



SUBJECT	Proposed Policy Amendment: Investigations Policy (SC8)
SUBMITTED TO	Audit Committee
MEETING DATE	November 21, 2022
SESSION CLASSIFICATION	Recommended session criteria from Board Meetings Policy: OPEN
REQUEST	Action requested - Recommendation to Board for approval IT IS HEREBY RESOLVED that the Audit Committee recommends to the Board of Governors approval of amendments to the Investigations Policy (SC8) in the form set out in Appendix 1, effective April 1, 2023.
LEAD EXECUTIVE	Hubert Lai, K.C., University Counsel
SUPPORTED BY	Marcia Buchholz, Vice-President, Human Resources Lorena Vlad, Legal Counsel

PRIOR SUBMISSIONS

The subject matter of this submission has been considered previously by the Audit Committee on the following occasion:

1. [June 20, 2022](#) (OPEN SESSION)
Action/Follow up: The Audit Committee considered the proposed amendments to the Investigations Policy, following which the Office of the University Counsel (“**OUC**”) published the proposed amendments for community consultation.

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

EXECUTIVE SUMMARY

Following the Audit Committee’s consideration of the proposed amendments to the Investigations Policy during its meeting on June 20, 2022, the OUC published a notice of the proposed amendments and invited community feedback on the Policy proposal. The comment period remained open from June 27, 2022 until October 2, 2022.

Calls for comments were also published in the June 28, 2022 and September 13, 2022 versions of UBC Today, the weekly newsletter that is published on UBC’s publicly-facing web site and which is also distributed by e-mail to all UBC faculty members and staff. Email notices were also sent on June 27, 2022 and September 15, 2022 to everyone on the open self-service subscription service maintained by the OUC, which includes representatives from the Alma Mater Society, the Graduate Students Society, and all employee associations and unions (other than BCGEU child care and BCGEU Okanagan, who have elected not to receive subscription e-mails).

The OUC received responses from a faculty member, an individual, the UBC Sauder School of Business, the Association of Administrative and Professional Staff of The University of British Columbia, CUPE 2950, and the Faculty Association. The Policy Development Committee that was constituted to develop the proposed amendments to the Investigations Policy was reconvened (subject to the changes noted below) to consider the feedback and to adjust the Investigations Policy proposal as appropriate.

Two changes were made in the membership of the Policy Development Committee:

- the Assistant Director, Fraud Risk Management replaced the former Executive Director, Internal Assurance (who is no longer a UBC employee); and
- the Vice-President Academic and University Affairs of the Alma Mater Society joined as a member.

A table setting out the community input that was received and the Policy Development Committee’s response to each comment can be found in Supplemental Materials #4. The full text of the Investigations Policy proposal, highlighted to show changes from the version that was published for consultation, is attached as Supplemental Materials #1.

The key changes that have been made to the proposed Investigations Policy and associated Procedures in response to community feedback are as follows:

1. Language has been inserted in the Background & Purposes of the Policy to confirm that the Policy is not intended to prevent the use of mediated or other consensual mechanisms for resolving disputes between Complainant(s) and Respondent(s) where the Complainant(s) and Respondent(s) agree and the Designated Person considers that it would be appropriate in light of the impact of the alleged Misconduct.
2. The definition of “Respondent” has been modified to clarify that it includes all members of Teaching Staff (as defined under the Board Appointments Policy) and the defined term “Teaching Staff Member” has been added for ease of reference.
3. Recognizing that the Department of Human Resources, which includes Faculty Relations, should have visibility into cases where the Respondent is an employee or Teaching Staff Member, and should advise and support the applicable Designated Persons in determining if a Consolidated Investigation would be appropriate in such instances, the framework for Consolidated Investigations has been amended so that the Department of Human Resources will receive notices from Designated Persons regarding allegations against Respondents acting in their capacity as UBC employees or Teaching Staff Members. The OUC (updated from the “Legal Counsel, Information and Privacy or such other person as may be designated by the University Counsel” for ease of readability and consistency with the reference to the Department of Human Resources) will receive notices regarding all other Respondents. Language has also been added to clarify that Designated Persons dealing with allegations of Misconduct involving the same Respondent are required to consult with the Department of Human Resources or the OUC as appropriate.
4. Language has been added to the Proposal to require the applicable Designated Persons, when determining if a Consolidated Investigation should be utilized, and if so, what the procedures for such Consolidated Investigation should entail, to also consider: (1) the impact of multiple Existing Formal Processes or Investigations on Complainants, Respondents, and UBC; and (2) the feasibility of consolidating Existing Formal Processes or Investigations. This is in addition to the requirement that was already in the Proposal to consider the procedural requirements that would apply if separate Existing Formal Processes were to be utilized.
5. To supplement the principle that Investigations must be concluded in a timely manner, language has been added to indicate that where feasible, those conducting Investigations should communicate anticipated timelines to the Complainant and Respondent, and that participants in Investigations are expected to participate and cooperate in the Investigation in a timely manner.
6. An addition was made to the table in section 1.1 of the Procedures to include “Retaliation” as a subject matter of alleged Misconduct.

7. The amendments clarify that if a Designated Person has a real or apparent conflict of interest in a particular matter, UBC will appoint an appropriate individual to act in the role of that Designated Person for the purposes of that matter or take such other steps as may be appropriate to manage or avoid the conflict and which are consistent with the COI Policy.
8. To address instances where multiple processes may be triggered, language has been inserted in the Procedures to provide that if a Designated Person receives an allegation that might trigger multiple Existing Formal Processes or Investigations, or if new information arises throughout an Investigation that might trigger another Investigation or Existing Formal Process, the Designated Person will consult with the Department of Human Resources, the OUC, or other Designated Persons, as may be appropriate.

The Investigations Policy proposal is supported and recommended by the Policy Development Committee and the Responsible Executives for the Investigations Policy, being the Vice-President, Human Resources and the University Counsel.

APPENDICES

1. Proposed Investigations Policy and Procedures being presented for Board of Governors' approval

SUPPLEMENTAL MATERIALS (optional reading for Governors)

1. Blackline of proposed amendments to the Investigations Policy showing changes against version previously presented to the Audit Committee for information in June 2022
2. Blackline of proposed amendments to the Investigations Policy showing changes against current version
3. Current version of the Investigations Policy
4. Summary of community feedback and Policy Development Committee recommendations

 The University of British Columbia Board of Governors	Policy No.: SC8
Long Title: <p style="text-align: center;">Investigations</p>	
Short Title: <p style="text-align: center;">Investigations Policy</p>	

Background & Purposes:

This Policy provides direction to UBC officials who commission or conduct Investigations of allegations of Misconduct at UBC when (i) a formal investigation or hearing process does not exist under another UBC policy or procedure, or (ii) a Consolidated Investigation may be appropriate.

The objectives of Consolidated Investigations are to limit multiplicity of proceedings, use UBC resources efficiently and effectively, minimize the need for participants to provide multiple testimonies and thereby reduce potential trauma, and facilitate consistent fact-finding outcomes.

This Policy is not intended to replace discussions undertaken in the normal course to resolve issues between employees and their supervisors or within the norms of UBC. Regular management or academic supervisory discussions provide an opportunity for mentorship and resolution of concerns and should be used in preference to commissioning or conducting an Investigation.

This Policy is also not intended to prevent the use of mediated or other consensual mechanisms for resolving disputes between Complainant(s) and Respondent(s) where the Complainant(s) and Respondent(s) agree and the Designated Person considers that it would be appropriate in light of the impact of the alleged Misconduct.

1. General

1.1 This Policy applies when:

- 1.1.1 a Designated Person determines that an Investigation is to be undertaken and there is no Existing Formal Process; or
- 1.1.2 an individual is alleged to have engaged in multiple instances of Misconduct that would normally engage separate Investigations or Existing Formal Processes and the applicable Designated Persons determine that a Consolidated Investigation should be undertaken.

1.2 For greater clarity, this Policy:

1.2.1 does not create an entitlement to an Investigation or an obligation for UBC to conduct an Investigation; and

1.2.2 does not apply to Existing Formal Processes, except if a Consolidated Investigation is utilized.

1.3 Notwithstanding the terms of any other UBC policy, procedure, rule, or agreement, where an individual is alleged to have engaged in two or more instances of Misconduct that would otherwise engage separate Investigations or separate Existing Formal Processes, UBC may conduct a Consolidated Investigation. The determination of whether a Consolidated Investigation will be utilized instead of separate Investigations or separate Existing Formal Processes will be made in accordance with the Procedures associated with this Policy.

1.4 Investigations undertaken pursuant to this Policy must be conducted in accordance with the principles and confidentiality requirements set out in this Policy and associated Procedures. In addition, Designated Persons should refer to the non-binding *Guidelines for Responding to and Investigating Complaints* issued by the University Counsel and the Vice-President, Human Resources. They may seek additional advice from the Office of the University Counsel (where the Respondent is a student) or the Department of Human Resources (where the Respondent is a faculty or staff member).

2. Principles

2.1 **Nature of Conduct:** Normally, Investigations will not be undertaken where the alleged Misconduct individually or in combination with other conduct is not of a sufficiently substantive or material nature as to warrant discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations.

2.2 **Fairness:** Investigations must be conducted in accordance with the principles of procedural fairness in the university context and, where the Respondent is a UBC employee, in accordance with employment law and any applicable agreements with unions and employee associations. For example, Respondents have a right to:

2.2.1 know the nature of the allegations against them;

2.2.2 have an opportunity to respond to those allegations;

2.2.3 have those allegations investigated in an unbiased manner; and

2.2.4 receive reasons for any decision that impacts their privileges, entitlements, rights, or obligations.

