

 CAPILANO UNIVERSITY		POLICY	
Policy No.	Officer Responsible		
B.701	Vice President, Strategic Planning, Assessment and Institutional Effectiveness		
Policy Name			
Student Code of Conduct			
Approved by	Replaces	Category	Next Review
Board	E.703 Student Behaviour Policy	Student	September 2028
Date Issued	Date Revised	Related Policies	
April, 2017	September 26, 2023	B.109 Student Appeals B.401 Sexual Violence B.512 Human Rights, Diversity, Inclusion and Equity OP.418 At-Risk Behaviour and Violence Prevention	

1 PURPOSE

- 1.1. Capilano University (the “University”) strives to provide a welcoming, respectful, and safe learning community that supports the institution’s mission, values, and vision. This policy seeks to build a learning, working and living environment that follows the University’s guiding values of equity, diversity, inclusion and respectful engagement, and personal accountability. Students are expected to comply with this policy in order to contribute to achieving those goals, including fostering healthy and safe learning, working and living environments which are free from discrimination, bullying and harassment.
- 1.2. This policy is designed to promote student rights and responsibilities, safety and well-being by addressing Student Misconduct that has a potential for significant impact on the University’s community and learning, working, living environments, or on University premises or property.

2 DEFINITIONS

“Appeal” means the appeal of a decision made to impose a Sanction.

“Balance of Probabilities” means the standard of proof used to determine findings of fact, on the basis that the alleged fact is more likely than not to have occurred.

“Collaborative Sanction” means when students take accountability for their actions and work with the Office of Student Affairs to determine a reasonable sanction.

“Complainant” means a person who has made a report of an alleged violation of this Policy.

“Conduct” is a general term used to describe behaviour and is neither negative nor positive in connotation.

“Members of the University Community” means employees, students, board members and volunteers.

“Micro-aggression” means an action or statement that can be subtle, indirect or unintentional that is discriminatory towards a person(s) of a systemically marginalized group that has a derogatory or harmful effect. Micro-aggressions are often racist, homophobic, transphobic or sexist and further perpetuate harmful stereotypes or actions.

“Minor Misconduct” refers to behaviours that do not pose a significant risk to the safety or security of persons, property, and/or the learning, working and living environment. Incidents of racism, homophobia, transphobia or sexism are not considered Minor Misconduct. Minor Misconduct may be addressed informally or formally under this Policy.

“Misconduct” refers to behaviours described in Section 5 of this policy– “Prohibited Conduct.”

“Report” or **“Reporting”** means a formal report of an incident of student misconduct made by a member of the University community or a visitor or guest to initiate some form of response or investigation by the University.

“Respondent” means a student who is investigated for an alleged violation of this Policy.

“Sanction” is a consequence and/or outcome imposed on a Respondent or agreed to by a Respondent and the University (in cases of informal processes).

“Student” for the purpose of this Policy, means an individual enrolled in any course (credit or non-credit) at the University .

“Trauma-informed approach” means understanding the impact of trauma on a person and community and using that understanding to develop practices that minimize further harm, foster healing and honour strength and resiliency.

“Witness” refers to a person who is identified as having additional information regarding an alleged incident, typically through their presence during part or all of the incident.

“University premises or property” means any University-owned or managed property or rented/leased lands, facilities, spaces or conveyances.

“Visitor or guest” means non-University community members (including alumni and donors) visiting any University premises or property, or participating in a University-event.

3 SCOPE

3.1 This Policy applies, but is not limited to the following:

- a) Alleged misconduct that occurs:
 - i. on any University premises or property;
 - ii. at an off-campus event or activity that is sponsored, related-to or approved by the University
 - iii. while representing the University in an approved learning opportunity such as co-op, work, field school, practicum, internship, conference, or study-abroad program; and
- b) Alleged misconduct that is technology-facilitated and occurs online and/or is directly linked to the University or carried-out using University resources such as computers, Capilano email, or campus wireless internet. This could include the use of email, text, online files, social media, pictures or videos shared via websites, apps, online learning or work-integrated online learning environments and/or social networking platforms.

