



SUBJECT	Proposed Policy Amendment At-Risk Behaviour Policy (SC13)
SUBMITTED TO	People, Community & International Committee
MEETING DATE	April 6, 2020
SESSION CLASSIFICATION	OPEN
ACTION REQUESTED	IT IS HEREBY REQUESTED that the People, Community & International Committee recommend to the Board of Governors approval of amendments to the At-Risk Behaviour Policy (SC13) in the form set out in Supplemental Materials #1, effective April 20, 2020.
SUBMISSION DATE	March 12, 2020
LEAD EXECUTIVE	University Counsel
PRESENTED BY	Hubert Lai, Q.C., University Counsel
SUPPORTED BY	Marcia Buchholz, Interim Vice-President Human Resources Ainsley Carry, Vice-President Students Mark Crosbie, Associate University Counsel Paul Hancock, Legal Counsel, Information and Privacy

PRIOR SUBMISSIONS

The subject matter of this submission has been considered previously by the People, Community & International Committee on the following occasion:

1. [November 26, 2019](#) (OPEN SESSION)

Action/Follow up: The People, Community & International Committee considered the proposed At-Risk Behaviour Policy, following which the Office of the University Counsel (“OUC”) published the policy proposal for community consultation.

The following Executive Summary assumes familiarity with the prior submission and provides a status update from the date of the most recent submission.

EXECUTIVE SUMMARY

The OUC published the proposed amendments for community consultation from November 28, 2019 to January 31, 2020. Notice was given to the UBC community via email newsletter on December 10, 2019 with a reminder on January 7, 2020. This resulted in 6 sets of comments for a total of 87 pages of feedback including comments from representatives of CUPE Local 116, the Alma Mater Society of UBC Vancouver, the UBC Ombudsperson for Students and the UBC Human Rights, Equity and Inclusion Office. The Policy Development Committee that was constituted to develop the proposed amendments to the At-Risk Behaviour Policy was reconvened to review consider the feedback received, and recommends to make adjustments to the proposed amendments as appropriate. A table setting out the community input that was received and the Policy Development Committee’s response to each comment can be found in the Supplemental Material #3. The full text of the At-Risk Behaviour Policy proposal, highlighted to show the changes from the version that was published, is attached as Supplemental Materials #2.

The key changes that have been made to the proposed policy in response to community feedback are as follows:

- The definition of At-Risk-Behaviour has been moved to the Policy section from the Procedures section.
- A requirement to report risks to health and safety pursuant to the Health and Safety Policy has been added to Procedures 5.3.
- A requirement for Decision Makers to consider any mitigating circumstances has been added to Procedures 6.3.1.5.
- Language indicating that information will only be provided in accordance with UBC’s privacy obligations when disclosing matters related to Sexual Misconduct has been added to Procedures 7.1.
- The terms ‘disclose’ and ‘report’ have been replaced with synonyms to avoid confusion with those terms since they are defined terms under the Sexual Misconduct Policy.
- Explicit requirement to notify a Respondent of decisions has been added to Procedures 9.1.2 and 10.1.
- The grounds for review of a decision have been expanded in Procedures 9.2.2 to include unfairness.
- Additional language underlining that any alternative dispute resolution must be truly voluntary for all participants is added at Procedures 10.2.


The Policy Development Committee declined to make some requested changes, notably:

- Adding references to other resources for dealing with behaviour that falls beneath the threshold of At-Risk Behaviour and adding phone numbers and detailed contacts for UBC resources. This type of information does not belong in a Board of Governors policy and is better located on a website.
- Adding a definition of ‘trauma informed’. The Committee believed that doing so would freeze the definition in time, which is undesirable as it is an evolving concept. Also, the term is used in other policies and defining it in the At-Risk Behaviour Policy could therefore create confusion in those other policies, since the term is intended to be applied in those policies in a manner that fits within their specific contexts.
- Explicitly stating that sororities and fraternities are included in the jurisdiction of the policy. The Committee believes that the strength of the ‘real and substantial’ test for jurisdiction is its flexibility for determining jurisdiction in light of the facts of any particular incident.
- Removing the reference to anonymous complaints. While the Committee agreed that in some cases anonymous complaints might not be appropriate grounds for restrictions, there may be other cases where the University is authorized – even obligated – to take action on an anonymous complaint. Therefore, it is prudent to maintain flexibility to accept anonymous complaints.

The proposed amendments to the At-Risk Behaviour Policy are supported and recommended by the Policy Development Committee, the Vice-President, Human Resources, the Vice-President, Students, and the University Counsel.

SUPPLEMENTAL MATERIALS

1. Proposed amendments to the At-Risk Behaviour Policy.
2. Blackline showing proposed amendments made by the Policy Development Committee to the At-Risk Behaviour Policy compared against the version provided to the People, Community & International Committee on November 26, 2019.
3. Summary Table of community feedback and the Policy Development Committee’s response.

 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: SC13 Board Approval Draft</p>
<p>Long Title: Response to At-Risk Behaviour</p>	
<p>Short Title: At-Risk Behaviour Policy</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:

Respondent is a	Decision Maker
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.

 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: SC13 Public Consultation Board <u>Approval</u> Draft</p>
<p>Long Title: Response to At-Risk Behaviour</p>	
<p>Short Title: At-Risk Behaviour Policy</p>	

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- 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.
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- 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~~ **“At Risk Behaviour”** means behaviour that:

~~1.1.1~~ disrupts lawful and legitimate activities on UBC Premises; or

~~1.1.2~~ leads to a reasonable belief that the safety of any person(s) on UBC Premises is threatened; or

~~1.1.3~~ leads to a reasonable belief that ~~the safety of property of UBC~~ or the property of another person located on UBC Premises is threatened; or

~~1.1.4~~ leads to a reasonable belief that the person engaging in the behaviour is at imminent risk of harm; or

~~1.1.5~~ leads to a reasonable belief that ~~there is a threat to~~ the safety of any person(s) on UBC Premises 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.~~

1.1 ~~1.2~~ **“Campus Security”** means the UBC Okanagan Department of Campus Security or the UBC Vancouver Department of Campus Security, as appropriate.

