC processes addressing Sexual Assault respect all Members of the UBC Community regardless of gender identity, gender expression, or sexual orientation.

2.4 UBC further recognizes that Sexual Assault is overwhelmingly committed against women, particularly younger women and women who experience multiple intersections of disadvantage such as, but not limited to, Indigenous women, women with disabilities, and racialized women.

2.5 Additionally, UBC recognizes that those whose gender identity or gender expression does not conform to accepted gender norms, such as gender variant, Trans or Two-Spirited people are also at heightened risk of Sexual Assault.

2.6 UBC is committed to providing comprehensive and inclusive Sexual Assault prevention initiatives to Members of the UBC Community, including education and awareness programs, safety measures and campus communications.

2.7 UBC is committed to working to reduce barriers to Disclosing and Reporting.

2.8 UBC is committed to providing support to Members of the UBC Community who Disclose or Report a Sexual Assault to UBC.

- ~~2.9 UBC is committed to supporting Members of the UBC Community who receive a Disclosure, and to training Members of the UBC Community who are likely to receive Disclosures to ensure that those who Disclose are treated with compassion, dignity and respect in a non-judgmental and sympathetic manner.~~
- ~~2.10 UBC "Investigation" is committed to providing support to Members of the UBC Community who have had allegations of Sexual Assault made against them.~~
- ~~2.11 UBC is committed to ensuring the personal agency of those who have been Sexually Assaulted by respecting their right to make their own decisions. Personal agency means that those who Disclose or Report will be the decision makers in situations which pertain to themselves, including whether and to whom to Disclose, whether or not to pursue criminal action or a Report under one of the UBC processes set out in section 4.2, and whether to access support services, including accommodations.~~
- ~~2.12 UBC is committed to addressing allegations of Sexual Assault made against Members of the UBC Community and, if found to have committed Sexual Assault, imposing discipline against those Members.~~
- ~~2.13 UBC is committed to fulfilling its duty to be fair when carrying out a process that addresses allegations of Sexual Assault against Members of the UBC Community. As part of this duty, UBC must test and weigh the evidence provided by all parties involved, in order to make its findings based on a balance of probabilities.~~
- ~~2.14 UBC will not tolerate any retaliation, directly or indirectly, against anyone who Discloses or Reports a Sexual Assault, or who participates in a UBC process that addresses allegations of Sexual Assault against a Member of the UBC Community.~~
- ~~2.15 UBC is committed to fulfilling its duty to respect the privacy of Members of the UBC Community, recognizing that unauthorized disclosures of personal information may cause substantial harm to those who have Disclosed or Reported a Sexual Assault, or those who participate in a UBC process that addresses allegations of Sexual Assault.~~

~~3. Disclosure~~

- ~~3.1 A person may choose to Disclose a Sexual Assault without making a Report. Consequently, Disclosure does not result in a Report being made, and does not initiate a process to address the Sexual Assault. The decision to Disclose and the decision to Report are separate decisions, and UBC will respect each person's decisions.~~
- ~~3.2 UBC will make appropriate support services, including accommodations, available to any Member of the UBC Community an investigation carried out by UBC on the basis of a Disclosure. A Report does not need to be made in order to access these services, and the person Disclosing the Sexual Assault does not need to prove that the Sexual Assault occurred in order to access these services.~~
- ~~3.3 UBC recognizes that first disclosures of Sexual Assault are most often made to someone the person already knows. As such, Disclosures can be made to any Member of the UBC Community. Any Members of the UBC Community who receive a Disclosure can contact the Equity and Inclusion Office, or any Member of the UBC Community trained to receive Disclosures, for support and information.~~

- 3.4 — ~~Certain Members of the UBC Community have been trained to receive Disclosures of Sexual Assault, including the Equity and Inclusion Office, Campus Security, Residence Life Managers, and Student Conduct Managers. These Members of the UBC Community can provide information and support, including assistance with accessing and coordinating support services, information about the Reporting options, and assistance with the Reporting process if the person chooses to Report.~~
- 3.5 — ~~On the basis of a Disclosure, UBC can provide appropriate support services and accommodations, which may include any of the following: information about and referrals to UBC Counselling Services, UBC Student Health Service, and the UBC Employee and Family Assistance Program; safety planning; student residence re-location; class schedule changes; Report, as set out in academic accommodations; alternative work or activity scheduling; and safety measures.~~

~~4. Reporting Options~~

- 4.1 — ~~UBC has the jurisdiction to address Reports made against a Member of the UBC Community, and can take action to the extent of its relationship to that Member. UBC does not have the jurisdiction to address allegations made against a person who is not a Member of the UBC Community, however, in certain circumstances, UBC may be able to restrict that person's access to campus under Policy #14 Response to At Risk Behaviour.~~
- 4.2 — ~~UBC will address Reports made against a Member of the UBC Community. If a person decides that they want UBC to address an allegation of Sexual Assault made against a Member of the UBC Community, the following reporting options are available to them depending on the status of the person against whom they are making the allegation:~~
- 4.2.1 — ~~If the person against whom the allegation is being made is a student, the Sexual Assault is Reported under the process set out in the Student Code of Conduct;~~
- 4.2.2 — ~~If the person against whom the allegation is being made is a faculty or staff member, the Sexual Assault is Reported to that faculty or staff member's Administrative Head of Unit for investigation. If the allegation is being made against that Administrative Head of Unit, then the allegation is Reported to the person to whom they directly report.~~
- 4.3 — ~~For the purposes of section 4.2.2, "**Administrative Head of Unit**" means any of the following: Director of the administrative unit; Head of an academic department; Director of a centre, institute or school; Principal of a college; Dean; Associate Vice President; University Librarian; Registrar; Vice President; Deputy Vice Chancellor & Principal; or President.~~
- 4.4 — ~~In all cases, those Reporting under the processes identified above can obtain information and assistance, including assistance with identifying the appropriate Administrative Head of Unit under section 4.2.2, from Members of the UBC Community who have been trained to receive Disclosures of Sexual Assault, including the Equity and Inclusion Office, Campus Security, Residence Life Managers, and Student Conduct Managers.~~
- 4.5 — ~~If a person encounters At Risk Behaviour, which includes behaviour exhibited by individuals who are not Members of the UBC Community, that person may report the behaviour in accordance with the Procedures set out in Policy #14. The definition of At Risk Behaviour includes behaviour that leads to a reasonable belief that the safety or security of any person on UBC premises is threatened.~~