3.2 The University reserves the right to investigate and respond to alleged violations of this Policy that occur off-campus and are outside of the parameters listed in 3.1. The following factors will be considered in determining whether or not an investigation into off-campus Misconduct may be pursued:

- a) Whether the incident involves a current student, alumni, or prospective student accepted to the University engaged in the admission process;
- b) The number of members of the University community involved in the incident;
- c) The extent to which the incident occurred as a result of a connection to or relationship with the University; and/or
- d) The extent to which the incident affects members of the University community

3.3 This policy is not intended to be used for the purposes of assessing professional or academic competency.. The appropriate administrator or agency will deal with matters related to professional or academic standards with guidance or support from the Office of Student Affairs.

- 3.4 The University may choose to investigate allegations of misconduct concurrently with investigations by law enforcement, judicial proceedings, or another external entity unless required by law to delay such an investigation. The University may elect to suspend its internal process until the process outside of the University has been determined.
- 3.5 If a Student who is alleged to have committed Misconduct voluntarily withdraws or obtains sufficient credits to graduate from the University after the alleged Misconduct occurred, the University's procedures for determining if the alleged Misconduct occurred will continue and the appropriate Sanction made, if any. The University may, in place an administrative hold on the student's account, ability to register for University courses or graduate until a decision is made by the University regarding the alleged Misconduct. The affected student may petition for a removal of this hold at which time the Office of Student Affairs may choose to conduct a formal review of the incident and determine conditions for re-admission. This may include a subsequent investigation and assignment of sanctions.

4 POLICY STATEMENT

- 4.1 Where possible and appropriate, the University seeks to offer growth opportunities for students who have engaged in misconduct to provide an educational and restorative response rather than a punitive one.
- 4.2 The University recognizes that incidents of misconduct often intersect with other systemic and historical issues. Accordingly, the University commits to response strategies guided by de-colonial, intersectional, accessible, culturally grounded and trauma-informed practices. Therefore, University staff responsible for formally responding to student misconduct will be trained annually in these practices.
- 4.3 Students are also expected to make themselves aware of the information contained in this policy. A lack of awareness of the expectations of behaviour at the University does not excuse students from taking responsibility for actions.
- 4.4 The University encourages employees to respond informally to incidents where conflict management is appropriate. However, student employees are not expected to respond to student misconduct and should defer to their supervisor or the Office of Student Affairs.
- 4.5 The University has established a Duty of Care Committee under the OP.418 At-Risk Behaviour and Violence Response and Prevention policy. The committee reviews incidents where there are concerns about potentially at-risk behaviour or violence and develops recommendations to support the university community. Incidents of misconduct which raise at risk or violence concerns will be referred to the committee.

5 PROHIBITED CONDUCT

5.1. Misconduct includes - but is not limited to engaging in, attempting to engage in, or assisting others to engage in the following:

- a) Violence, Threats, and Intimidation: Aggressive or intimidating communication or physical behaviour that causes or threatens to cause bodily and/or emotional harm.
- b) Sexual Violence: unwanted sexual behaviour, whether physical or psychological, that is committed, threatened, or attempted against a person without the person's consent. (Refer to B.401 Sexual Violence Policy).
- c) Compromising the Safety of Others: Creating or contributing to conditions that unnecessarily endanger the health, safety, and/or security of others.
- d) Possession of Dangerous Objects: Storage, possession, or use of weapons, ammunition, explosives, fireworks, hazardous chemicals, and other objects that threaten the security of the University community or University premises or property. This includes replica weapons that cannot be identified as non-dangerous unless used/carried for legitimate academic or cultural purposes and only with written approval from the Director Office of Safety and Emergency Services or other administrators.
- e) Misuse of Alcohol or Drugs: Unlawful use of alcohol and narcotics is prohibited on University premises or property. Marijuana possession and usage is prohibited, and smoking and vaping are only permitted in designated locations on University premises or property in accordance with OP.415 Smoking and Vaping policy. Liquor may only be served and consumed during university events, in line with OP.414 Liquor Service and Consumption at University Events policy
- f) Damage to Property: Engaging in conduct which damages, of property of the University, the property of a member of the University Community, or the property of other parties
- g) Theft or Removal of Property: Theft or attempted theft or removal of the property of the University, any member of the University Community. without appropriate consent or approval.
- h) Disrupting University Activities: Physical or verbal actions, either in person or online, that are disruptive to or negatively impact the learning, working or living environment.
- i) Unauthorized Access or Use of Data and Systems: Entry to or use University facilities, spaces, or electronic equipment, infrastructure, data, and systems without authorization or legitimate access.

