

 <b>CAPILANO UNIVERSITY</b>		PROCEDURE	
Procedure No.		Officer Responsible	
<b>B.701.3</b>		<b>Vice President, Strategic Planning, Assessment and Institutional Effectiveness</b>	
Procedure Name			
<b>Student Code of Conduct Procedure</b>			
Policy This Procedure is Under			Date of Next Policy Review
<b>B.701 Student Code of Conduct</b>			<b>September 2028</b>
Date Issued	Date Revised	Related Policies and Procedures	
<b>September 26, 2023</b>	<b>NEW</b>	<b>B.109 Student Appeals</b> <b>B.401 Sexual Violence</b> <b>B.512 Human Rights, Diversity, Inclusion and Equity</b> <b>OP.418 At-Risk Behaviour and Violence Prevention</b>	

## 1. PURPOSE

- 1.1. The procedures outlined in this document are designed to support the University's commitment to providing a welcoming, respectful, and safe community as outlined in Policy B.701 Student Code of Conduct. These procedures form the framework by which the Office of Student Affairs and other administrators address incidents and allegations. In addition, these procedures are meant to inform employees and students who are taking part in a Student Misconduct process.
- 1.2. The definitions as found in the Student Code of Conduct Policy are used in these procedures.

## 2. INFORMAL RESOLUTION AND ROLES OF UNIVERSITY EMPLOYEES

- 2.1. The University encourages informal resolution of behaviours that do not pose a significant risk to the safety or security of persons, property, and/or the learning, working and living environment. These procedures are designed to support rather than replace an employee's ability to respond to incidents with behaviour of this nature.
- 2.2. Related to circumstances in 2.1, employees are encouraged to speak with the student(s) directly to encourage reflection and facilitate change in behaviour through educational interventions where appropriate. Employees may also issue an informal verbal warning to the student(s). If these efforts are unsuccessful, the matter should be reported to the Office of Student Affairs via the Student Rights and Responsibilities Advisor.
- 2.3. Employees may request that a student leave their classroom for the remainder of a class or workspace in situations where behaviour is not improving or when it cannot be addressed. The employee should contact the Student Rights and Responsibilities Advisor (SRRA) after or during the incident if the student does not change their behaviour.

- 2.4. Academic sanctions against students for reasons related to non-academic Misconduct may not be imposed. Academic Misconduct is addressed through the Academic Integrity Policy.
- 2.5. Instances of informal resolution may be reported to the SRRA in the Office of Student Affairs by the employee for record-keeping purposes. The Office of Student Affairs reserves the right to take further action after an incident has been resolved informally, where there is evidence of repeated or escalating Misconduct.
- 2.6. Employees are encouraged to contact the SRRA for questions or advice related to student conduct, rights, and responsibilities. The SRRA can facilitate connection to other University resources in connection with Misconduct concerns.
- 2.7. When Members of the University community feel unable to resolve an incident informally, the University encourages alternative dispute resolution before submitting a complaint. The Conflict Resolution Advisor is available to support individuals in navigating conflict, provide tools, and facilitate mediation where appropriate. In addition, the Conflict Resolution Advisor works closely with the SRRA to ensure proper case management.

### **3. REPORTING**

- 3.1. Allegations of Misconduct by a student can be made to the SSRA in the Office of Student Affairs by any member of the University community. Reports by persons or agencies unrelated to the University may be considered on a discretionary and case-by-case basis where the reported behaviour affects the working, learning, or living environment of the University and the behaviour falls within the scope and jurisdiction of the policy.
- 3.2. The SSRA (or designate) is responsible for the receipt of Student Misconduct reports and will take the necessary steps to ensure that all information required to make an initial assessment of the report is collected. This may include requesting a verbal and/or written statement from the Complainant(s) and identifying additional witness(es) and any relevant evidence.
- 3.3. The University will make reasonable efforts to keep confidential the name(s) and details associated with a report to the extent possible under applicable legislation, regulation, University policy, and collective agreements as outlined in section 9 of the Policy.
- 3.4. Submission of a report does not preclude the Complainant(s) from filing additional reports related to the same matter under a separate policy, externally through law enforcement, investigative agency, or through the pursuit of other legal action.

### **4. AT-RISK BEHAVIOUR AND VIOLENCE PREVENTION**

- 4.1. At any time during the reporting or investigation process, it may become necessary to refer the matter to the Duty of Care Committee if there is the potential of high-risk behaviour that suggests

a person of concern may be moving on a pathway towards violence against themselves or others. The Duty of Care Committee will act to decrease that risk, prevent injury, and support the individual in receiving the help needed to address the issues contributing to the high-risk behaviour.