2.3 **Timeliness:** Investigations must be concluded in a timely manner. Where feasible, those conducting Investigations should communicate anticipated timelines to the Complainant and Respondent. Participants in Investigations are expected to cooperate and participate in the Investigation in a timely manner.

- 2.4 **Confidentiality:** Investigations are confidential, and Personal Information must only be disclosed as set out in section 3 of this Policy.
- 2.5 **Reports:** Where an Investigation results in a finding of Misconduct, discipline may be warranted. When an Investigation report is prepared, the disciplinary action will normally be made in reliance upon such report and the report should therefore be prepared in a manner that meets any applicable requirements under employment law, agreements with unions and employee associations, and/or administrative law.

3. Confidentiality and Privacy

- 3.1 In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with FIPPA, all participants in an Investigation must act in accordance with the requirements set out below.
- 3.2 Individuals, including the Complainant and Respondent, who have obtained Personal Information through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:
- 3.2.1 any participants in the Investigation from disclosing information about themselves, or information they have obtained outside the Investigation;
 - 3.2.2 UBC employees, contractors, or volunteers from disclosing Investigation-related information as authorized under section 3.3; or
 - 3.2.3 Complainants and Respondents from disclosing the information they have received under sections 3.4 and 3.5.
- 3.3 UBC will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:
- 3.3.1 expressly authorized by the affected individual;
 - 3.3.2 to a UBC employee, contractor, or volunteer, if necessary for the performance of that individual's duties;
 - 3.3.3 to a Complainant, Respondent, witness or other participant in the Investigation, if necessary for the conduct of the Investigation;
 - 3.3.4 to a Complainant or Respondent in accordance with sections 3.4 and 3.5;
 - 3.3.5 authorized by the University Counsel for compelling health or safety reasons;
 - 3.3.6 authorized by the University Counsel to correct misleading or inaccurate information if necessary to protect the integrity of the Investigation or UBC's investigatory processes; or
 - 3.3.7 authorized or required under law.

- 3.4 To maintain the integrity of the Investigation process, UBC must ensure that both Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. FIPPA may require UBC to withhold Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive the information that is relevant to them.
- 3.5 Under FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Counsel for compelling health or safety reasons. For example, UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.
- 3.6 Section 3.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 3.4 and 3.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim) and may wish to seek independent legal advice before doing so.

4. Definitions

- 4.1 **"Complainant"** is an individual who has alleged that the individual has been directly subjected to Misconduct by a Respondent;
- 4.2 **"Consolidated Investigation"** means a process consolidating Investigations or Existing Formal Processes with respect to multiple allegations of Misconduct against the same individual(s);
- 4.3 **"Designated Persons"** are the individuals set out in section 1.1 of the Procedures associated with this Policy;
- 4.4 **"Existing Formal Process"** means an investigation or hearing process established under another UBC policy or procedure, such as the Discrimination Policy, the Sexual Misconduct Policy, the Scholarly Integrity Policy, the Financial Investigations Policy, or the Student Code of Conduct;
- 4.5 **"FIPPA"** means the *Freedom of Information and Protection of Privacy Act* [RSBC 1996] Chapter 165;
- 4.6 **"Investigations"** are the formal processes, whether by investigation or hearing, undertaken by Designated Persons for the purposes of ascertaining whether a Respondent has engaged in Misconduct and informing a decision as to whether discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations should be imposed; (For the purposes of this Policy, "Investigations" do not include (i) Existing Formal Processes, or (ii) informal or preliminary inquiries or fact-finding that are intended to determine whether to commence an Investigation, but do include Consolidated Investigations.);
- 4.7 **"Misconduct"** is any conduct that, in the view of UBC, breaches acceptable standards of conduct, including, but not limited to, UBC rules, regulations, or policies;

- 4.8 **“Personal Information”** is information about an identifiable individual;
- 4.9 **“Respondent”** means an individual against whom an allegation of Misconduct has been made and who falls under one or more of the following categories:
- 4.9.1 student (as defined under the *University Act*);
 - 4.9.2 registrant (being an individual registered in non-credit educational activities);
 - 4.9.3 employee (being individuals employed by UBC);
 - 4.9.4 Teaching Staff Members;
 - 4.9.5 emeritus, a volunteer engaged in a UBC activity; or any other individual acting on behalf or under the auspices of UBC.
- 4.10 **“Teaching Staff Member”** means:
- 4.10.1 tenure stream professorial ranks;
 - 4.10.2 tenure stream instructor ranks;
 - 4.10.3 without review professorial ranks;
 - 4.10.4 without review instructors;
 - 4.10.5 lecturers (excluding guest lecturers);
 - 4.10.6 sessional lecturers;
 - 4.10.7 adjunct professors;
 - 4.10.8 visiting or honorary faculty;
 - 4.10.9 clinical faculty;
 - 4.10.10 postdoctoral teaching fellows; and
 - 4.10.11 post-retirement appointees under the Retired Faculty Appointment Policy

PROCEDURES ASSOCIATED WITH THE INVESTIGATIONS 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 Investigations Policy.

1. Subject Matter of Alleged Misconduct and Designated Persons

- 1.1 For the purposes of section 4.3 of the Investigations Policy, “**Designated Person**” means the following or their delegates:

	Subject Matter of Alleged Misconduct:	Designated Person:
1	Discrimination and Harassment (as defined in the Discrimination Policy (SC7))	Director of Investigations
2	Sexual Misconduct (as defined in the Sexual Misconduct Policy (SC17))	Director of Investigations
3	Scholarly Misconduct (as defined in the Scholarly Integrity Policy (SC6))	Vice-President, Research and Innovation
4	Non-compliance with Research Policy (LR2))	Vice-President, Research and Innovation
5	Breaches of the COI Policy (SC3)	University Counsel
6	Non-compliance with the Information Systems Policy (SC14)	Chief Information Officer
7	Improper Financial Activity (as defined in the Financial Investigations Policy (SC15))	Chief Assurance and Risk Officer
8	Student academic misconduct matters	The Chair or Co-Chairs of the President’s Advisory Committee on Student Discipline at UBC Okanagan or UBC Vancouver, as appropriate
9	Student non-academic misconduct matters other than Sexual Misconduct (as defined in the Sexual Misconduct Policy (SC17))	The Chair of the UBC Okanagan Non-Academic Misconduct Committee or the Chair of the UBC Vancouver Non-Academic Misconduct Committee, as appropriate
10	Retaliation (as defined in the Retaliation Policy (SC18))	Applicable Designated Recipient under the Retaliation Policy
11	Misconduct matters involving a faculty member, other than those matters set out above	Dean of the relevant Faculty, with the advice of Faculty Relations
12	Misconduct matters involving a staff member, other than those matters set out above	Staff member’s supervisor, with the advice of Human Resources

For greater clarity, the matters referenced in rows 11 and 12 of the preceding table include any material departures from acceptable standards of conduct for employees. The UBC Statement on Respectful Environment for Students, Faculty and Staff sets out expectations for an environment in which respect, civility, diversity, opportunity and inclusion are valued.

- 1.2 If a Designated Person has a real or apparent conflict of interest in a particular matter, UBC will appoint an appropriate individual to act in the role of that Designated Person for the purposes of that matter or take such other steps as may be appropriate to manage or avoid the conflict and which are consistent with the COI Policy.


2. Consultation Requirements and Determining if Consolidated Investigation is to be Undertaken

- 2.1 Without limiting the notification obligations that may be set out in other UBC policies and procedures, prior to a Designated Person undertaking an Investigation or Existing Formal Process with respect to an allegation against a Respondent acting in their capacity as a UBC employee or Teaching Staff Member, the Designated Person must provide notice to the Department of Human Resources in such form and manner as specified by the Department of Human Resources from time to time. If any other Designated Person is dealing with an allegation of Misconduct involving the same Respondent, the Department of Human Resources will advise the Designated Persons who provided notices pursuant to this section 2.1.
- 2.2 Without limiting the notification obligations that may be set out in other UBC policies and procedures, prior to a Designated Person undertaking an Investigation or Existing Formal Process with respect to any Respondent other than those described in section 2.1, the Designated Person must provide notice to the Office of the University Counsel in such form and manner as specified by the Office of the University Counsel from time to time. If any other Designated Person is dealing with an allegation of Misconduct involving the same Respondent, the Office of the University Counsel will advise the Designated Persons who provided notices pursuant to this section 2.2.
- 2.3 Where there is more than one Designated Person dealing with allegations of Misconduct involving the same Respondent, the applicable Designated Persons will share such information with each other and with the Department of Human Resources and the Office of the University Counsel as is reasonably necessary for each of them to understand the totality of the allegations being made against the Respondent. The Designated Persons may then jointly determine to undertake a Consolidated Investigation instead of separate Investigations or separate Existing Formal Processes and determine the procedure that will apply to the Consolidated Investigation in place of the procedures that would otherwise apply if separate Investigations or separate Existing Formal Processes were to be undertaken. When determining whether to undertake a Consolidated Investigation and what the Consolidated Investigation procedure should entail, the Designated Persons should consider (i) the impact of multiple Existing Formal Processes or Investigations on Complainants, Respondents, and UBC; (ii) the feasibility of consolidating Investigations or Existing Formal Processes; and (iii) the procedural requirements that would apply if separate Existing Formal Processes were to be utilized, and must seek advice from the Department of Human Resources or the Office of the University Counsel, as applicable.
- 2.4 In the absence of an agreement between those Designated Persons to undertake a Consolidated Investigation, the Investigations or Existing Formal Processes, as applicable, will not be consolidated.
- 2.5 If a Designated Person receives an allegation that might trigger multiple Existing Formal Processes or Investigations or if new information arises during an Existing Formal Process or

Investigation that might trigger another Existing Formal Process or Investigation, the Designated Person will consult with the Department of Human Resources, the Office of the University Counsel, or other Designated Persons, as may be appropriate.