1.2 ~~1.3~~ **“Complainant”** means an individual who is directly subjected to At-Risk-Behaviour.

1.3 ~~1.4~~ **“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 ~~1.5~~ **“Director of Campus Security”** means the Associate Director, Campus Security, UBC Okanagan, or the Director of Campus Security, UBC Vancouver, as appropriate.

- 1.5 ~~1.6~~ **“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 ~~1.7~~ **“Director of Investigations”** means the Director of Investigations identified in the Sexual Misconduct Policy ~~(SC17)~~ and the Discrimination Policy ~~(SC7)~~.
- 1.7 ~~1.8~~ **“Disaster Response Plan”** means, as appropriate, the plans contemplated under the Disaster Management Policy ~~(SC10)~~ that are in place for dealing with campus-wide emergencies at UBC Okanagan or UBC Vancouver, as appropriate.
- 1.8 ~~1.9~~ **“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 ~~1.10~~ **“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 ~~1.11~~ **“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 ~~1.12~~ **“Provost”** means the Provost and Vice President, Academic (UBC Vancouver) or the Provost and Vice President, Academic (UBC Okanagan), as appropriate.
- 1.12 ~~1.13~~ **“Report”** means a Report as defined in the Sexual Misconduct Policy ~~(SC17)~~.
- 1.13 ~~1.14~~ **“Respondent”** means a person who is reported to have engaged in At-Risk-Behaviour.
- 1.14 ~~1.15~~ **“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 ~~1.15.1~~ prohibiting a Respondent from contacting (directly or indirectly through any means) another person;
 - 1.14.2 ~~1.15.2~~ 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 ~~1.15.3~~ 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 ~~1.15.4~~ requiring a Respondent Student to withdraw from courses or other academic activities;

1.14.5 ~~1.15.5~~ 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 ~~1.15.6~~ prohibiting activities, or implementing controls over activities that a Respondent may undertake on UBC Premises;

1.14.7 ~~1.15.7~~ 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 ~~1.15.8~~ imposing ~~restrictions~~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; ~~and~~

~~1.15.9—any steps required of the Respondent should the Respondent be entitled to apply to remove the Restrictions at a later date.~~

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.

~~1.18 “Student” means a person who is presently enrolled at UBC in a credit course or who is designated by resolution of UBC Senate as a student.~~

2. Assistance and Support

2.1 Where a person reasonably believes that a Student, faculty member, or staff member is at risk of harm, ~~in addition to any action taken pursuant to this Policy,~~ 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 <u>President</u> , Students
Student of UBC Vancouver	Office of the Vice <u>President</u> for 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
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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 ~~5.05~~, 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 ~~3.03~~ 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 (~~SC17~~) 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:

Respondent is a	Decision Maker
Student	Head of Student Affairs
Student who is also an employee	Head of Student Affairs and Vice <u>President</u> , Human Resources jointly
Staff member	Vice <u>President</u> , Human Resources
Faculty member (whether or not an employee <u>or not</u>)	Vice <u>President</u> , 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 ~~Independent~~ UBC Investigations Office regarding matters that may involve ~~sexual misconduct~~ 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 ~~6-06~~.

4.4 Unless and until modified or rescinded in writing as provided in 4.1.3 of these Procedures, all Restrictions implemented under Article ~~3-03~~ of these Procedures will remain in effect.

5. Communication

5.1 ~~Campus Security~~ 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~~ ~~5.3~~ Information about At-Risk Behaviour will be treated as confidential and may only be ~~disclosed~~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~~ ~~5.4~~ Nothing in this Policy requires employees of UBC to ~~disclose~~provide information, where ~~such disclosure~~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 Respondent and the legitimate interests of UBC,~~ 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 ~~physical~~ safety;
- (b) the degree of threat to any property;
- (c) the existence of a power imbalance between the Complainant and the Respondent; ~~and~~
- (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 ~~evidence~~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 (~~SC17~~), 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 ~~3-03~~ or Article ~~4-04~~ 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 ~~and/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 ~~must~~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 ~~is disclosed~~becomes known as result of a Report made pursuant to the Sexual Misconduct Policy ~~(SC17)~~, 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~~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 ~~(SC8)~~. 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 ~~Vice President~~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 ~~of the Student~~, 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. ~~If~~The Decision Maker must clearly explain to the Complainant (if any) and the Respondent ~~and~~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 ~~at any time~~, then the Decision Maker will deal with the matter in accordance with the other provisions of this Policy. ~~Notwithstanding the preceding sentence~~ However, once Restrictions have been established with the voluntary agreement of the ~~Respondent and~~ 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 ~~prohibits~~ restricts UBC from taking measures to protect, or provide comfort and assistance, to a Student, faculty member, or staff member ~~that do not impact the Respondent~~, 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 ~~change in the Complainant~~ changing a Student's class schedule, including the ability to transfer course sections or withdraw from a course without penalty;
 - 10.3.5 ~~change in the Complainant~~ changing a person's UBC work schedule or job assignment;
 - 10.3.6 ~~change in~~ 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.

Document comparison by Workshare 10.0 on Wednesday, March 11, 2020
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Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	12
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Format changed	0
Total changes	222

