



<b>SUBJECT</b>	Retaliation, Safe Disclosure and Reporting Policy (SC18) - Update
<b>SUBMITTED TO</b>	People, Community & International Committee
<b>MEETING DATE</b>	June 9, 2021
<b>SESSION CLASSIFICATION</b>	Recommended session criteria from Board Meetings Policy: OPEN
<b>REQUEST</b>	For information only - No action requested
<b>LEAD EXECUTIVE</b>	Ainsley Carry, Vice-President Students Marcia Buchholz, Vice-President Human Resources
<b>SUPPORTED BY</b>	Hubert Lai, Q.C., University Counsel Lorena Vlad, Legal Counsel

**PRIOR SUBMISSIONS**

The subject matter of this submission has been considered previously by the People, Community & International Committee or the Board of Governors (as further indicated below) on the following occasions:

1. [April 16, 2020](#) (OPEN SESSION)  
Action/Follow up: The Board of Governors approved the Retaliation Policy effective April 20, 2020, and assigned oversight responsibility for the Retaliation Policy to the People, Community & International Committee.
2. [April 6, 2020](#) (OPEN SESSION)  
Action/Follow up: The People, Community & International Committee recommended to the Board of Governors approval of the Retaliation Policy effective April 20, 2020 and the assignment of the Retaliation Policy to the People, Community & International Committee.
3. [November 26, 2019](#) (OPEN SESSION)  
Action/Follow up: The People, Community & International Committee considered the proposed Retaliation 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 submissions and provides an overview with respect to the first year in which the Retaliation Policy has been in effect.

**EXECUTIVE SUMMARY**

UBC has a number of conduct-related policies that include language prohibiting retaliation, including the Discrimination Policy (SC7), Health and Safety Policy (SC1), Scholarly Integrity Policy (SC6), Research Policy (LR2), COI Policy (SC3), and Sexual Misconduct Policy (SC17). Effective April 20, 2020, the Board of Governors approved the Retaliation Policy. The Retaliation Policy builds upon the commitments regarding retaliation that are set out in existing Policies. The Retaliation Policy provides:

- a mechanism for individuals to report concerns that they may be experiencing, or have experienced, Retaliation;
- a clear definition of what prohibited behaviour falls under the meaning of “Retaliation”;
- a mechanism to take proactive measures to protect individuals from Retaliation on an anticipatory basis;
- a wayfinding map in connection with the reporting of improper conduct, including, but not limited to, reporting Retaliation;
- clear guidance as to which individuals have been designated to receive and consider reports of Retaliation (“**Designated Recipients**”);

- a consistent approach to be used in addressing allegations of Retaliation; and
- a mechanism to ensure that no matter who the respondent may be, the matter is handled appropriately should there be a conflict of interest – for example, the Retaliation Policy expressly provides that in the event a Designated Recipient has a conflict of interest, the matter is escalated to the Responsible Executives for the Retaliation Policy who will then determine an appropriate designated recipient to address the Retaliation allegation, and, while not expressly addressed in the Retaliation Policy, if both the Responsible Executives are conflicted, the issue is addressed by the COI Policy which states that the matter should be escalated as necessary, with the ultimate escalation being to the Board of Governors.

The Retaliation Policy is intended to encourage individuals to report known or suspected improper conduct and to set out UBC's policy regarding Retaliation that occurs against individuals who, in good faith, report such improper conduct or participate in investigations regarding improper conduct allegations. To achieve this objective, the Retaliation Policy provides a mechanism for an individual to report Retaliation that occurs because the individual disclosed improper conduct under a UBC policy, procedure, rule, or agreement for the purposes of triggering an investigation or because the individual participated or is participating in an investigation of alleged improper conduct. In effect, the Retaliation Policy is akin to a whistleblower policy. Initial drafts of the Retaliation Policy used "whistleblower" terminology but, after significant discussion, the Policy Development Committee did not recommend using such terminology for a number of reasons, including that this terminology may have negative connotations and that students may not think of themselves as "whistleblowers" which could have led to them erroneously believing that the policy didn't apply to them. In addition, similar policies at other institutions that were surveyed, used a variety of terms to describe the concept of "Retaliation" with only two referring to "whistleblowers".