- 2.6 All information that is shared between the Designated Persons, the Office of the University Counsel, and the Department of Human Resources pursuant to this section 2 is confidential and the Designated Persons, the Office of the University Counsel, and the Department of Human Resources will not disclose such information except as permitted by the Investigations Policy or under FIPPA.

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 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: SC8</p>
<p>Long Title: Investigations</p>	
<p>Short Title: Investigations Policy</p>	

Background & Purposes:

This Policy provides direction to UBC officials who commission or conduct Investigations of allegations of Misconduct at UBC when (i) a formal investigation or hearing process does not exist under another UBC policy or procedure, or (ii) a Consolidated Investigation may be appropriate.

The objectives of Consolidated Investigations are to limit multiplicity of proceedings, use UBC resources efficiently and effectively, minimize the need for participants to provide multiple testimonies and thereby reduce potential trauma, and facilitate consistent fact-finding outcomes.

This Policy is not intended ~~to prevent the use of alternative dispute resolution processes or~~ to replace discussions undertaken in the normal course to resolve issues between employees and their supervisors or within the norms of UBC. Regular management or academic supervisory discussions provide an opportunity for mentorship and resolution of concerns and should be used in preference to commissioning or conducting an Investigation.

~~This Policy and its Procedures also provide a framework to determine if a Consolidated Investigation should be undertaken. The objectives of Consolidated Investigations are to limit multiplicity of proceedings, use UBC resources efficiently and effectively, minimize the need for participants to provide multiple testimonies and thereby reduce potential trauma, and facilitate consistent fact finding outcomes.~~

This Policy is also not intended to prevent the use of mediated or other consensual mechanisms for resolving disputes between Complainant(s) and Respondent(s) where the Complainant(s) and Respondent(s) agree and the Designated Person considers that it would be appropriate in light of the impact of the alleged Misconduct.

1. General

1.1 This Policy applies when:

1.1.1 a Designated Person determines that an Investigation is to be undertaken and there is no Existing Formal Process; or

1.1.2 an individual is alleged to have engaged in multiple instances of Misconduct that would normally engage separate Investigations or Existing Formal Processes and the applicable Designated Persons determine that a Consolidated Investigation should be undertaken.

1.2 For greater clarity, this Policy:

1.2.1 does not create an entitlement to an Investigation or an obligation for UBC to conduct an Investigation; and

1.2.2 does not apply to Existing Formal Processes, except if a Consolidated Investigation is utilized.

1.3 Notwithstanding the terms of any other UBC policy, procedure, rule, or agreement, where an individual is alleged to have engaged in two or more instances of Misconduct that would otherwise engage separate Investigations or separate Existing Formal Processes, UBC may conduct a Consolidated Investigation. The determination of whether a Consolidated Investigation will be utilized instead of separate Investigations or separate Existing Formal Processes will be made in accordance with the Procedures associated with this Policy.

1.4 Investigations undertaken pursuant to this Policy must be conducted in accordance with the principles and confidentiality requirements set out in this Policy and associated Procedures. In addition, Designated Persons should refer to the non-binding *Guidelines for Responding to and Investigating Complaints* issued by the University Counsel and the Vice-President, Human Resources. They may seek additional advice from the Office of the University Counsel (where the Respondent is a student) or the Department of Human Resources (where the Respondent is a faculty or staff member).

2. Principles

2.1 **Nature of Conduct:** Normally, Investigations will not be undertaken where the alleged Misconduct individually or in combination with other conduct is not of a sufficiently substantive or material nature as to warrant discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations.

2.2 **Fairness:** Investigations must be conducted in accordance with the principles of procedural fairness in the university context and, where the Respondent is a UBC employee, in accordance with employment law and any applicable agreements with unions and employee associations. For example, Respondents have a right to:

2.2.1 know the nature of the allegations against them;

2.2.2 have an opportunity to respond to those allegations;

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2.2.4 receive reasons for any decision that impacts their privileges, entitlements, rights, or obligations.

2.3 **Timeliness:** Investigations must be concluded in a timely manner. Where feasible, those conducting Investigations should communicate anticipated timelines to the Complainant and Respondent. Participants in Investigations are expected to cooperate and participate in the Investigation in a timely manner.

2.4 **Confidentiality:** Investigations are confidential, and Personal Information must only be disclosed as set out in section 3 of this Policy.

2.5 **Reports:** Where an Investigation results in a finding of Misconduct, discipline may be warranted. When an Investigation report is prepared, the disciplinary action will normally be made in reliance upon such report and the report should therefore be prepared in a manner that meets any applicable requirements under employment law, agreements with unions and employee associations, and/or administrative law.

3. Confidentiality and Privacy

3.1 In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with FIPPA, all participants in an Investigation must act in accordance with the requirements set out below.

3.2 Individuals, including the Complainant and Respondent, who have obtained Personal Information through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

3.2.1 any participants in the Investigation from disclosing information about themselves, or information they have obtained outside the Investigation;

3.2.2 UBC employees, contractors, or volunteers from disclosing Investigation-related information as authorized under section 3.3; or

3.2.3 Complainants and Respondents from disclosing the information they have received under sections 3.4 and 3.5.

3.3 UBC will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:

3.3.1 expressly authorized by the affected individual;

3.3.2 to a UBC employee, contractor, or volunteer, if necessary for the performance of that individual's duties;

3.3.3 to a Complainant, Respondent, witness or other participant in the Investigation, if necessary for the conduct of the Investigation;

3.3.4 to a Complainant or Respondent in accordance with sections 3.4 and 3.5;

3.3.5 authorized by the University Counsel for compelling health or safety reasons;

3.3.6 authorized by the University Counsel to correct misleading or inaccurate information if necessary to protect the integrity of the Investigation or UBC's investigatory processes; or

3.3.7 authorized or required under law.

3.4 To maintain the integrity of the Investigation process, UBC must ensure that both Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. FIPPA may require UBC to withhold Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive the information that is relevant to them.

3.5 Under FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Counsel for compelling health or safety reasons. For example, UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.

3.6 Section 3.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 3.4 and 3.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim) and may wish to seek independent legal advice before doing so.

4. Definitions

4.1 "**Complainant**" is an individual who has alleged that the individual has been directly subjected to Misconduct by a Respondent;

4.2 "**Consolidated Investigation**" means a process consolidating Investigations or Existing Formal Processes with respect to multiple allegations of Misconduct against the same individual(s);

4.3 "**Designated Persons**" are the individuals set out in section 1.1 of the Procedures associated with this Policy;

4.4 "**Existing Formal Process**" means an investigation or hearing process established under another UBC policy or procedure, such as the Discrimination Policy, the Sexual Misconduct Policy, the Scholarly Integrity Policy, the Financial Investigations Policy, or the Student Code of Conduct;

4.5 "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act* [RSBC 1996] Chapter 165;

- 4.6 **“Investigations”** ~~include Consolidated Investigations and~~ are the formal processes, whether by investigation or hearing, undertaken by Designated Persons for the purposes of ascertaining whether a Respondent has engaged in Misconduct and informing a decision as to whether discipline, restrictions on movements or activities, or any other limitation of the Respondent’s privileges, entitlements, rights, or obligations should be imposed; (For the purposes of this Policy, “Investigations” do not include (i) Existing Formal Processes, or (ii) informal or preliminary inquiries or fact-finding that are intended to determine whether to commence an Investigation, but do include Consolidated Investigations.);
- 4.7 **“Misconduct”** is any conduct that, in the view of UBC, breaches acceptable standards of conduct, including, but not limited to, UBC rules, regulations, or policies;
- 4.8 **“Personal Information”** is information about an identifiable individual; ~~and~~
- 4.9 **“Respondent”** means an individual against whom an allegation of Misconduct has been made and who ~~is a~~ falls under one or more of the following categories:
- 4.9.1 student (as defined under the *University Act*);
4.9.2 registrant (being an individual registered in non-credit educational activities);
~~4.9.3 employee, or appointee of UBC, including, without limitation, a full-time or part-time student, staff member, or faculty member, temporary or sessional instructors, and adjunct professors; an-~~ (being individuals employed by UBC);
4.9.4 Teaching Staff Members;
4.9.5 emeritus; a volunteer engaged in a UBC activity; or any other individual acting on behalf or under the auspices of UBC.
- 4.10 “Teaching Staff Member” means:
- 4.10.1 tenure stream professorial ranks;
4.10.2 tenure stream instructor ranks;
4.10.3 without review professorial ranks;
4.10.4 without review instructors;
4.10.5 lecturers (excluding guest lecturers);
4.10.6 sessional lecturers;
4.10.7 adjunct professors;
4.10.8 visiting or honorary faculty;
4.10.9 clinical faculty;
4.10.10 postdoctoral teaching fellows; and
4.10.11 post-retirement appointees under the Retired Faculty Appointment Policy

PROCEDURES ASSOCIATED WITH THE INVESTIGATIONS 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 Investigations Policy.