No.	Comment	Applicable Section(s)	Committee's Response
1	<p>From Susanne Goodison, Director, Faculty of Arts, Arts Academic Advising Services Recommends indicating in the Policy what resources/policies the community can refer to when a student does not meet the threshold of this policy, e.g. the Respectful Environment statement or Policy SC-7 (Discrimination).</p>	General	<p>No change necessary. While the Committee agrees that UBC should make training and resources available to administrators to help them to deal with the whole spectrum of negative behaviours, they believe that this Policy needs to be restricted to addressing behaviours that fall under the scope of the Policy.</p>
2	<p>From Clea Parfitt, lawyer, and her client, a private individual "[T]he effort to reach out to students to obtain feedback of these policies is not sufficient, given the University's control of timing the review. The public comment period began after the presentation of the draft policies to the Board in late November 2019, and ended January 31, 2020, a time period when students are taking final exams, away from campus during break, and just returning from campus. Furthermore, the draft policies were posted on the website for the counsel of the University, and the University indicates it made some effort to reach out to an unknown number of handpicked students or student groups. To fully consult with the UBC community, the University should advertise the public comment period (via Broadcast emails, notices in the Ubysey, posters, and other digital communications) and should hold public comment periods for at least a full term, when students are on campus and not distracted."</p>	General	<p>No change necessary. The standard notification process has been followed for this draft policy, including a message posted on the University Counsel website, a December 10, 2019 email newsletter (circulated to all Faculty, Staff and Students at both the Vancouver and Okanagan campus), and a reminder email to the same recipients on January 7, 2020. The Committee is of the opinion that UBC has provided ample notice, and that the length of the public comment period of 64 days was reasonable.</p>
3	<p>From Clea Parfitt, lawyer, and her client, a private individual "The University has adopted a policy structure that involves having a number of policies on separate issues, one or more of which might be relevant to any given set of facts. While we see that having shorter policies that deal specifically with one issue or set of issues at a time makes them more digestible and comprehensible, we also see the high risk of confusion that results from having so many different policies which may touch on an issue."</p>	General	<p>No change necessary. Changes to the policy structure are not within the mandate of this Committee. In the experience of many committee members, policies that are too long and attempt to address numerous issues become unwieldy, difficult to read, and rapidly go out of date.</p>

4	<p>From Clea Parfitt, lawyer, and her client, a private individual</p> <p>"In our submission, it would be helpful to have a section at the start of each policy listing other policies that may be relevant, including at least each policy that is referenced in the policy in question. Hyperlinks to the other policies should be provided, as well as hyperlinks to relevant staff, such as the Director of Investigations."</p>	General	<p>No change necessary.</p> <p>Other relevant policies are already listed in the explanatory notes at the end of the Procedures to the Policy. The Committee has forwarded the recommendation on insertion of hyperlinks into policies to the Office of the University Counsel for consideration.</p>
5	<p>From Clea Parfitt, lawyer, and her client, a private individual</p> <p>"1.5 No retaliation The phrase "in good faith" should be removed from this section" for the following reasons: "The persistent implication that women might make false reports is a continuation of the pernicious view that women cannot be trusted to tell the truth about sexual misconduct. further, the University has stated no definition or method to assess good faith. The civil law contains multiple remedies for deliberate untruths. Nothing further is required in this policy."</p>	Policy - s.1.5	<p>No change necessary.</p> <p>The wording of this paragraph, including the phrase "in good faith", comes directly from the Retaliation Policy, and the Committee wishes to remain consistent with the wording of that policy. Furthermore, the Committee does not agree that the inclusion of the phrase "in good faith" creates an implication that complainants cannot be trusted.</p>
6	<p>From a private individual</p> <p>"This is my feedback for 'trauma-informed' policy: UBC should not be making policy at this school more trauma-informed. UBC should be making policy <i>less</i> trauma informed, removing 'trauma-informed' junk science from UBC policy. See below articles. UBC should seek out critical information about the whole 'trauma-informed' concept. Putting in place policies that could affect due process, including basing policies on junk science, will expose the school to lawsuits by those whose due process was violated.... [It] will expose the school to lawsuits by those whose due process was violated, AND it will professionally embarrass the people who went along with putting in these 'trauma-informed' policies in the first place."</p>	Policy - s.1.6	<p>No change necessary.</p> <p>The Committee agrees that due process is a key requirement for this policy and many of its changes to the draft policy have been to provide decision makers with more guidance on decision making. The policy also includes a requirement to act fairly. The Committee does not agree that a requirement to follow a "trauma-informed" means UBC will not follow due process. UBC will continue to follow best practices and will adjust such practices from time to time.</p>

7	<p>From Clea Parfitt, lawyer, and her client, a private individual</p> <p>"We accept that the understanding of what "trauma informed" practices and policies should be is evolving, but the University must set out the University's current understanding of the standards it is proposing to meet when it says that its employees will be trauma informed, and will act in a trauma informed way. These statements should be referenced in the policies....Without some attempt to describe what this term means in practice, there is a significant danger that it will come to mean nothing, and there is no way to evaluate whether the University is meeting this important objective. Given the private nature of much of what the SVPRO and IIO do, having some accountability around this service objective is essential.... "Trauma informed" responses must include not only considering a complainant's emotional needs, but also taking effective action in respect of the complaints that they are making."</p>	Policy - s.1.6	<p>No change necessary.</p> <p>The Committee considered inserting a definition for "trauma-informed", but ultimately decided against it for two reasons. First, a "trauma-informed" approach is mandated by several policies, and any attempts to define this approach might impact all of these policies, not just the current policy. Second, the understanding of "trauma-informed" best practices is always evolving, and is highly context-specific, so the Committee felt that it would be limiting to fix a definition reflecting views at this moment in time.</p>
8	<p>From Shirley Nakata, Ombudsperson for students</p> <p>Recommends that the Policy and Procedures must be interpreted and applied in accordance with all UBC policies and procedures, not just the Senates' Statements on Academic Freedom. For example, we should also include a reference to the Senate Framework on Student Mental Health & Wellbeing.</p>	Policy - s.1.7	<p>No change necessary.</p> <p>The Committee concluded that it was prudent to include a specific reference to the Senates' Statements on Academic Freedom to reduce the risk that the Policy will be applied in such a way as to prevent members of the University community from exercising their right to academic freedom, including their right to peacefully protest and criticize the institution. Also, unlike the Senates' Statements on Academic Freedom, the Senate Framework on Student Mental Health & Wellbeing is a reference document that has never been adopted as Senate policy.</p>