- 4.2. Actions taken by the Duty of Care Committee usually occur concurrently with any investigation or response conducted by the Office of Student Affairs. However, in circumstances where decisions made by the Duty of Care Committee may significantly impact the direction or outcome of Misconduct proceedings, the Office of Student Affairs may choose to halt or delay said proceedings.
- 4.3. Recommendations made by the Duty of Care Committee may be used to inform the conduct review process. However, this does not replace or limit the requirement for a formal investigation and finding of fact under the policy.

## **5. ASSESSMENT FOR INVESTIGATION**

- 5.1 When a report is received by the Office of Student Affairs, the SSRA (or designate) will conduct an assessment to determine whether or not the conduct meets the jurisdictional requirements to be investigated by considering the following factors:
  - a) Whether the conduct described is “Prohibited Conduct”;
  - b) Whether the conduct described is consistent with the scope of the Policy;
  - c) Whether the conduct may be more appropriately responded to under a separate policy or process.
- 5.2. Upon completion of the assessment of jurisdiction, the SSRA (or designate) must determine whether or not there is enough available evidence for the investigation to be conducted fairly.
- 5.3. The assessment of both jurisdiction and available evidence may include examining evidence such as documents, communications, photographs, screenshots and/or contact with the Respondent(s) and/or Witnesses to solicit initial statements.
- 5.4. If the SSRA (or designate) determines that the report meets the jurisdictional and evidential requirements to proceed, a formal investigation will follow.
- 5.5. If the SSRA (or designate) determines that the complaint does not meet jurisdictional and/or evidential requirements, the matter will be addressed informally or be considered closed. A record of the report will be kept within the Office of Student Affairs. It may be re-opened upon the introduction of new information or evidence of repeated or escalating Misconduct.

## **6. INTERIM MEASURES**

- 6.1 The authority to impose interim measures rests with the Manager of Student Affairs and/or the Associate Vice President of Student Success (AVP Student Success).
- 6.2 Interim measures will be communicated in writing to the Respondent(s) within 5 business days of an incident being reported.
- 6.3 Interim measures will remain in effect until a satisfactory resolution per these procedures is achieved or at the discretion of the Manager of Student Affairs and/or AVP Student Success.
- 6.2. Where the incident involves law enforcement or other internal or external investigations, interim measures may remain in effect until all relevant investigations are concluded.
- 6.3. Interim measures may be appealed by written letter directly to the President at any point during which the measures remain in place. Appeals can only be made on the grounds of proportionality of the measures to the reported Misconduct and/or the extent to which the reported Misconduct warrants the imposition of an interim measure. The President may choose to uphold, modify, or remove an interim measure. The decision of the President is final.

## **7. REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION**

- 7.1 Where the SSRA determines, in consultation with the Conflict Resolution Advisor, that a matter is suitable for alternative dispute resolution, the option to participate will be extended to all relevant parties. If all relevant parties agree to participate, the Conflict Resolution Advisor will assume responsibility for the report. Should any party decline to participate, the report will remain with the Office of Student Affairs for further action. The Office of Student Affairs may establish a reasonable time limit for completing the alternative process.
- 7.2. At any time, the Conflict Resolution Advisor may choose to end the alternative dispute resolution process and refer the matter back to the Office of Student Affairs for further review.  
At the conclusion of the alternative dispute resolution process, the Conflict Resolution Advisor is responsible for providing the following documents to be kept on file in the Office of Student Affairs:
  - a) A letter confirming the date and time of any meetings with the involved parties as they pertain to the process; and;
  - b) A letter confirming whether the parties could reach an appropriate agreement at the conclusion of the process.
- 7.3. Breach of an agreement formed during alternative dispute resolution is considered a violation of the Policy and may result in the initiation of a new report of Misconduct against any of the participants. In addition, such reports may result in further action by the Office of Student Affairs. The University may choose to offer alternative approaches to resolution and healing, including

restorative justice or transformative justice processes. These alternative methods will only be conducted by subject matter experts trained in these processes.