1. Subject Matter of Alleged Misconduct and Designated Persons

1.1 For the purposes of section 4.3 of the Investigations Policy, “**Designated Person**” means the following or their delegates:

	Subject Matter of Alleged Misconduct:	Designated Person:
1	Discrimination and Harassment (as defined in the Discrimination Policy (SC7))	Director of Investigations
2	Sexual Misconduct (as defined in the Sexual Misconduct Policy (SC17))	Director of Investigations
3	Scholarly Misconduct (as defined in the Scholarly Integrity Policy (SC6))	Vice-President, Research and Innovation
4	Non-compliance with Research Policy (LR2))	Vice-President, Research and Innovation
5	Breaches of the COI Policy (SC3)	University Counsel
6	Non-compliance with the Information Systems Policy (SC14)	Chief Information Officer
7	Improper Finance <u>Financial</u> Activity (as defined in the Financial Investigations Policy (SC15))	Executive Director of UBC’s Internal <u>Chief Assurance</u> Department <u>and Risk Officer</u>
8	Student academic misconduct matters	The Chair or Co-Chairs of the President’s Advisory Committee on Student Discipline at UBC Okanagan or UBC Vancouver, as appropriate
9	Student non-academic misconduct matters other than Sexual Misconduct (as defined in the Sexual Misconduct Policy (SC17))	The Chair of the UBC Okanagan Non-Academic Misconduct Committee or the Chair of the UBC Vancouver Non-Academic Misconduct Committee, as appropriate
<u>10</u>	<u>Retaliation (as defined in the Retaliation Policy (SC18))</u>	<u>Applicable Designated Recipient under the Retaliation Policy</u>
10 <u>11</u>	Misconduct matters involving a faculty member, other than those matters set out above	Dean of the relevant Faculty, with the advice of Faculty Relations
11 <u>1</u> <u>2</u>	Misconduct matters involving a staff member, other than those matters set out above	Staff member’s supervisor, with the advice of Human Resources

For greater clarity, the matters referenced in rows [1011](#) and [1112](#) of the preceding table include any material departures from acceptable standards of conduct for employees. The UBC Statement on Respectful Environment for Students, Faculty and Staff sets out expectations for an environment in which respect, civility, diversity, opportunity and inclusion are valued.

1.2 If a Designated Person has a real or apparent conflict of interest in a particular matter, UBC will appoint an appropriate individual to act in the role of that Designated Person for the purposes of that matter or take such other steps as may be appropriate to manage or avoid the conflict and which are consistent with the COI Policy.

2. Consultation Requirements and Determining if Consolidated Investigation is to be Undertaken

2.1 Without limiting the notification obligations that may be set out in other UBC policies and procedures, prior to a Designated Person undertaking an Investigation or Existing Formal Process with respect to an allegation against a Respondent acting in their capacity as a UBC employee or Teaching Staff Member, the Designated Person must provide notice ~~(to the “Investigation Notice”)~~ to the Legal Counsel, Information and Privacy, or such other person as may be designated by the University Council (the “Privacy Counsel”). The Privacy Counsel may specify the form and manner of Investigation Notice that is required, as well as the specific information that should be included in the Investigation Notice. Department of Human Resources in such form and manner as specified by the Department of Human Resources from time to time. If any other Designated Person is dealing with an allegation of Misconduct involving the same Respondent, the Department of Human Resources will advise the Designated Persons who provided notices pursuant to this section 2.1.

2.2 Without limiting the notification obligations that may be set out in other UBC policies and procedures, prior to a Designated Person undertaking an Investigation or Existing Formal Process with respect to any Respondent other than those described in section 2.1, the Designated Person must provide notice to the Office of the University Council in such form and manner as specified by the Office of the University Council from time to time. If any other Designated Person is dealing with an allegation of Misconduct involving the same Respondent, the Office of the University Council will advise the Designated Persons who provided notices pursuant to this section 2.2.

2.3 ~~2.2 If any other Designated Person~~ Where there is more than one Designated Person dealing with ~~an allegational~~ allegations of Misconduct involving the same Respondent, the ~~Privacy Counsel will advise the Designated Persons who provided Investigation Notices regarding the applicable Respondent.~~

~~2.3~~ Where there is more than one Designated Person dealing with allegations of Misconduct involving the same Respondent, those Designated Persons will seek advice from the Office of the University Council. The Designated Persons will share such information with each other and with the Department of Human Resources and the Office of the University Council as is reasonably necessary for each of them to understand the totality of the allegations being made against the Respondent. They The Designated Persons may then jointly determine to undertake a Consolidated Investigation instead of separate Investigations or separate Existing Formal Processes and determine the procedure that will apply to the Consolidated

Investigation in place of the procedures that would otherwise apply if separate Investigations or separate Existing Formal Processes were to be undertaken. When determining whether to undertake a Consolidated Investigation and what the Consolidated Investigation procedure should entail, the Designated Persons should consider [\(i\) the impact of multiple Existing Formal Processes or Investigations on Complainants, Respondents, and UBC](#); [\(ii\) the feasibility of consolidating Investigations or Existing Formal Processes](#); and [\(iii\) the procedural requirements that would apply if separate Existing Formal Processes were to be utilized, and must seek advice from the Department of Human Resources or the Office of the University Counsel, as applicable.](#)

2.4 In the absence of an agreement between those Designated Persons to undertake a Consolidated Investigation, the Investigations or Existing Formal Processes, as applicable, will not be consolidated.

[2.5 If a Designated Person receives an allegation that might trigger multiple Existing Formal Processes or Investigations or if new information arises during an Existing Formal Process or Investigation that might trigger another Existing Formal Process or Investigation, the Designated Person will consult with the Department of Human Resources, the Office of the University Counsel, or other Designated Persons, as may be appropriate.](#)

[2.6](#) ~~2.5~~ All information that is shared between the ~~Privacy Counsel and the~~ Designated Persons, [the Office of the University Counsel, and the Department of Human Resources](#) pursuant to this section 2 is confidential and the ~~Privacy Counsel and the~~ Designated Persons, [the Office of the University Counsel, and the Department of Human Resources](#) will not disclose such information except as permitted by the Investigations Policy or under FIPPA.


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 <p>The University of British Columbia Board of Governors</p>	<p>Policy No.: SC8</p>
<p>Long Title: Investigations</p>	
<p>Short Title: Investigations Policy</p>	

Background & Purposes:

To provide

This Policy provides direction to University/UBC officials who commission or conduct investigations of situations or incidents at UBC Investigations of allegations of Misconduct at UBC when (i) a formal investigation or hearing process does not exist under another UBC policy or procedure, or (ii) a Consolidated Investigation may be appropriate.

The objectives of Consolidated Investigations are to limit multiplicity of proceedings, use UBC resources efficiently and effectively, minimize the need for participants to provide multiple testimonies and thereby reduce potential trauma, and facilitate consistent fact-finding outcomes.

~~This Policy only applies to formal processes that may result in discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations. This policy does not apply to informal inquiries or fact finding that are intended to determine whether to commence an investigation.~~

is not intended to replace discussions undertaken in the normal course to resolve issues between employees and their supervisors or within the norms of UBC. Regular management or academic supervisory discussions provide an opportunity for mentorship and resolution of concerns and should be used in preference to commissioning or conducting an Investigation.

This Policy is also not intended to prevent the use of mediated or other consensual mechanisms for resolving disputes between Complainant(s) and Respondent(s) where the Complainant(s) and Respondent(s) agree and the Designated Person considers that it would be appropriate in light of the impact of the alleged Misconduct.

1. General

1.1 This Policy applies when:

1.1.1 a Designated Person determines that an Investigation is to be undertaken and there is no Existing Formal Process; or

1.1.2 an individual is alleged to have engaged in multiple instances of Misconduct that would normally engage separate Investigations or Existing Formal Processes and the applicable Designated Persons determine that a Consolidated Investigation should be undertaken.

1.2 For greater clarity, this Policy:

1.2.1 does not create an entitlement to an Investigation or an obligation for UBC to conduct an Investigation; and

1.2.2 does not apply to ~~Investigations that are conducted in accordance with the processes established by UBC under policies such as the Discrimination Policy; the Scholarly Integrity Policy; the Financial Investigations Policy; or procedures such as the Student Code of Conduct~~ Existing Formal Processes, except if a Consolidated Investigation is utilized.

1.3 Notwithstanding the terms of any other UBC policy, procedure, rule, or agreement, where an individual is alleged to have engaged in two or more instances of Misconduct that would otherwise engage separate Investigations or separate Existing Formal Processes, UBC may conduct a Consolidated Investigation. The determination of whether a Consolidated Investigation will be utilized instead of separate Investigations or separate Existing Formal Processes will be made in accordance with the Procedures associated with this Policy.

1.4 ~~1.2~~ When no such process exists, the authorized UBC representative must conduct Investigations undertaken pursuant to this Policy must be conducted in accordance with the principles and confidentiality requirements set out in this Policy and associated Procedures. In addition, ~~they~~ Designated Persons should refer to the non-binding *Guidelines for Responding to and Investigating Complaints* issued by the University Counsel and the ~~Department of~~ Vice-President, Human Resources. They may seek additional advice from the Office of the University Counsel (~~for situations/incidents involving students~~ where the Respondent is a student) or the Department of Human Resources (~~for situations/incidents involving members of~~ where the Respondent is a faculty or staff member).

2. Principles

2.1 **Nature of Conduct:** Normally, Investigations will not be undertaken where the alleged Misconduct individually or in combination with other conduct is not of a sufficiently substantive or material nature as to warrant discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations.

2.2 ~~2.1~~ **Fairness:** Investigations must be conducted in accordance with the principles of procedural fairness; in the university context and, where the Respondent is a UBC employee, in accordance with employment law and any applicable agreements with unions and employee associations. For example, Respondents have a right to:

2.2.1 know the nature of the allegations against them, to;

2.2.2 have an opportunity to respond to those allegations, ~~to~~;

2.2.3 have those allegations investigated in an unbiased manner; ~~and to~~

2.2.4 receive reasons for any decision that impacts their privileges, entitlements, rights, or obligations.

2.3 ~~2.2~~ **Timeliness:** Investigations must be concluded in a timely manner. Where feasible, those conducting Investigations should communicate anticipated timelines to the Complainant and Respondent. Participants in Investigations are expected to cooperate and participate in the Investigation in a timely manner.

2.4 ~~2.3~~ **Confidentiality:** Investigations are confidential, and Personal Information must only be disclosed as set out in section 3 of ~~the~~this Policy.