9	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Is the Senate’s Statement on Academic Freedom the only statement/policy that SC13 and its procedures need to be applied in accordance to? Or are there other UBC policies that should also be considered?</p>	Policy - s.1.7	<p>No change necessary. The Committee concluded that it was prudent to include a specific reference to the Senates’ Statements on Academic Freedom to reduce the risk that the Policy will be applied in such a way as to prevent members of the University community from exercising their right to academic freedom, including their right to peacefully protest and criticize the institution.</p>
10	<p>From Clea Parfitt, lawyer, and her client, a private individual The Definitions regarding this policy should be part of the policy, not part of the Procedures, to protect the UBC community’s right to review and set these definitions.</p>	Policy – s.3, Procedures - s.1	<p>Partially agreed. The Committee agrees that the definition of "At-Risk Behaviour" is a core definition and has moved this definition to the Policy section of the document. However, it has kept the other definitions in the Procedures because they are procedural in nature. If the President makes changes to the Procedures, he should also be able to make corresponding changes to the definitions that relate to those Procedures. It should be kept in mind that any changes made by the President to the Procedures must be reported to the Board.</p>
11	<p>From Clea Parfitt, lawyer, and her client, a private individual "1.1.2 This section should expressly state that safety includes psychological safety. 1.1 Consideration of cumulative impact of behaviours should expressly include cumulative psychological impact."</p>	Policy - s.3.1.2	<p>No change necessary. After considerable discussion, the Committee has concluded that it would not be appropriate to expressly call out psychological impact in this definition of “safety” because the scope of psychological impact is imprecise and subjective. The Committee spent considerable time debating the purpose of the policy, the risk of it being applied to situations where its use is not justified and what it means to have a diverse community. For example, the policy was not intended to provide a pretext to ban individuals from campus simply because they express unconventional views, are neurodivergent, or otherwise make people feel uncomfortable.</p>
12	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Change "the safety of property of UBC" to "UBC property".</p>	Policy - s.3.1.3	<p>Agreed. The Committee made the requested change.</p>

13	From Shirley Nakata, Ombudsperson for students Change "there is a threat to the safety of any person(s) on UBC Premises" to "the safety of any person(s) on UBC Premises is threatened".	Policy - s.3.1.5	Agreed. The Committee made the requested change.
14	From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Change "there is a threat to the safety of any person(s) on UBC Premises" to "the safety of any person(s) on UBC Premises is threatened".	Policy - s.3.1.5	Agreed. The Committee made the requested change.
15	From Shirley Nakata, Ombudsperson for students Change "At-Risk Behaviour has occurred or may occur and UBC must take immediate action" to "At-Risk Behaviour has occurred or may occur and that UBC must take immediate action". This change clarifies that the reasonable belief applies to both the occurrence of the ARB and the need to take immediate action.	Procedures - s.1.8	Agreed. The Committee made the requested change.
16	From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Change "any steps required of the Respondent should the Respondent be entitled to apply" to "requiring the Respondent to take any steps necessary should the Respondent be entitled to apply". This change is necessary to ensure consistency of verb tenses.	Procedures - s.1.14.9	Changed by Committee After additional consideration, the Committee decided to delete section 1.14.9 from this definition as it is not an example of a Restriction.
17	From Shirley Nakata, Ombudsperson for students Change "any steps required of the Respondent should the Respondent be entitled to apply" to "requiring the Respondent to take any steps necessary should the Respondent be entitled to apply". This change is necessary to ensure consistency of verb tenses.	Procedures - s.1.14.9	Changed by Committee After additional consideration, the Committee decided to delete section 1.14.9 from this definition as it is not an example of a Restriction.
18	From Shirley Nakata, Ombudsperson for students The definition for 'SVPRO' is not in alphabetical order. Move this section after the definition of "Student".	Procedures - s.1.17	Agreed. The Committee made the requested change.

19	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office The definition for “SVPRO” is not in alphabetical order.</p>	Procedures - s.1.17	<p>Agreed. The Committee made the requested change.</p>
20	<p>From Shirley Nakata, Ombudsperson for students "Generic to the extent that it does not provide practical help to the individual seeking it. A contact person, or phone number or webpage reference is needed. Also need to ensure that these first points of contact are trained to receive these inquiries and make effective referrals."</p>	Procedures - s.2.1	<p>No change necessary. Policies or Procedures are not the appropriate place to include detailed contact information, which is susceptible to frequent changes. Contact information and other information that describes the process in simple terms should be provided on a webpage or handout that is made available to affected individuals.</p>
21	<p>From Alma Mater Society "Occupational Health & Safety Committees (OH&S) & UBC Well-being should be integrated explicitly into this policy. The AMS has noticed this practice in other university policies, such as McGill and McMaster. This merely builds on current systems in place and integrates them in order to provide a more proactive policy that considers this issue from all sides. To go further UBC should also integrate UBC Well-being systems into this policy."</p>	Procedures - s.2.1	<p>Partially agreed. The Committee agrees that occupational health and safety, which is legally mandated and is covered by a UBC Policy, should be expressly addressed in this Policy. It has inserted a new section 5.3 addressing reporting under the UBC Health and Safety Policy.</p> <p>The Committee is not convinced that it is necessary to expressly refer to "well-being" in the Policy. While the Committee supports the principles contained in UBC's Wellbeing Strategic Framework, these are broad principles that govern the implementation of many, if not most, of the University's policies and procedures. It would not make sense to specifically refer to those broad principles in the At-Risk Behaviour Policy.</p>
22	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "The “Office to Contact” named here are immense in size. Given the intent of this section is to direct people to supports and advice/assistance, it might be beneficial to give more details/direction. For example, a phone number and contact (if not of a person, then of a position). Also, I expect the contacts are people who would receive training or know how to provide the assistance and support that’s being named here?"</p>	Procedures - s.2.1	<p>No change necessary. Policies or Procedures are not the appropriate place to include detailed contact information, which is susceptible to frequent changes. Contact information and other information that describes the process in simple terms should be provided in separate documents that are made available to affected individuals.</p>