## **8. COLLABORATIVE SANCTIONING**

- 8.1 In cases where a Respondent has reflected on and accepted responsibility for the incident of Misconduct, the Respondent may be allowed to participate in a collaborative sanctioning process which could include restorative or transformative justice.
- 8.2 The University recognizes that collaborative sanctioning may not be appropriate in all circumstances. Therefore, the opportunity to participate in the process may be revoked at any time by the SSRA.
- 8.3 If the opportunity to participate in the collaborative sanctioning process is extended and the Respondent accepts responsibility for the Misconduct and chooses to participate, the SSRA (or designate) will schedule a meeting with the Respondent. The meeting will serve as an opportunity for the Respondent and the SSRA to discuss the Respondent's Misconduct and the impact on the University community. The Respondent and the SSRA will work together to develop a mutual agreement that effectively and appropriately responds to the impact of the Respondent's actions. This may include any of the sanctions listed in section 7 of the Policy and any additional terms that are both appropriate and agreed upon during the process.
- 8.4 Collaborative sanctioning may cease to be an option and move to a formal investigation if one or more of the following conditions is met:
  - a) The Respondent is not or is no longer willing to participate in the collaborative sanctioning process;
  - b) The Respondent is not or is no longer willing to take responsibility for the incident of Misconduct;
  - c) The Respondent and the SSRA are unable to reach a mutually agreed-upon resolution;
  - d) The nature of the incident(s) may require severe sanctioning (i.e. suspension);
  - e) The nature of the evidence, violation, or related details requires a higher level of assessment; and
  - f) The Respondent has previously participated in the collaborative sanctioning process for a similar incident.
- 8.5 The conclusion of the collaborative sanctioning process will include signing a written agreement by the Respondent. Failure to adhere to this agreement's terms is considered a violation of the Policy and may result in further action by the Office of Student Affairs.

## **9. FORMAL INVESTIGATION**

- 9.1 Where an incident of Misconduct cannot be resolved through collaborative sanctioning or alternative resolution, the Office of Student Affairs will initiate a formal investigation.
- 9.2 The Student Rights and Responsibilities Advisor will review the case and recommend the most appropriate avenue of investigation to the Manager of Student Affairs and/or Associate Vice President of Student Success.
- 9.3 The decision of a formal investigation by the Manager of Student Affairs and/or Associate Vice President of Student Success will be communicated in writing to the Respondent.
- 9.4 Other parties, such as Complainants and witnesses, will be invited to participate by sharing evidence with the investigator. In these meetings with the investigator, participants may be invited to share the names of other witnesses.
- 9.5 Where there is more than one Respondent in a case, each Respondent can meet individually with the investigator. However, this does not preclude a Respondent from acting as a witness in relation to another Respondent's investigation.
- 9.6 The Respondent can request additional meeting time with the investigator (beyond the initial meeting). Such meetings will happen at the investigator's discretion and will be an opportunity for the investigator to address additional details brought forward during the investigation with the Respondent.

## **10. EXTERNAL INVESTIGATION**

- 10.1 The Associate Vice President of Student Success may appoint an external investigator or investigation team where appropriate.
- 10.2 The Office of Student Affairs will support the external investigator in gathering evidence, contacting parties involved, and clarifying University policies and practices.
- 10.3 The external investigator will review and evaluate all relevant and available evidence to establish, on a Balance of Probabilities, the findings of fact related to the complaint. The review of evidence and findings of fact will be compiled into a report prepared for the Manager of Student Affairs, Associate Vice President of Student Success, and Vice President of Strategic Planning, Assessment and Institutional Effectiveness. A copy of the report will also be provided to the Office of Student Affairs for confidential filing.

10.4. If the Respondent has been found to have violated the Policy, the Manager of Student Affairs and Associate Vice President of Student Success will review the external investigator's report to determine the appropriate level of sanctioning. The outcome of the investigation will then be communicated to all parties in writing by the Manager of Student Affairs and/or Associate Vice President of Student Success.

## **11. INTERNAL INVESTIGATION**

11.1 The SSRA (or designate) is responsible for conducting formal investigations of reports made under the Policy. In cases where the SSRA cannot complete this duty, the Manager of Student Affairs or AVP Student Success will investigate.

11.2. Investigations will be conducted through a culturally grounded and trauma-informed approach.

11.3. Should a formal investigation be initiated, the Respondent(s) will be notified in writing of the allegations. The Respondent(s) will be given five (5) business days to respond to the allegations either in writing or in person, after which time the investigator will review the available evidence and determine whether the investigation can proceed. Extensions may be requested in writing and granted at the investigator's discretion.

11.4. The internal investigator will review and evaluate all relevant and available evidence to establish, on a Balance of Probabilities, the findings of fact related to the complaint. The review of evidence and findings of fact will be compiled into a report prepared for the Associate Vice President of Student Success and Vice President of Strategic Planning, Assessment and Institutional Effectiveness. A copy of the report will also be provided to the Office of Student Affairs for confidential filing.

11.5. If the SSRA finds that the available evidence does not warrant adjudication or sanctioning, the investigation will be concluded, and the Respondent(s) will be notified in writing. However, this does not prevent the Office of Student Affairs from engaging in further investigation and sanctioning upon the introduction of new information or evidence of repeated or escalating Misconduct.

## **12. DECISION-MAKING OF OUTCOMES**

12.1 Recommendations involving suspension or permanent suspension will be first reviewed by the Associate Vice President of Student Success and Vice President of Strategic Planning, Assessment and Institutional Effectiveness. The investigation report and recommendations will then be forwarded to the President for final review. The President has the authority to suspend students under 61(1) of the University Act and may choose to accept or modify the recommended sanctions.