2.5 **Reports:** Where an Investigation results in a finding of Misconduct, discipline may be warranted. When an Investigation report is prepared, the disciplinary action will normally be made in reliance upon such report and the report should therefore be prepared in a manner that meets any applicable requirements under employment law, agreements with unions and employee associations, and/or administrative law.

3. Confidentiality and Privacy

3.1 In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with ~~the Freedom of Information and Protection of Privacy Act (FIPPA)~~, all participants in an Investigation must act in accordance with the requirements set out below.

3.2 Individuals, including the Complainant and Respondent, who have obtained Personal Information through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

3.2.1 any participants in the Investigation from disclosing information about themselves, or information they have obtained outside the Investigation;

3.2.2 UBC employees, contractors, or volunteers from disclosing Investigation-related information as authorized under section 3.3; or

3.2.3 Complainants and Respondents from disclosing the information they have received under sections 3.4 and 3.5.

3.3 UBC will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:

3.3.1 expressly authorized by the affected individual;

3.3.2 to a UBC employee, contractor, or volunteer, if necessary for the performance of that individual's duties;

3.3.3 to a Complainant, Respondent, witness or other participant in the Investigation, if necessary for the conduct of the Investigation;

3.3.4 to a Complainant or Respondent in accordance with sections 3.4 and 3.5;

3.3.5 authorized by the University Counsel for compelling health or safety reasons;

3.3.6 authorized by the University Counsel to correct misleading or inaccurate information if necessary to protect the integrity of the Investigation or UBC's investigatory processes; or

3.3.7 authorized or required under law.

3.4 To maintain the integrity of the Investigation process, UBC must ensure that both Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. ~~The~~ FIPPA may require UBC to withhold Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive the information that is relevant to them.

3.5 Under ~~the~~ FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Counsel for compelling health or safety reasons. For example, UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.

3.6 Section 3.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 3.4 and 3.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim) and may wish to seek [independent legal](#) advice before doing so.

4. Definitions

4.1 "**Complainant**" is an individual who has alleged that ~~they have~~ [the individual has](#) been directly subjected to Misconduct by a Respondent;

4.2 "**Consolidated Investigation**" ~~is the means a~~ process ~~undertaken by UBC to ascertain whether a Respondent has engaged in~~ [consolidating Investigations or Existing Formal Processes with respect to multiple allegations of Misconduct against the same individual\(s\)](#);

4.3 "**Designated Persons**" [are the individuals set out in section 1.1 of the Procedures associated with this Policy](#);

4.4 **“Existing Formal Process”** means an investigation or hearing process established under another UBC policy or procedure, such as the [Discrimination Policy](#), the [Sexual Misconduct Policy](#), the [Scholarly Integrity Policy](#), the [Financial Investigations Policy](#), or the [Student Code of Conduct](#);

4.5 **“FIPPA”** means the [Freedom of Information and Protection of Privacy Act](#) [RSBC 1996] Chapter 165;

4.6 **“Investigations”** are the formal processes, whether by investigation or hearing, undertaken by Designated Persons for the purposes of ascertaining whether a Respondent has engaged in Misconduct and informing a decision as to whether discipline, restrictions on movements or activities, or any other limitation of the Respondent’s privileges, entitlements, rights, or obligations should be imposed; (For the purposes of this Policy, “Investigations” do not include (i) Existing Formal Processes, or (ii) informal or preliminary inquiries or fact-finding that are intended to determine whether to commence an Investigation, but do include Consolidated Investigations.);

4.7 ~~4.3~~ **“Misconduct”** is any conduct that ~~warrants discipline, restrictions on movements or activities, or any other limitation of the Respondent’s privileges, entitlements, rights,~~ in the view of UBC, breaches acceptable standards of conduct, including, but not limited to, UBC rules, regulations, or ~~obligations~~ policies;

4.8 ~~4.4~~ **“Personal Information”** is information about an identifiable individual; ~~and~~

~~4.5~~ **“Respondent”** is the person who is the subject of the Investigation.

4.9 **“Respondent”** means an individual against whom an allegation of Misconduct has been made and who falls under one or more of the following categories:

4.9.1 student (as defined under the [University Act](#));

4.9.2 registrant (being an individual registered in non-credit educational activities);

4.9.3 employee (being individuals employed by UBC);

4.9.4 Teaching Staff Members;

4.9.5 emeritus, a volunteer engaged in a UBC activity; or any other individual acting on behalf or under the auspices of UBC.

4.10 **“Teaching Staff Member”** means:

4.10.1 tenure stream professorial ranks;

4.10.2 tenure stream instructor ranks;

4.10.3 without review professorial ranks;

4.10.4 without review instructors;

4.10.5 lecturers (excluding guest lecturers);

4.10.6 sessional lecturers;

4.10.7 adjunct professors;

4.10.8 visiting or honorary faculty;

[4.10.9 clinical faculty;](#)

[4.10.10 postdoctoral teaching fellows; and](#)

[4.10.11 post-retirement appointees under the Retired Faculty Appointment Policy](#)

DRAFT

PROCEDURES ASSOCIATED WITH THE INVESTIGATIONS 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 Investigations Policy.

1. Subject Matter of Alleged Misconduct and Designated Persons

1.1 For the purposes of section 4.3 of the Investigations Policy, “Designated Person” means the following or their delegates:

	<u>Subject Matter of Alleged Misconduct:</u>	<u>Designated Person:</u>
<u>1</u>	<u>Discrimination and Harassment (as defined in the Discrimination Policy (SC7))</u>	<u>Director of Investigations</u>
<u>2</u>	<u>Sexual Misconduct (as defined in the Sexual Misconduct Policy (SC17))</u>	<u>Director of Investigations</u>
<u>3</u>	<u>Scholarly Misconduct (as defined in the Scholarly Integrity Policy (SC6))</u>	<u>Vice-President, Research and Innovation</u>
<u>4</u>	<u>Non-compliance with Research Policy (LR2))</u>	<u>Vice-President, Research and Innovation</u>
<u>5</u>	<u>Breaches of the COI Policy (SC3)</u>	<u>University Counsel</u>
<u>6</u>	<u>Non-compliance with the Information Systems Policy (SC14)</u>	<u>Chief Information Officer</u>
<u>7</u>	<u>Improper Financial Activity (as defined in the Financial Investigations Policy (SC15))</u>	<u>Chief Assurance and Risk Officer</u>
<u>8</u>	<u>Student academic misconduct matters</u>	<u>The Chair or Co-Chairs of the President’s Advisory Committee on Student Discipline at UBC Okanagan or UBC Vancouver, as appropriate</u>
<u>9</u>	<u>Student non-academic misconduct matters other than Sexual Misconduct (as defined in the Sexual Misconduct Policy (SC17))</u>	<u>The Chair of the UBC Okanagan Non-Academic Misconduct Committee or the Chair of the UBC Vancouver Non-Academic Misconduct Committee, as appropriate</u>
<u>10</u>	<u>Retaliation (as defined in the Retaliation Policy (SC18))</u>	<u>Applicable Designated Recipient under the Retaliation Policy</u>
<u>11</u>	<u>Misconduct matters involving a faculty member, other than those matters set out above</u>	<u>Dean of the relevant Faculty, with the advice of Faculty Relations</u>
<u>12</u>	<u>Misconduct matters involving a staff member, other than those matters set out above</u>	<u>Staff member’s supervisor, with the advice of Human Resources</u>

For greater clarity, the matters referenced in rows 11 and 12 of the preceding table include any material departures from acceptable standards of conduct for employees. The UBC

Statement on Respectful Environment for Students, Faculty and Staff sets out expectations for an environment in which respect, civility, diversity, opportunity and inclusion are valued.

1.2 If a Designated Person has a real or apparent conflict of interest in a particular matter, UBC will appoint an appropriate individual to act in the role of that Designated Person for the purposes of that matter or take such other steps as may be appropriate to manage or avoid the conflict and which are consistent with the COI Policy.

2. Consultation Requirements and Determining if Consolidated Investigation is to be Undertaken

2.1 Without limiting the notification obligations that may be set out in other UBC policies and procedures, prior to a Designated Person undertaking an Investigation or Existing Formal Process with respect to an allegation against a Respondent acting in their capacity as a UBC employee or Teaching Staff Member, the Designated Person must provide notice to the Department of Human Resources in such form and manner as specified by the Department of Human Resources from time to time. If any other Designated Person is dealing with an allegation of Misconduct involving the same Respondent, the Department of Human Resources will advise the Designated Persons who provided notices pursuant to this section 2.1.