23	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "Will the policy address any forms of support for the Respondent (for example, access to Counselling services?)"</p>	Procedures - s.2.1	<p>No change necessary. Section 2.1 of the Procedures already provides that assistance should be provided to any individual who is at risk of harm. This section applies to Respondents as well as Complainants and other individuals.</p>
24	<p>From Alma Mater Society "Trauma-informed approach needs to be substantiated in meaningful ways in the policy so it does not become a hollow term. In section 4.1.2 it mentions that Campus Security will refer the complainant to SVPRO. This is not a "trauma informed approach," because by its definition, "trauma informed approaches" necessarily provide options to survivors, of which there [are] multiple ones ... on campus."</p>	Procedures - s.4.1.2	<p>No change necessary. The Committee disagrees that referring sexual assault survivors to the SVPRO is inconsistent with a "trauma informed approach." Under the Sexual Misconduct Policy, SVPRO was established to provide a specialized resource for students who are experiencing sexual misconduct. Requiring Campus Security to refer these students to SVPRO does not imply that students are subject to any compulsion to seek the support of that office if they would prefer not to do so. The SVPRO is uniquely equipped to let survivors know all of their options, which include resources both on and off campus. To this end, the SVPRO has made efforts to cultivate a close working relationship with AMS and other external organizations that provide support to survivors.</p>
25	<p>From Alma Mater Society "Fairness of processes and procedures needs to be highlighted and adjusted accordingly. In sections 4.2 and 9.2.6 there are concerns surrounding the notion of "fairness" and how it will be applied, monitored or made transparent. "Decision Makers" have ample room to decide things without any semblance of structured decision making. This leaves a fair amount of room for a lack of accountability to occur between USC and its staff, faculty, students and guests."</p>	Procedures - s.4.2	<p>No change necessary. It is impossible to provide detailed guidance about the application of abstract principles like "fairness" particularly where the policy will be applied to numerous different situations. The draft policy provides significant additional guidance and requirements for Decision Makers to assist them to make consistent and fair decisions. See, for example, the considerations listed in section 6.2, 6.3 and 6.4 of the Procedures.</p>

26	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "Could the Ombudsperson for Students also be a resource for the Decision Maker to ensure compliance with principles of fairness for student Respondents?"</p>	Procedures - s.4.2.2	<p>No change necessary. The Committee is concerned that explicitly stating that the Ombudsperson for Students may advise Decision Makers on a particular decision may undermine the perceived independence of the office in the eyes of students who may wish to request a review of that decision on fairness grounds.</p>
27	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "I've not seen when the Respondent receives a copy — should the Respondent not also receive notification and copy of the imposed, modified or rescinded Restriction?"</p>	Procedures - s.5.2	<p>Agreed. This is current practice but was not stated in the Policy. The Committee amended section 5.2 to read as follows: "Must promptly provide a copy of such decision to the Respondent with a copy to the Director of Campus Security."</p>
28	<p>From Shirley Nakata, Ombudsperson for students Change "Must promptly provide a copy of such decision to the Director of Campus Security" to "Must promptly provide a copy of such decision to the Respondent with a copy to the Director of Campus Security".</p>	Procedures - s.5.2	<p>Agreed. The Committee made the requested change.</p>
29	<p>From Shirley Nakata, Ombudsperson for students Change "Considerations when Imposing Restrictions" to "Considerations when Imposing or Reviewing Restrictions".</p>	Procedures - s.6	<p>Agreed. The Committee made the requested change.</p>
30	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office This section speaks to the imposing of restrictions, and also references considerations for modifying and rescinding Restrictions. For greater clarity, could Section 6 be titled "Considerations when Imposing and Review of Restrictions? Or the word 'modifying' instead of 'review'?"</p>	Procedures - s.6	<p>Agreed. The Committee changed the wording of the section title to "Considerations when Imposing or Reviewing Restrictions."</p>
31	<p>From Shirley Nakata, Ombudsperson for students Add new section: "6.4 Except in cases of Emergencies, the Decision Maker must provide notice to the Respondent of the intent to consider the imposition, modification or rescission of Restrictions and provide the Respondent with an opportunity to respond to the allegations."</p>	Procedures - s.6	<p>No change necessary. The Committee concluded that a requirement to consult with the Respondent will often be impracticable as restrictions typically have to be imposed quickly - even in situations that do not rise to the level of an emergency. Moreover, Respondents must be notified of the restrictions when they are imposed and may make representations at that point.</p>

32	<p>From Clea Parfitt, lawyer, and her client, a private individual "6.1.2 Real and substantial connection to UBC The policy should note expressly that conduct connected to fraternities and sororities is conduct which the University considers to be conduct with a real and substantial connection to UBC under this policy. The University could prohibit membership in fraternities and sororities. As it does not do so, it must take responsibility for conduct which occurs in connection with fraternities and sororities."</p>	Procedures - s.6.1.2	<p>No change necessary. In the Committee's view, the benefit of the "real and substantial connection" test is that it maintains flexibility and allows the investigator to consider all of the relevant factors. Removing this flexibility by deeming all fraternity and sorority conduct, or conduct of other student groups, to be under the scope of the policy would not be desirable. The question of whether conduct connected to fraternities or sororities falls under the scope of the policy in any particular case should depend on the particular circumstances. In any case, it is unclear why UBC would single out fraternities and sororities for jurisdiction when there are other student organizations that are similarly connected to UBC.</p>
33	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "Does the decision-maker determine what constitutes 'real and substantial connection' to UBC? Should this term be defined or does the OUC provide direction in determining this?"</p>	Procedures - s.6.1.2	<p>No change necessary. The "real and substantial connection" test was created as an alternative to a more traditional "scope" provision based on an explicit list of factors or rules. The benefit of the "real and substantial connection" test is that it maintains flexibility and allows the investigator to consider all of the relevant factors. The Committee believes that this flexibility is useful.</p>
34	<p>From Clea Parfitt, lawyer, and her client, a private individual "6.2 Reasons for Restrictions The enumerated reasons for restrictions should include protecting the complainant, if any, minimizing the likelihood of retaliation, and mitigating any retaliation occurring or likely to occur."</p>	Procedures - s.6.2	<p>No change necessary. The suggested reasons for restrictions are already covered by section 6.2.1, which refers to the requirement to "protect members of the UBC community". The Committee is not convinced that anything would be gained by "unpacking" this requirement by enumerating specific types of harm that may result to complainants. It should also be kept in mind that the At-Risk Behaviour Policy is not an exclusively complaint-driven policy; in many cases, Campus Security or other UBC staff become aware of At-Risk Behaviour during the exercise of their duties.</p>