- ~~4.6 — The UBC processes available to address allegations of Sexual Assault may have jurisdictional limitations, which means that UBC may not be able to address all allegations. The particular UBC process being contemplated should be consulted for more information on these limitations.~~
- ~~4.7 — A person is not precluded from reporting to local law enforcement if they have Reported the Sexual Assault to UBC, nor are they precluded from Reporting to UBC if they have reported the Sexual Assault to local law enforcement. They may Report to one or the other, to neither, or to both.~~
- ~~4.8 — Allegations of Sexual Assault made by someone other than the person who has been Sexually Assaulted can also be reported to local law enforcement, to UBC under the appropriate process identified above, or both. However, UBC’s ability to address the allegation will be dependent on whether the evidence required to make findings of fact regarding the assault can be obtained. In many cases of Sexual Assault, only the person who has been Sexually Assaulted and the one accused of the assault can provide this evidence. In such cases, if the person who has been Sexually Assaulted does not wish to participate in UBC’s process, then UBC may be unable to act.~~

~~5. Confidentiality and Privacy~~

- ~~5.1 — UBC faculty or staff must keep confidential all information provided in a Disclosure or Report (“**Confidential Information**”), except as set out below in sections 5.2, 5.3 and 5.4. Unauthorized release of Confidential Information may violate the *Freedom of Information and Protection of Privacy Act*, may deter others from coming forward if they have been Sexually Assaulted, and may also prevent UBC from conducting a fair process if a Report is made.~~
- ~~5.2 — UBC will share Confidential Information with its faculty and staff if the information is necessary for the performance of their duties.~~
- ~~5.3 — UBC will share Confidential Information in order to ensure that the Reporting processes listed in section 4.2 are fairly conducted, in accordance with the following principles:~~
- ~~5.3.1 — the respondent has the right to know the identity of the person who made the Report and the pertinent details of the allegations made against them;~~
- ~~5.3.2 — the person who alleges that they were Sexually Assaulted has the right to know the outcome of the investigation, but not the details of any disciplinary actions that may have been taken against the respondent unless sharing that information is necessary for the protection of their health or safety; and~~
- ~~5.3.3 — other persons do not have the right to know any Confidential Information except to the extent required to conduct the investigation.~~
- ~~5.4 — UBC Counsel may also authorize the sharing of Confidential Information in any of the following circumstances:~~
- ~~5.4.1 — the person the information is about has consented in writing;~~
- ~~5.4.2 — sharing the information is necessary for the protection of health or safety; and~~
- ~~5.4.3 — sharing the information is otherwise authorized or required by law.~~

~~6. Related UBC Policies and Processes~~

- ~~6.1 Policy #3 Discrimination and Harassment addresses discrimination and harassment on grounds protected by the BC *Human Rights Code*. The protected grounds include the ground of “sex”, which has been interpreted to include sexual harassment and Sexual Assault. However, only allegations that consist solely of sexual harassment will be addressed under Policy #3. Allegations of Sexual Assault, or allegations that include allegations of both sexual harassment and Sexual Assault, will be dealt with under the appropriate UBC process identified in this Policy, and not under Policy #3.~~
- ~~6.2 The Student Code of Conduct addresses the general standard of conduct expected of students, provides examples of conduct that may be subject to disciplinary action by UBC, provides examples of disciplinary measures that may be imposed, and sets out the process and procedures that UBC will follow when an allegation is made under the Code. Prohibited conduct under the Code includes Misconduct Against Persons, which includes Sexual Assault.~~
- ~~6.3 UBC Administrative Heads of Unit address allegations of Sexual Assault made against a faculty or staff member in their faculty or administrative unit. Human Resources staff provide support on how to conduct investigations utilizing procedural fair process and, where appropriate, facilitate the use of third party investigators.~~
- ~~6.4 Policy #14 Response to At Risk Behaviour addresses behaviour that threatens personal safety or property, or disrupts lawful or legitimate activities, including the behaviour of those who are not Members of the UBC Community. Under that Policy, restrictions can be placed on a person’s ability to enter upon or to carry out activities upon UBC premises, or their ability to use UBC facilities.~~
- ~~6.5 The UBC Statement on Respectful Environment for Students, Faculty and Staff addresses concerns about activities harmful to a respectful environment, including bullying and harassment. However, allegations of Sexual Assault will be dealt with under the appropriate UBC process identified in to this Policy, and not under the UBC Statement on Respectful Environment for Students, Faculty and Staff.~~
- ~~6.67.7 Under the terms of their particular contracts with UBC, Members of the UBC Community living in UBC Student Housing and UBC Varsity Athletes may be subject to further action if a finding of Sexual Assault is made against them under a UBC process.~~