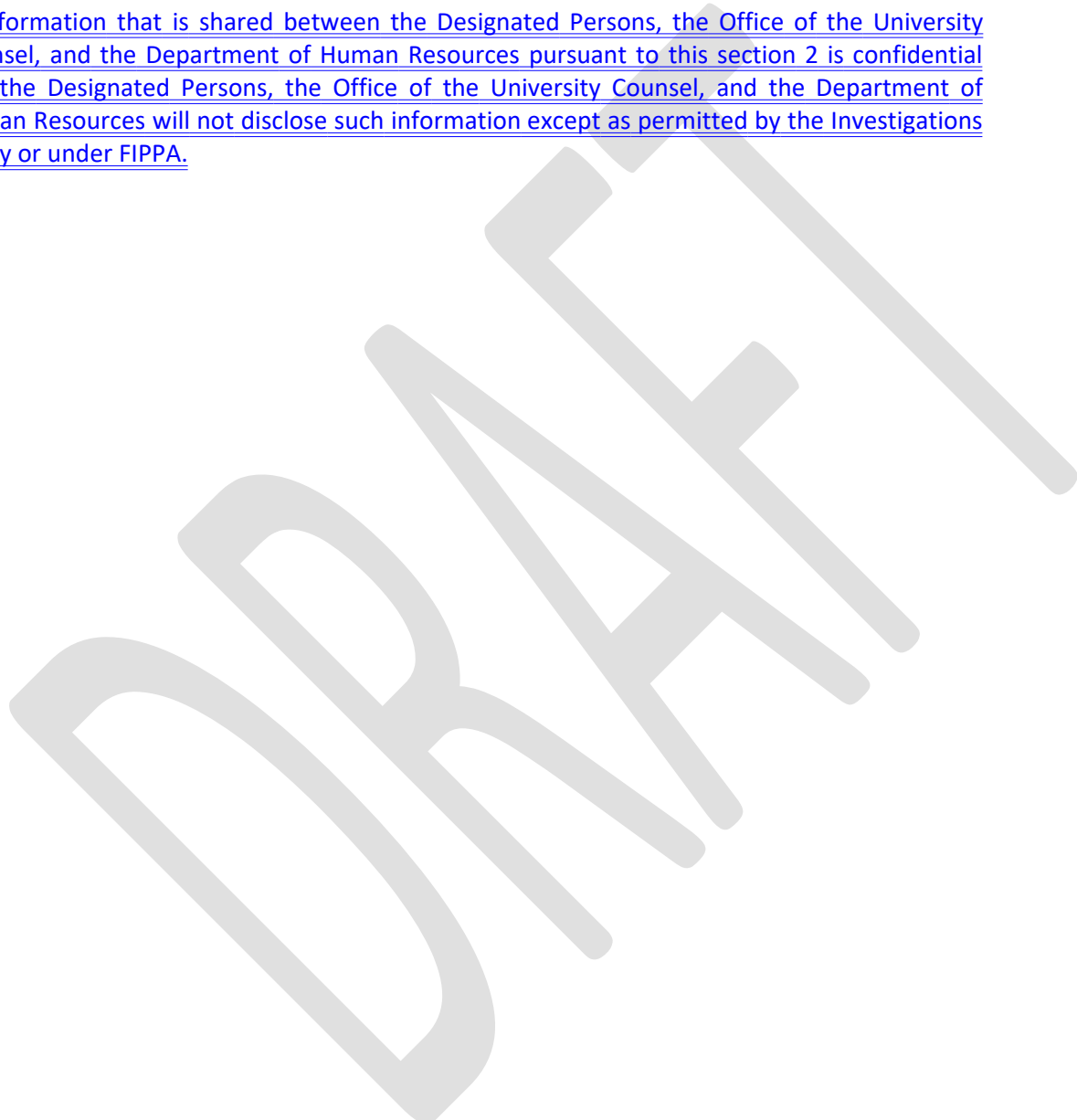
2.2 Without limiting the notification obligations that may be set out in other UBC policies and procedures, prior to a Designated Person undertaking an Investigation or Existing Formal Process with respect to any Respondent other than those described in section 2.1, the Designated Person must provide notice to the Office of the University Counsel in such form and manner as specified by the Office of the University Counsel from time to time. If any other Designated Person is dealing with an allegation of Misconduct involving the same Respondent, the Office of the University Counsel will advise the Designated Persons who provided notices pursuant to this section 2.2.

2.3 Where there is more than one Designated Person dealing with allegations of Misconduct involving the same Respondent, the applicable Designated Persons will share such information with each other and with the Department of Human Resources and the Office of the University Counsel as is reasonably necessary for each of them to understand the totality of the allegations being made against the Respondent. The Designated Persons may then jointly determine to undertake a Consolidated Investigation instead of separate Investigations or separate Existing Formal Processes and determine the procedure that will apply to the Consolidated Investigation in place of the procedures that would otherwise apply if separate Investigations or separate Existing Formal Processes were to be undertaken. When determining whether to undertake a Consolidated Investigation and what the Consolidated Investigation procedure should entail, the Designated Persons should consider (i) the impact of multiple Existing Formal Processes or Investigations on Complainants, Respondents, and UBC; (ii) the feasibility of consolidating Investigations or Existing Formal Processes; and (iii) the procedural requirements that would apply if separate Existing Formal Processes were to be utilized, and must seek advice from the Department of Human Resources or the Office of the University Counsel, as applicable.

2.4 In the absence of an agreement between those Designated Persons to undertake a Consolidated Investigation, the Investigations or Existing Formal Processes, as applicable, will not be consolidated.

2.5 If a Designated Person receives an allegation that might trigger multiple Existing Formal Processes or Investigations or if new information arises during an Existing Formal Process or Investigation that might trigger another Existing Formal Process or Investigation, the Designated Person will consult with the Department of Human Resources, the Office of the University Counsel, or other Designated Persons, as may be appropriate.

2.6 All information that is shared between the Designated Persons, the Office of the University Counsel, and the Department of Human Resources pursuant to this section 2 is confidential and the Designated Persons, the Office of the University Counsel, and the Department of Human Resources will not disclose such information except as permitted by the Investigations Policy or under FIPPA.




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 The University of British Columbia Board of Governors	Policy No.: SC8
Long Title: Investigations	
Short Title: Investigations Policy	

Background & Purposes:

To provide direction to University officials who commission or conduct investigations of situations or incidents at UBC. This Policy only applies to formal processes that may result in discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations. This policy does not apply to informal inquiries or fact-finding that are intended to determine whether to commence an investigation.

1. General

- 1.1 This Policy does not apply to Investigations that are conducted in accordance with the processes established by UBC under policies such as the Discrimination Policy; the Scholarly Integrity Policy; the Financial Investigations Policy; or procedures such as the Student Code of Conduct.
- 1.2 When no such process exists, the authorized UBC representative must conduct Investigations in accordance with the principles and confidentiality requirements set out in this Policy. In addition, they should refer to the non-binding Guidelines for Responding to and Investigating Complaints issued by the University Counsel and the Department of Human Resources. They may seek additional advice from the Office of the University Counsel (for situations/incidents involving students) or the Department of Human Resources (for situations/incidents involving members of faculty or staff).

2. Principles

- 2.1 **Fairness:** Investigations must be conducted in accordance with the principles of procedural fairness. Respondents have a right to know the nature of the allegations against them, to have an opportunity to respond to those allegations, to have those allegations investigated in an unbiased manner, and to receive reasons for any decision that impacts their privileges, entitlements, rights, or obligations.
- 2.2 **Timeliness:** Investigations must be concluded in a timely manner.
- 2.3 **Confidentiality:** Investigations are confidential, and Personal Information must only be disclosed as set out in section 3 of the Policy.

3. Confidentiality and Privacy

- 3.1 In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with the *Freedom of Information and Protection of Privacy Act* (FIPPA), all participants in an Investigation must act in accordance with the requirements set out below.
- 3.2 Individuals, including the Complainant and Respondent, who have obtained Personal Information through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:
 - 3.2.1 any participants in the Investigation from disclosing information about themselves, or information they have obtained outside the Investigation;
 - 3.2.2 UBC employees, contractors, or volunteers from disclosing Investigation-related information as authorized under section 3.3; or
 - 3.2.3 Complainants and Respondents from disclosing the information they have received under sections 3.4 and 3.5.
- 3.3 UBC will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:
 - 3.3.1 expressly authorized by the affected individual;
 - 3.3.2 to a UBC employee, contractor, or volunteer, if necessary for the performance of that individual's duties;
 - 3.3.3 to a Complainant, Respondent, witness or other participant in the Investigation, if necessary for the conduct of the Investigation;
 - 3.3.4 to a Complainant or Respondent in accordance with sections 3.4 and 3.5;
 - 3.3.5 authorized by the University Counsel for compelling health or safety reasons;
 - 3.3.6 authorized by the University Counsel to correct misleading or inaccurate information if necessary to protect the integrity of the Investigation or UBC's investigatory processes; or
 - 3.3.7 authorized or required under law.
- 3.4 To maintain the integrity of the Investigation process, UBC must ensure that both Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. The FIPPA may require UBC to withhold Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only receive the information that is relevant to them.

- 3.5 Under the FIPPA, UBC is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized by the University Counsel for compelling health or safety reasons. For example, UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities.
- 3.6 Section 3.2 does not prevent Complainants and Respondents from disclosing the information they received under sections 3.4 and 3.5. However, Complainants or Respondents who choose to disclose such information should keep in mind that the disclosure of such information may result in a legal claim being made against them by the other party or other individuals (including, for example, a defamation or breach of privacy claim) and may wish to seek advice before doing so.

4. Definitions

- 4.1 **"Complainant"** is an individual who has alleged that they have been directly subjected to Misconduct by a Respondent;
- 4.2 **"Investigation"** is the process undertaken by UBC to ascertain whether a Respondent has engaged in Misconduct;
- 4.3 **"Misconduct"** is any conduct that warrants discipline, restrictions on movements or activities, or any other limitation of the Respondent's privileges, entitlements, rights, or obligations;
- 4.4 **"Personal Information"** is information about an identifiable individual; and
- 4.5 **"Respondent"** is the person who is the subject of the Investigation.

Proposed Amendments to Investigations Policy (SC8) – Community Consultation Summary

Unless otherwise specified below, all section references are to sections of the proposed amended Investigations Policy (the “**Proposal**”) set out in Appendix 1 in the [June 20, 2022 Submission](#) to the Board of Governors’ Audit Committee and all capitalized terms have the meanings set out in the Proposal.