35	From Clea Parfitt, lawyer, and her client, a private individual "6.2 Nature of Restrictions The word "legitimate" should not be used to limit the interests of UBC, any complainant and any other impacted members of the UBC community."	Procedures - s.6.2	Agreed. The Committee amended the policy as recommended.
36	From Shirley Nakata, Ombudsperson for students Change "while balancing the interests of the Respondent" to "while balancing the rights and interests of the Respondent."	Procedures - s.6.2	Agreed. The Committee changed the wording to "while balancing the rights and interests of the Complainant (if any), the Respondent, UBC, and any other impacted members of the UBC community."
37	From Shirley Nakata, Ombudsperson for students Add new section: "6.3.2 any information regarding mitigating circumstances or the impact of Restrictions on the Respondent."	Procedures - s.6.3	Partially agreed. The Committee inserted a new section reading: "6.3.1.5 any information regarding mitigating circumstances." It is unnecessary to include a reference to the impact of the restrictions on the Respondent here because that factor is already referenced in section 6.2.
38	From Clea Parfitt, lawyer, and her client, a private individual "6.3.1 Consideration of the nature of the allegations The allegations should be assessed reasonably, not objectively. The enumerated list should include the degree of threat to any person's psychological safety as well as their physical safety."	Procedures - s.6.3.1	Partially agreed. For reasons provided above, the Committee does not agree that a reference to "psychological safety" should be inserted into the policy. At the same time, the Committee does not want to expressly preclude all consideration of psychological harm. For consistency with the definition of At Risk Behaviour the Committee has deleted the word "physical" from this section.
39	From Alma Mater Society "Violence is more than just physical and the language around physical safety needs to reflect this reality. In section 6.3.1 only physical harm is considered. Violence can be more than merely physical harm and this needs to be addressed and adjusted."	Procedures - s.6.3.1	Partially agreed. The Committee has deleted the word "physical" from this section.

40	<p>From Shirley Nakata, Ombudsperson for students "Why only these two Statements among all the strategic commitments and policies?"</p>	Procedures - s.6.3.2	<p>No change necessary. The Committee concluded that a specific reference to the Senates' Statements on Academic Freedom and its commitment to freedom of expression was necessary because there is a risk that the Policy will be applied in such a way as to prevent members of the University community from exercising their right to academic freedom and freedom of expression, particularly their right to peacefully protest and criticize the institution, which are core tenets of UBC.</p>
41	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "Could the Decision Maker also consider any relevant circumstance or context (with respect to the Respondent) when imposing or reviewing Restrictions? Here, I'm thinking of such factors as the Respondent's mental health. If consideration is not given to the Respondent's mental health, could the Respondent lodge a complaint under Policy SC7?"</p>	Procedures - s.6.4	<p>No change necessary. Section 6.4 already requires the Decision Maker to take into account "any other information the Decision Maker considers relevant." It would be difficult and unwieldy to create a list of all possible relevant considerations. Moreover, requiring Decision Makers to take the mental health of the Respondent into account would place the Decision Maker in an impossible position, because this information is usually highly confidential.</p>
42	<p>From CUPE 116 Disagrees with the University allowing individuals to submit anonymous or third party complaints. "It is our view that anonymous or third party complaints will always violate due process rights. Member respondents have a right to be provided with full particulars of the allegations. In our view, this includes the identity of the person making the complaint against them. Additionally, hearsay evidence is generally inadmissible in labour arbitration hearings and court proceedings, which makes the prospect of allowing complaints based entirely on this type of evidence (i.e. third party complaints) extremely problematic in our view."</p>	Procedures - s.6.6	<p>No change necessary. The Committee agrees that anonymous complaints are difficult to investigate. For this reason, section 6.6 of the Procedures specifically states that where a complaint is made anonymously, UBC may be unable to impose Restrictions where doing so would violate procedural fairness. However, in the Committee's view, it would be irresponsible to close the door on all anonymous complaints of at-risk behaviour. Where anonymous allegations are serious and credible, UBC must maintain the flexibility to consider them. In some cases, UBC may be able to independently verify the accuracy of an anonymous complaint without further involvement of the complainant.</p>

43	<p>From Clea Parfitt, lawyer, and her client, a private individual</p> <p>"6.6 Action on Third Party or Anonymous Reports This section is unnecessary. The provisions in the other sections cover this eventuality. Procedural fairness in relation to responses to At-Risk-Behaviour is limited to taking the most restricted measures that will be effective, and reviewing those measures in a timely way. Other forms of procedural fairness, such as the right to be heard, are not included in SC13 before restrictions can be imposed, making reference to procedural fairness here confusing."</p>	Procedures - s.6.6	<p>No change necessary.</p> <p>The Committee understands the point being made. However, since the Policy requires a full investigation of allegations in certain situations, for example if students are materially impacted for more than 21 days, consideration needs to be made as to whether it would be possible to ever investigate the matter anonymously. As well, even where a full investigation isn't being made, Respondents will be notified of the nature of the behaviour resulting in the restriction.</p>
44	<p>From Alma Mater Society</p> <p>"SVPRO's role needs to be better defined and reconsidered in this policy. Section 7.0 raises concerns for survivors right to confidentiality and being given options in the trauma informed approach. It also implies that SVPRO has some role to play in both investigations and breaching sensitive and confidential information to the "Decision Maker.""</p>	Procedures - s.7.1	<p>No change necessary.</p> <p>Under the Sexual Misconduct Policy, SVPRO is subject to strict confidentiality provisions. There is nothing in section 7.1 that would require SVPRO to disclose confidential information without authority. Disclosure under section 7.1 would only take place with the consent of the survivor or as otherwise authorized under UBC's privacy obligations. To clarify this point, the Commissioner has amended section 7.1 by inserting "Information will only be provided to the Decision Maker in accordance with UBC's privacy obligations."</p>
45	<p>From Shirley Nakata, Ombudsperson for students</p> <p>Add a requirement that the Decision Maker must provide the Respondent with an opportunity to respond to the allegations.</p>	Procedures - s.7.1	<p>No change necessary.</p> <p>Under the Sexual Misconduct Policy, the Director of Investigations is already required to give the Respondent a full opportunity to respond to the allegations. Therefore, it is unnecessary to create a separate requirement in the At-Risk Behaviour Policy for the Decision Maker to give the Respondent an opportunity to respond. The Policy is designed to allow quick decision-making and requiring consultation with the Respondent may result in unreasonable delays.</p>