- 12.2. The Vice President of Strategic Planning, Assessment and Institutional Effectiveness and/or President will normally decide after reviewing an investigation report and recommendations. The Vice President of Strategic Planning, Assessment and Institutional Effectiveness and/or President may also choose to meet with or solicit a written statement from the Respondent to evaluate the weight of the sanction.
- 12.3. If a sanction is modified so that it increases in severity, the Vice President of Strategic Planning, Assessment and Institutional Effectiveness and/or President must provide a written statement of reasoning to the Office of Student Affairs to be placed in the case file.
- 12.4. The Vice President of Strategic Planning, Assessment and Institutional Effectiveness will inform the Office of Student Affairs of the decision. The Office of Student Affairs will ensure the decision is communicated to the Respondent within five (5) business days. The Office of Student Affairs is also responsible for monitoring the completion of imposed sanctions.

### **13. SANCTIONS**

- 13.1 The conclusion of the investigation where the Respondent is determined to violate the Policy will involve the imposition of sanctions as an outcome. A list of sanctions is outlined in section 7 of the Policy.
- 13.2. A written warning may be issued when a Respondent is suspected of Misconduct, but insufficient evidence exists. A written warning is used only to restate the applicable sections of the policy and/or expectations for future behaviour. It is not considered to be a finding of a violation of the policy.

### **14. APPEALS**

- 14.1 Respondents and Complainants have the right to appeal decisions made through the outcome of an Investigation.
- 14.2. Appeals from student Respondents or a student are made to the Student Appeals Committee as per the Student Appeals Policy. To determine the submission deadline, the starting date will be the date that the decision is communicated in writing to the Respondent.
- 14.3. Complainants who are employees who wish to appeal the outcome of a student Misconduct process may appeal directly to the Vice President of Strategic Planning, Assessment and Institutional Effectiveness or pursue a Work Safe BC investigation.
- 14.4. Appeals related to informal or collaborative resolutions will not be accepted.



## **15. RECORD KEEPING**

- 15.1 Investigative reports and records of proceedings are confidentially maintained by the Office of Student Affairs. Records relating to Misconduct proceedings will be kept for at least seven (7) years following the completion of all actions pertaining to a particular incident of Misconduct. After this time, records may continue to be kept on file if deemed necessary by the Office of Student Affairs and will otherwise be confidentially destroyed.
- 15.2. Records are not available to be copied or viewed by University community members unless required by the procedures set out in this document or for external legal proceedings.
- 15.3. In situations where the decisions or sanctions affect the Respondent's enrollment status with the University, the Office of Student Affairs will ensure that notice of the decision is forwarded to the Registrar.

## **16. SUPPORT FOR STUDENTS**

- 16.1 The University recognizes that participation in processes as a Complainant, witness, or Respondent can be difficult and that Students who fill these roles may require support. The Office of Student Affairs is responsible for ensuring that participating Students are aware of the resources available to them should they need support. This may occur through the general promotion of such resources or direct communication with the Student(s) in question.
- 16.2. Respondents, Complainants, and Witnesses may be accompanied by a support person during any processes outlined in these procedures, provided that the support person is not involved directly in the incident(s) being investigated. A support person can include a family member, friend, counsellor or advocate.
- 16.3. Support persons may not advocate for or speak on behalf of those they are providing support to. If the support person is a lawyer, the Respondent, Complainant, or Witness must notify the investigator at least 5 days before an investigation meeting is scheduled. In such cases, the University may obtain its legal counsel, and the process may be delayed until such a time as University legal counsel can be present.
- 16.4. The University will strive to provide specialized student support throughout conduct processes as part of a culturally grounded and trauma-informed approach. This could include translator services, accessibility aids, support from an Elder etc.

## **17. SUPPORT FOR EMPLOYEES**

Employees who have witnessed or been impacted by Student Misconduct will be directed to Human Resources. Human Resources will assist with referrals to support safety and well-being needs. Recognizing that employees responsible for receiving reports and conducting investigations may be impacted, employees can consult with Human Resources and direct supervisors for appropriate support at their discretion.

## **10. DESIGNATED OFFICER**

The Associate Vice President of Student Success is responsible for the development, subsequent revisions to and operationalization of this procedure under the oversight of the Vice President, Strategic Planning, Assessment and Institutional Effectiveness.

## **11 RELATED REFERENCES**

BC Freedom of Information and Protection of Privacy Act, [RSBC 1996] c165

Canadian Charter of Rights and Freedoms

Criminal Code, RSC 1985, c C-46

Human Rights Code, [RSBC 1996] c210

University Act, [RSBC 1996] c468

Student Code of Conduct Procedure process