No.	Comment	Applicable Section(s)	Committee Recommendation
1.	<p>Definition of Misconduct</p> <p>An individual has provided that improper conduct must include advising others to violate the Policy and that a breach of the professional code of conduct of a third party by a UBC member should also constitute improper conduct at UBC. This individual also indicated that the “current investigations policy would have been accurate given actual adherence to it.”</p>	s.4.7	<p><i>No changes recommended</i></p> <p>The definition of “Misconduct” in the proposal is very broad and encompasses breaches of acceptable standards of conduct, which would generally include directing another individual to breach UBC policies. However, UBC is not responsible for, and does not, investigate situations where individuals have breached the standards of other organizations. The second comment does not address the proposed amendments to the Investigations Policy. Accordingly, no changes are recommended.</p>
2.	<p>Conflicts of Interest</p> <p>An individual has expressed that conflict of interest checks should be required on investigators. The Association of Administrative and Professional Staff of The University of British Columbia (“AAPS”) has expressed its support of the Proposal but has provided a number of recommendations, including clarity as to whom complainants should report complaints to in the event that the complaints are about the Designated Persons.</p>	N/A	<p><i>Changes recommended</i></p> <p>The procedural fairness language that is already set out in section 2.2 of the Investigations Policy addresses this concern. Investigators are required to be unbiased and impartial. Further, UBC already has processes in place to address conflict of interest and perceived conflicts of interest, and accordingly, a conflict check requirement is not necessary in the Investigations Policy. However, to ensure clarity in respect of conflicts of interest, the Committee recommends including a new section 1.2 in the Procedures stating that if a Designated Person has a real or apparent conflict of interest in a particular matter, UBC will appoint an appropriate individual to act in the role of that Designated Person for the purposes of that matter or take such other steps as may be appropriate to manage or avoid the conflict and which are consistent with the COI Policy.</p>
3.	<p>External Investigators</p> <p>AAPS recommends that UBC appoint an external investigator to conduct investigations to avoid bias, preserve credibility and objectivity, and prevent compromising the fairness of the investigations process. AAPS believes that in complex situations, particularly when consolidated investigations are undertaken, an external investigator can maintain impartiality and provide expertise in reviewing contradicting evidence. CUPE 2950 also recommends that UBC retain an independent outside investigator.</p>	N/A	<p><i>No changes recommended</i></p> <p>Investigations regarding Misconduct are internal UBC processes and it is generally appropriate for persons who are UBC employees and familiar with UBC’s policies, procedures, and rules to conduct such processes. The Investigations Policy requires Investigations to be conducted in accordance with principles of procedural fairness. UBC does bring in external investigators as and when necessary and appropriate. However, this is done on a case by case basis as the external investigators may not be familiar with standards and expectations of UBC community, and may not be familiar with the UBC policies or rules that are alleged to have been breached which may vary depending on context. Further, the use of external investigators typically adds significant cost and delay, and may not be needed or appropriate.</p>

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4.	<p>Investigations Process Flowchart CUPE 2950 suggests that a flowchart be included in the Investigations Policy to help employees visually understand the process of investigation from start to finish.</p>	N/A	<p><i>No changes recommended to Proposal but Flowchart to be Further Considered</i> Human Resources will consider the feasibility of preparing a meaningful flowchart with a high level overview of the steps for typical workplace investigations to be included in the <i>Guidelines for Responding to and Investigating Complaints</i> issued by the Responsible Executives for the Investigations Policy (the “Guidelines”) as another resource for additional information to members of the UBC community. The flowchart would not include the steps of Existing Formal Processes as those steps are set out in the applicable UBC policies and rules.</p>
5.	<p>Streamlining Investigations AAPS suggests using a more streamlined investigation process that lays out the steps from start to end, allowing a person to know to whom they should report their complaints and what to expect throughout the process. Feedback from the UBC Sauder School of Business (“Sauder”) also requested further information about whether the investigators will have the skill set required for consolidated investigations and about what central supports will be available to Faculties and Program Offices to help them determine the appropriate investigation approach.</p>	N/A	<p><i>No changes recommended</i> The Investigations Policy applies when there is to be a Consolidated Investigation or an Investigation that is not covered by Existing Formal Processes. Because of the broad range of issues that might need to be dealt with under the Investigations Policy, it is intentionally designed to provide flexibility so that simple matters can be dealt with in a streamlined fashion and more complex matters can benefit from a more involved process. The primary requirement is that the process meets procedural fairness, and the second objective is timeliness and efficiency.</p> <p>The Proposal provides that the applicable Designated Persons will determine if a Consolidated Investigation should be utilized, and if it is to be utilized, they will determine the procedure for such investigation. This will include determining the appropriate person to conduct the investigation process. The necessary skill set as well as the procedural requirements that would apply if separate Existing Formal Processes were to be utilized would be considered as part of the determination. The Office of the University Counsel (“OUC”) and the Department of Human Resources will also be available to provide assistance and advice regarding Consolidated Investigations.</p>
6.	<p>Jurisdictional Issues and Consolidations The Faculty Association has expressed that the Proposal does not address the jurisdictional issues that exist at the University and that it is unclear how the Proposal will encourage consolidation of matters as seemingly disparate as scholarly integrity and discrimination, which can arise from the same complaint but are reviewed by distinct and siloed units. The Faculty Association has indicated that the impact of multiple processes, jurisdictional confusion</p>	s. 2.3 of Procedures	<p><i>Changes recommended</i> The proposed Procedures already require Designated Persons to consider the procedural requirements that would apply if separate Existing Formal Processes were to be utilized. The Committee recommends adding language to require those Designated Persons to also consider the impact of multiple Existing Formal Processes or Investigations on Complainants, Respondents, and UBC, and the feasibility of consolidating Existing Formal Processes or Investigations.</p>

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	and lengthy timelines on respondents and complainants, as well as the entire UBC community, should be an explicit consideration and that specific instructions regarding the criteria the University will use to make decisions should be included.		
7.	<p>Consolidated Investigation Framework and Role of Human Resources Department</p> <p>The Faculty Association recommends that the Investigations Policy reflect the role of Faculty Relations and Human Resources in the conduct of investigations. By way of example, the Faculty Association indicates that historically Faculty Relations has worked with Deans and Heads to determine appropriate processes for investigating workplace matters. Further, the Faculty Association indicates that Faculty Relations is responsible for labour relations and workplace matters and accordingly is in a better position to assist Designated Persons in determining the appropriate processes.</p>	s. 2.1, s.2.2, and s.2.3 of Procedures	<p><i>Changes recommended</i></p> <p>The Proposal calls for notices regarding Investigations of allegations of Misconduct to be sent to the OUC in all cases. The Committee recommends that the Proposal be amended so that the Department of Human Resources, which includes Faculty Relations, receive notices regarding allegations against individuals employed at UBC or holding teaching appointments at UBC, and the OUC receive notices involving all other Respondents. The Committee also recommends amending the Proposal so that those Designated Persons dealing with allegations of Misconduct involving the same Respondent are required to consult with the Department of Human Resources when the Respondent is employed by UBC or holds a teaching appointment at UBC.</p>
8.	<p>Timelines</p> <p>Multiple individuals have provided feedback regarding timelines. The feedback recommends that clear timelines should be communicated to complainants and respondents, with a faculty member indicating that no investigation should last more than six months. Sauder has expressed concern about the timelines to accomplish a consolidated investigation.</p> <p>The Faculty Association has expressed a concern that the Proposal contains the vague requirement that investigations be conducted in a timely manner. While the Faculty Association understands that timelines are difficult to predict and that complex investigations require lengthy processes, it has</p>	s.2.3	<p><i>Changes recommended</i></p> <p>The Investigations Policy already requires that Investigations be concluded in a timely manner. Further, the Guidelines indicate that investigators should try to ensure that Complainants and Respondents have a realistic understanding of how long the Investigation will take and that investigators keep the participants informed of the investigation’s progress. However, it is not feasible to impose fixed deadlines or time estimates given the broad range of issues that might be investigated under the Investigations Policy. Other UBC policies, such as the Sexual Misconduct Policy, are more narrowly focused and may contain sufficiently defined investigations making it possible to make pre-estimates regarding timeframes. Because of the general nature of the Investigations Policy, and the fact that Consolidated Investigations could be highly complex or very simple, it is not possible to make pre-estimates regarding timelines. However, to address these comments, the Committee recommends including language in the Investigations Policy that where feasible, those conducting Investigations should communicate anticipated timelines to the Complainant and Respondent. In addition, the</p>

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	expressed that the University must take responsibility for preventing administrative delays caused by scheduling, jurisdictional overlap and oversight and that there must be a reasonable definition of timeliness and concrete steps taken to ensure that the University is not interfering in the efficient and compassionate resolution of concerns.		Committee recommends including language requiring participants in Investigations to participate and cooperate in a timely manner.
9.	<p>Burden of Determining Policy Breach and Student Misconduct Processes</p> <p>AAPS suggests that UBC should have the burden of determining which policy was breached, rather than the complainant, and Sauder has requested examples of (i) instances where a process does not currently exist for student misconduct; and (ii) how different scenarios might play out with the amended Investigations Policy.</p>	s.1.1 of	<p><i>No changes recommended</i></p> <p>UBC is a complex community with many different stakeholders and while UBC tries to make the regulatory environment as simple as possible, there is unfortunately no “one size fits all” solution for addressing the many forms of Misconduct that might arise. The OUC maintains the Repository of Board Policies in one place, the classification system of the Board Policies is designed to make it as easy as possible to find relevant Board Policies, and the Board Policies are drafted with a view to being as succinct and easy to understand as possible. Designated Persons are knowledgeable and are able to either re-direct Complainants if the Complainants have not approached the appropriate Designated Person or contact the appropriate Designated Persons throughout the process if information comes to light that requires the involvement of other Designated Persons. In addition, the Ombudsperson for Students can provide support at UBC and, where a Complainant’s concerns involve their employment environment, they may seek the support and advice of their union or employee association. Further, one of the features of the Proposal is to improve coordination amongst the Designated Persons when a complaint involves behaviour that engages multiple UBC policies or other rules.</p> <p>All student discipline decisions are made by the President. There are four Existing Formal Processes that comprehensively set out the investigation mechanisms that deal with such decisions: (1) where sexual misconduct is found to have occurred by the Director Of Investigations under the Sexual Misconduct Policy; (2) where discrimination is found to have occurred by the Director of Investigations under the Discrimination Policy; (3) where academic misconduct is found to have occurred by President’s Advisory Committee on Student Discipline; and (4) where any other form of student misconduct is found to have occurred by the Non-Academic Misconduct Committees. The Investigations Policy would therefore only affect student respondents where more than one of the foregoing investigation processes are to be consolidated. While theoretically possible, it is expected that this would be a very rare occurrence.</p>