46	<p>From Shirley Nakata, Ombudsperson for students Change "Before making this determination, the Decision Maker may request information from the SVPRO and any other UBC units." to "Before making this determination, the Decision Maker will notify the Respondent and may request information from the SVPRO and any other UBC units."</p>	Procedures - s.7.1	<p>No change necessary. Under section 5.2, Decision Makers are already required to notify the Respondent <u>after</u> they impose, modify or rescind restrictions. Therefore, it is unnecessary to also notify the Respondent <u>before</u> the Restrictions are imposed. As explained above, to facilitate quick decision making the Committee does not consider it prudent to require the Decision Maker to give the Respondent an opportunity to respond before imposing Restrictions.</p>
47	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "When is the Respondent notified of these restrictions?"</p>	Procedures - s.7.1	<p>Agreed. Section 5.2 has been amended to require the Decision Maker to notify the Respondent of the Restrictions when they are imposed.</p>
48	<p>From CUPE 116 States that Unions have representational rights and obligations that need to be respected, and recommends that this point be clearly referenced in the policy.</p>	Procedures - s.8.1	<p>No change necessary. The Committee agrees that the rights of employees under collective agreements must be respected. Section 8.1 of the Procedures (Special Provisions for Faculty Members and Staff Members) already addresses this issue.</p>
49	<p>From Clea Parfitt, lawyer, and her client, a private individual "8.1 Requirement for compliance with employment laws, contracts, policies and collective agreements This section should state expressly that UBC management rights include the right to take action to prevent At Risk-Behaviour."</p>	Procedures - s.8.1	<p>No change necessary. The Committee does not agree that a policy should attempt to define the scope of UBC management rights, which are determined through employment law, including collective bargaining.</p>

50	<p>From Shirley Nakata, Ombudsperson for students "In cases of Restrictions of less than 21 days, there is no opportunity for review or appeal? 21 days can have a critical impact on a student depending on when those 21 days occur (e.g. exam period, prior to key deadlines, housing contracts, etc.)"</p>	Procedures - s.9.1	<p>No change necessary. If appeals were available for even very short-lived Restrictions, this could result in a very significant administrative burden for UBC. The 21-day limit was selected to provide a reasonable balance between fairness and administrative flexibility. Any time limit can, of course, be criticized as arbitrary, but the Committee continues to believe that the 21-day limit is reasonable. Decision Makers have an obligation under section 6.2.4 to impose the minimum restrictions necessary and in practice can, and do, modify restrictions to address issues such as exams.</p>
51	<p>From Shirley Nakata, Ombudsperson for students Change "then one of the following actions will take place:" to "then the Respondent will be notified that one of the following actions will take place:"</p>	Procedures - s.9.1	<p>Agreed. The Committee made the requested change.</p>
52	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "21 days feels like a 'magic number' — less than 21 days can also interfere with studies and their participation in student life at UBC."</p>	Procedures - s.9.1	<p>No change necessary. If appeals were available for even very short-lived Restrictions, this could result in a very significant administrative burden for UBC. The 21-day limit was selected to provide a reasonable balance between fairness and administrative flexibility. Any time limit can, of course, be criticized as arbitrary, but the Committee continues to believe that the 21-day limit is reasonable. Decision Makers have an obligation to impose the minimum restrictions necessary and in practice can, and do, modify restrictions to address issues such as exams. It should be noted that section 6.2.4 requires Decision Makers to "avoid interference, to the extent possible, with the Complainant's or Respondent's UBC activities" when imposing Restrictions.</p>
53	<p>From Clea Parfitt, lawyer, and her client, a private individual "9.1.3 Referral to Student Misconduct Processes If a matter where restrictions have been imposed is to be referred to the Student Misconduct Process, no formal report should be required."</p>	Procedures - s.9.1.3	<p>No change necessary. The meaning of this comment is unclear.</p>

54	<p>From Shirley Nakata, Ombudsperson for students</p> <p>"In both 9.1.3 and 9.1.4, there could be significant delay from the time of the occurrence of the ARS and the President's decision. This could prolong the imposition of the Restriction and cause the student disproportionate and/or irrevocable consequences. As these Restrictions are imposed absent a finding of misconduct, they are extraordinary measures that attract high levels of procedural fairness. Could these types of cases be expedited for decision by the President?"</p>	Procedures - s.9.1.3 and 9.1.4	<p>No change necessary.</p> <p>It is not within the power of this Committee to amend the student disciplinary process at UBC. UBC has taken measures to ensure that investigation processes take as little time as possible, subject to the demands of fairness and due process and administrative constraints.</p>
55	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office</p> <p>"The time between issuing of the Restrictions to the decision based on the findings of any of the investigations referenced in 9.1.3 - 9.1.6 (and in particular, 9.1.3, 9.1.4). I'm not sure how long it takes for the President to deliberate on discipline, but it seems that there is a substantial timeframe between these restrictions being imposed (without an investigation or findings of a breach) and a time when these restrictions can be modified, extended or lifted. I am concerned about the exercise of procedural fairness for Respondents. Is it possible to put into the Policy that, in cases where Restrictions are in place, that the Decision maker will prioritize and expedite the investigation and the President's decision on discipline?"</p>	Procedures - s.9.1.3-9.1.6	<p>No change necessary.</p> <p>It is not within the power of this Committee to amend the student disciplinary process at UBC. UBC has taken measures to ensure that investigation processes take as little time as possible, subject to the demands of fairness and due process and administrative constraints.</p>
56	<p>From Clea Parfitt, lawyer, and her client, a private individual</p> <p>"9.1.4 At-Risk-Behaviour stated in formal Sexual Misconduct Report</p> <p>Given that "disclosure" is a defined term, it should be removed from this section and replaced with "becomes known"."</p>	Procedures - s.9.1.4	<p>Agreed.</p> <p>The Committee amended the policy as recommended.</p>