Even though there are multiple Designated Recipients, the information related to Retaliation allegations is nonetheless aggregated for central visibility and understanding in an annual report. Each year, the Designated Recipients must provide reports regarding allegations of Retaliation received in such year to the Responsible Executives for the Retaliation Policy, being the Vice-President, Human Resources and the Vice-President, Students. The Responsible Executives then consolidate, organize, and anonymize the information received and publish an annual report on the UBC Human Resources website. The report sets out the number of reports of Retaliation received, the number of instances where anticipatory protective measures were undertaken in connection with reports of alleged Retaliation, the number of investigations of alleged Retaliation that were undertaken, and, in the case of an investigation that results in a finding of Retaliation having occurred, a description of the Retaliation and any recommendations or corrective actions taken in relation to the Retaliation or the reasons why no corrective action was taken.

A copy of the annual report published by the Responsible Executives pursuant to section 9.2 of the Procedures to the Retaliation Policy regarding reports of Retaliation from April 1, 2020 to March 31, 2021 is included as Supplemental Materials #1. In summary, there were four (4) reports of alleged Retaliation in the last year. There was a finding of no Retaliation in one case, two reports were made by one complainant and are currently being investigated, and the last report was made to the Vice-President, Human Resources and is also currently under investigation.

These are early days and the Responsible Executives intend to develop and implement a broad communication plan to ensure the Retaliation Policy is well-communicated to all members of the UBC community and that Designated Recipients have access to the appropriate advice and support to discharge their responsibilities under the Retaliation Policy. As awareness of the Retaliation Policy improves over the next few years, the expectation is that the number of retaliation allegations will increase.

---

## **SUPPLEMENTAL MATERIALS (optional reading for Governors)**

1. 2020-2021 Retaliation Policy Annual Report

VP, Human Resources and VP, Students  
2020-04-30

# Retaliation, Safe Disclosure, and Reporting Policy (Policy SC18)

*2020-2021 Annual Report*

*Prepared for: Marcia Buchholz, VP, Human Resources*

*and Ainsley Carey, VP, Students*

*Prepared by Samantha Reid, Executive Director, VP, Students and*

*Lindi Frost, Interim Managing Director, Advisory Partnerships*



# BACKGROUND

## POLICY REQUIREMENTS

UBC’s Retaliation Policy requires the Vice-President, Human Resources and the Vice-President, Students to prepare a report each year regarding the complaints of retaliation, the investigation of such complaints and the actions taken following any findings of retaliation. The policy requires that this information be anonymized and published on the Human Resources website. Since the policy was implemented in April 2020, this is the first annual report produced.

In order for the Vice-Presidents to produce their annual report, the policy requires certain Designated Recipients (listed below) to submit details of any reported retaliation complaints and details regarding subsequent investigations and the findings of those investigations. The authors reached out to the Designated Recipients as a reminder of their obligations in recent months and then consolidated the information and anonymized it (where required).

## SUMMARIZED REPORTS

There were 4 reports of retaliation received by the Designated Recipients in the last year. The following table provides the information that must be published on the Human Resources website.

Designated Recipient	Reports Received	Related Anticipatory Protective Measures	Investigations Held	Description of Alleged Retaliation	Recommendations and Corrective Action	Reasons for No Corrective Action
Director of Investigations	2	The Complainant was informed to reach out to the assigned Investigator for any concerns about retaliation. <ul style="list-style-type: none"> <li>_The Respondents were informed not to contact the Complainant.</li> <li>_An initial meeting with the Respondents was conducted to explain UBC IO processes, rights and responsibilities and options available to respond to the allegations.</li> </ul>	1	A student reported to the Director of Investigations (DOI) complaints under the Sexual Misconduct policy and the Respectful Environment Statement. The DOI determined that the investigation included a review of any breaches under the Retaliation policy.	The investigation is still underway.	-
VP, Research & Innovation						
Chair, COI Committee						
Applicable Decision Maker under At-Risk Behaviour Policy						
Chief Information Officer						

Director, Internal Audit						
Dean of Relevant Faculty (at UBCV and UBCO)	1	-	1	A staff member stopped communicating with another staff member after a complaint was filed under the Respectful Environment Statement	No finding of Retaliation	N/A
Director, Campus Security (UBCV)/Associate Director, Campus Security (UBCO)						
VP, HR	1	-	1	A faculty member filed a complaint of retaliation related to a separate complaint under the Respectful Environment Statement and the Discrimination policy.	The investigation is still underway.	-
VP, Students						

## RECOMMENDATIONS

Since the policy has only existed for one year, it is difficult to extract meaning from the data that's been gathered. Given the intended return to campus this September, it is our recommendation that it would be timely to develop and implement a communication plan to highlight the policy for the University community sometime after the start of the Winter 1 Session. The plan should include a reminder to the Designated Recipients of their role as set out in the policy.