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10.	<p>Determining Whether to Undertake Investigation A faculty member makes the following recommendations: “Subsequent complaints by the same complainant against the same respondent pertaining to the same sequence of events will not be allowed; all policies pertaining to the same narrative must be considered at the initial time of filing.”</p> <p>“Given the emotional and material toll prolonged investigations may take, including reputational damage as well as the resource implications to the university, the designated person must provide an opportunity for a respondent to quickly and briefly present their explanation and evidence (preferably within a few days of the complaint being received) <i>before the decision is made to launch a formal investigation.</i>”</p> <p>“All allegations will be reviewed in a manner that respects the rights of all parties. If allegations can be shown <i>unequivocally</i>, at the beginning, during, or end of a investigation, to have likely been motivated by discriminatory bias, and/or are malicious or vexatious, UBC will take whatever action is necessary so that complainants who attempt to misuse investigative processes understand that irresponsible attacks are not helpful and will not be tolerated.”</p> <p>“The designated person must document in writing the reasons for concluding that the complaint is both responsive to the policies of concern and is responsible (i.e. unlikely to be frivolous, vexatious or malicious), including the steps taken to come to this</p>	N/A	<p><i>Changes recommended</i> All of these recommendations revolve around a general concern about complaints being made and Investigations being undertaken in a way that results in an abuse of process.</p> <p>Under the Investigations Policy, the Designated Persons determine if an Investigation should be commenced, and, if in their view, the complaint has been dealt with or would be frivolous, vexatious, or an abuse of process, they have the discretion not to proceed. Designated Persons are expected to use their discretion judiciously to avoid multiplicity of proceedings or proceedings based on malicious, frivolous, or vexatious claims. In addition, should a Respondent believe a complaint has not been made in good faith or is otherwise frivolous, vexatious, or an abuse of process, it is always open to the Respondent to bring that view to the attention of the applicable Designated Persons.</p> <p>However, to address instances where multiple processes may be triggered, the Committee recommends including language in the Procedures to provide that if a Designated Person receives an allegation that might trigger multiple Existing Formal Processes or Investigations, or if new information arises throughout an Investigation that might trigger another Investigation or Existing Formal Process, the Designated Person will consult with the Department of Human Resources, the OUC, or other Designated Persons, as may be appropriate.</p>

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	<p>conclusion. The designated person must document that both sides of the story were considered and attempts made to resolve the concerns informally before launching a lengthy consequential investigation.”</p>		
11.	<p>Information Related to Allegations and Evidence From Investigations</p> <p>AAPS recommends that respondents be provided with information of the complaints against them in advance of any investigative interviews so they can prepare and respond, and CUPE 2950 suggests that the Investigations Policy should explain the documents and evidence that will be collected during the investigation, how this information will be stored and the duration for which it will be stored.</p> <p>A Faculty member makes the following recommendations:</p> <p>“All evidence relied upon to come to the conclusion that a respondent has committed an offence against a UBC policy must be shared with the respondent <i>before</i> findings are submitted by an investigator and considered final, so that significant errors of fact can be corrected. Failing this, where it can be shown that the investigator erred on significant matters of fact, or failed to provide a logical factual basis for the findings and conclusions reached regarding policy violations, the findings can be appealed to a designated person (or the Director of Investigations.)”</p> <p>“All UBC officials must avoid expressing their opinion to complainants about the alleged actions of the respondents or the merits of their concerns <i>before</i> all the facts are obtained. Extreme care must be taken</p>	s.3	<p><i>No changes recommended</i></p> <p>The Investigations Policy confirms, as an example of procedural fairness, that Respondents have the right to know the nature of the allegations against them and to have an opportunity to respond to those allegations. This is also reiterated in the Guidelines. With respect to the use of information collected during Investigations, the Investigations Policy sets out that Investigations are confidential. Section 3 of the Investigations Policy sets out restrictions on disclosure of confidential information related to Investigations. The duration for which information must be stored is addressed by applicable laws and UBC’s Records Management Policy (GA4).</p> <p>Section 2.2.4 of the Investigations Policy sets out that Respondents have a right to receive reasons for any decision that impacts their privileges, entitlements, rights, or obligations, and section 3.4 of the Investigations Policy requires UBC to ensure that both the Complainants and Respondents know the Investigation findings and the evidence upon which these findings are based. However, providing the evidence to the Respondents prior to the investigator considering the findings final is not generally required as a matter of procedural fairness and it is open to the Designated Persons to do so if they determine if would be appropriate in any given Investigation, understanding the primary objectives of meeting the requirements of procedural fairness and doing so in a manner that is timely and efficient.</p> <p>Designated Persons are expected to exercise their discretion and responsibilities in a reasonable, fair manner, which includes following the principles set out in section 2 of the Investigations Policy.</p>

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	to avoid stereotyping based on the racial or ethnic identity of the respondent in considering the factual basis of the allegations.”		
12.	<p>Right to Representation and Assistive Devices CUPE 2950 recommends that the Investigations Policy clearly state that both respondents and complainants have the right to be represented during the investigation and adjudication process, including representation by their union. To ensure accessibility, CUPE 2950 also suggests that translation or assistive devices be permitted throughout the investigation process and alternatives to face-to-face meetings be offered between complainants and respondents to reduce barriers to participation for the complainant.</p>	N/A	<p>No changes recommended While it is not explicit in the Proposal, the existing Guidelines, which will remain in place, direct investigators to consult with Human Resources to determine if union/association representation is required or appropriate in the applicable Investigation. Agreements with employee associations and unions may set out specific rights to representation. To reduce the risk of inconsistencies or duplication, such rights should not be set out in the Investigations Policy. However, the Responsible Executives for the Investigations Policy will consider including additional language in the Guidelines regarding circumstances in which participants in an Investigation may have representation or a support person.</p> <p>Where a Complainant or Respondent has a disability requiring accommodation such as translation or assistive devices, UBC has a legal obligation to accommodate as already articulated in the Discrimination Policy and the British Columbia Human Rights Code.</p>
13.	<p>Alternative Dispute Resolution CUPE 2950 recommends that restorative justice practices be initiated only upon request by the survivor, alternative resolution processes only be pursued with the full-informed consent of the respondent, specially trained facilitators be made available in cases where restorative justice approaches are requested; and participants be allowed to decide if the current process is working for them before movement is allowed between the processes.</p>	N/A	<p>Changes recommended The Committee recommends that language be inserted in the Background & Purposes of the Investigations Policy to confirm that the Investigations Policy is not intended to prevent the use of mediated or other consensual mechanisms for resolving disputes between Complainant(s) and Respondent(s) where the Complainant(s) and Respondent(s) agree and the Designated Person considers that it would be appropriate in light of the impact of the alleged Misconduct.</p>
14.	<p>Decision-making and Findings Sauder has inquired whether the totality of misconduct will be viewed with regard to disciplinary measures and whether the end result could be less discipline than in traditional investigations.</p> <p>A Faculty Member recommends that:</p>	s.3	<p>No changes recommended The totality of the misconduct would be considered. One of the objectives of Consolidated Investigations is to provide the decision-maker with a complete set of findings, thereby facilitating the ability to impose consistent and appropriate discipline where multiple instances of misconduct are found to have occurred.</p> <p>UBC’s responsibility is to conduct a fair and confidential process. In accordance with the Investigations Policy, where there is a Complainant (being an individual who has alleged</p>

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	<p>“At the conclusion of investigations, the party who was exonerated must be given an opportunity to explain the consequences of the investigation to the designated person, and UBC must document the measures taken to consider whether any remediation measures might be needed to help reverse reputational, emotional or related damages that occurred as a result of the investigation.”</p> <p>The Faculty Association has expressed a concern that the University is permitting disclosure of confidential and personal information about respondents to complainants. The Faculty Association recommends that, in particular, non-UBC complainants receive a summary of the report that provides only that information that is necessary for them to understand the processes undertaken by the University and the findings. In addition, the Faculty Association is concerned that the University is permitted to unilaterally decide to release personal information to third parties to correct misleading or inaccurate information, and that this can be understood to apply to perceptions promulgated by the media or in social media and that the University may justify disclosures for the sole purpose of protecting the University’s reputation.</p>		<p>that the individual has been directly subjected to Misconduct by the Respondent), UBC must let the Complainant and Respondent know the Investigation findings and the evidence upon which these findings are based. If they wish to share their copies of the findings with others, that is a personal decision they are entitled to make but, as noted in the Investigations Policy, they should keep in mind that disclosure of such information may result in a legal claim being made against them by the other party or other individuals and may wish to seek independent legal advice before doing so.</p> <p>The Investigations Policy sets out stringent confidentiality requirements in section 3. Information that an individual has access to by virtue of their participation in an Investigation cannot be disclosed except in very limited circumstances. To maintain the credibility of Investigations, the Investigation findings with relevant reasons are provided to both the Respondent and Complainant, and as set out in the Investigations Policy, UBC may be required to withhold any personal information that is irrelevant to the Investigation findings or that identifies third parties.</p>