57	<p>From Clea Parfitt, lawyer, and her client, a private individual "9.1.6 Investigations by Head of Student Affairs This section should state overtly that <i>disclosures</i> of sexual misconduct which have resulted in restrictions are included in the matters that the Head of Student Affairs can investigate."</p>	Procedures - s.9.1.6	<p>No change necessary. Under section 9.1.4, disclosures of sexual misconduct are adjudicated under the Sexual Misconduct Policy. It is not the intention of section 9.1.6 to authorize the Head of Student Affairs to commence a separate investigation of such disclosures.</p>
58	<p>From Shirley Nakata, Ombudsperson for students Change "the Head of Student Affairs will undertake an investigation in accordance with the Investigations Policy" to "the Head of Student Affairs may, as soon as practicable, determine to rescind the Restrictions or undertake an investigation in accordance with the Investigations Policy". This will provide the opportunity to exercise discretion based on evidence without an investigation that Restrictions are no longer necessary.</p>	Procedures - s.9.1.6	<p>Agreed. The Committee changed the wording to "the Head of Student Affairs will either rescind the existing Restrictions or undertake an investigation in accordance with the Investigations Policy".</p>
59	<p>From Shirley Nakata, Ombudsperson for students "Is there an avenue to request a modification - not a review of the Head of Student Affairs decision - after some time has lapsed due to a change in circumstances for the Respondent or other parties?"</p>	Procedures - s.9.2	<p>No change necessary. There is no provision in the Policy that explicitly creates a process for requesting modifications of Restrictions within the first 21-day period. However, there is nothing in the Policy that prevents an individual subject to Restrictions from making representations to the Decision Maker about why these Restrictions should be modified or lifted altogether. In practice, Restrictions are routinely modified.</p>
60	<p>From Shirley Nakata, Ombudsperson for students Change "the Provost determines that, based upon the evidence considered by the Head of Student Affairs, the decision of the Head of Student Affairs, or the Restrictions imposed by the Vice President, are unreasonable; or" to "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 Vice President, are unfair or unreasonable; or".</p>	Procedures - s.9.2.2.1	<p>Agreed. The Committee made the requested change.</p>

61	From Roshni Narain, Director, Human Rights, Equity & Inclusion Office "Does the word 'unreasonable' assume 'unfair' or 'biased' to be part of 'unreasonable'? If not, or if 'unreasonable' is very general and subjective, can unfair and/or biased be added to this to provide more precision?"	Procedures - s.9.2.2.1	Agreed. The Committee changed wording to "unfair or unreasonable"
62	From Shirley Nakata, Ombudsperson for students Delete "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."	Procedures - s.9.2.2.1	No change necessary. The Committee believes that the words in question provide the Provost with useful guidance.
63	From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Change "The Provost will review the request for review of the Student" to "The Provost will review the Student's request for review"	Procedures - s.9.2.3	Agreed. The Committee made the requested change.
64	From Shirley Nakata, Ombudsperson for students Change "The Provost will review the request for review of the Student" to "The Provost will review the Student's request for review".	Procedures - s.9.2.3	Agreed. The Committee made the requested change.
65	From Shirley Nakata, Ombudsperson for students Change "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." to "The Provost has discretion to accept a request for review pursuant to section 9.2.1 later than 14 days from the decision of the Head of Student Affairs."	Procedures - s.9.2.5	No change necessary. In the Committee's view, it is important to give the Provost some guidance about when to grant time extensions.

66	<p>From Clea Parfitt, lawyer, and her client, a private individual "10.1 Alternate Processes In keeping with our view that there is a strong institutional reluctance for UBC to act and take firm responsive steps when misconduct happens, we are concerned that instead of being an option for the benefit of complainants, Alternate Processes will become a way of saying to complainants that they should not be pursuing formal restrictions, and should instead be satisfied with some sort of alternative outcome. The fact that Alternative Processes are generally less costly and less resource-consuming than full investigations compounds the risk that the University will promote this route in its own interests.</p>	Procedures - s.10.1	<p>No change necessary. In the Committee's opinion, it is desirable to make alternate processes available as a purely voluntary option for the parties. This option has, in fact, been requested by students and advocates for complainants, both in this policy and in other investigation policies.</p>
67	<p>From Clea Parfitt, lawyer, and her client, a private individual "Before Alternative Processes are discussed with a complainant, that complainant should be offered the support of someone from the SVPRO, even if the threat is not overtly sexual."</p>	Procedures - s.10.1	<p>No change necessary. The Committee believes it would be unreasonable to refer a complainant to SVPRO for a complaint that is not related to sexual misconduct.</p>
68	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Change "If either the Complainant (if any) or the Respondent decides they no longer wish to participate in the alternative process at any time, then" to "If either the Complainant (if any) or the Respondent decides at any time they no longer wish to participate in the alternative process, then"</p>	Procedures - s.10.2	<p>Partially agreed. The Committee changed the wording to: "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..."</p>
69	<p>From Roshni Narain, Director, Human Rights, Equity & Inclusion Office Delete "Notwithstanding the preceding sentence" and replace with "However".</p>	Procedures - s.10.2	<p>Agreed. The Committee made the requested change.</p>

70	From Shirley Nakata, Ombudsperson for students Delete "Notwithstanding the preceding sentence" and replace with "However".	Procedures - s.10.2	Agreed. The Committee made the requested change.
71	From Shirley Nakata, Ombudsperson for students Change "Nothing in this Policy prohibits UBC from taking measures" to "UBC may take measures".	Procedures - s.10.3	Partially agreed. The Committee decided to maintain the phrasing "Nothing in this policy". However, it slightly changed the wording to "Nothing in this Policy restricts UBC from taking measures".