- j) **Attack on the Dignity or Security of an Individual or Group: Engaging in Misconduct** that is demeaning, intimidating, bullying, harassing, or discriminatory towards individuals or multiple members of the University community. This includes but is not limited to microaggressions, racism, sexism, homophobia, transphobia, and discrimination of people with disabilities and includes all protected grounds under the *BC Human Rights Code*. Actions such as hazing are also prohibited.
- k) **Providing False Information or Identification:** Intentionally submitting false information, academic or personal records, transcripts, letters of reference, documents, or identification to a member of the University community.
- l) **Failure to Comply:** Refusal or disregard for a reasonable and appropriate direction or request by a University employee that aligns with University policies and Work Safe BC legislative requirements. This includes compliance with outcomes and sanctions imposed or agreed upon under this Policy.
- m) **Interference with Process:** Actions that disrupt the investigation process, including coercion and/or intimidation of Witnesses or decision-makers, deliberate provision of false statements or evidence, and retaliatory actions against any persons involved in the incident or process. This includes Complainants and Witnesses and any employee contractor administering an investigation or restorative justice process.
- n) **Laws, Statutes, and Policies:** All Students are expected to conduct themselves in a manner aligned with all relevant federal, provincial, and municipal laws and statutes, including the *Criminal Code of Canada*. In addition, Students are expected to comply with all applicable University policies. Failure to adhere to laws, regulations, and policies may be considered a violation of this Policy.

5.2 The University encourages the responsible action of bystanders. Employees are encouraged to report actions of student misconduct that they witness to the Office of Student Affairs.

6 RESPONSE TO REPORTS AND INVESTIGATIONS

6.1 The Office of Student Affairs responds to alleged violations of this Policy. The procedures for responding to violations of this Policy are set out in B.511.1 – “Student Code of Conduct Procedure”.

6.2. Some reports of alleged misconduct may not require an investigation but an informal resolution. In cases where the Office of Student Affairs determines that a formal investigation into an alleged incident of Misconduct is necessary, the University may choose whether to investigate internally or use an external investigator.

- 6.3 A student may anonymously report an incident(s) of student misconduct to the Office of Student Affairs to receive support and reasonable supports, though the University's ability to investigate or apply sanctions may be limited. In certain circumstances, if a reported incident is deemed high risk that could impact the safety of the University Community or repeated misconduct has occurred, the Duty of Care Committee may initiate an investigation and apply safety measures.
- 6.4 Investigations and decision-making are guided by the principles of procedural fairness, with equitable, transparent treatment of all parties. Accordingly, evidence will be weighed based on the Balance of Probabilities and with relevance to the issues at hand. After all relevant and available evidence has been considered, a decision will be rendered as to whether the Misconduct occurred and to what extent the Respondent(s) is responsible for the Misconduct.
- 6.5 Where the alleged misconduct involves threats, safety concerns, harassment, violence, or significant impact on the learning, working or living environment. the University reserves the right to impose interim measures on a student before the outcome of an investigation. Interim measures must be reasonably required to ensure the safety of persons and/or property and generally prevent any further harm.
- 6.6 The University may accept a report of misconduct from a person seeking to become a member of the University community in circumstances that directly affect their application or safe entry in becoming a member and from former members of the University community in the circumstances directly affecting their departure from the University. In these circumstances, there may not be jurisdiction for an investigation; however, some safety and prevention measures could be applied.

7 SANCTIONS

- 7.1 If the outcome of an investigation determines that misconduct did occur, sanctions that may be imposed include:
- a) An apology in written form or verbally in a public or private setting;
 - b) A behavioural agreement;
 - c) Educational sessions conducted by a trained University employee that seeks to address and change behaviour;
 - d) Temporary removal from a program, class, practicum, placement, volunteer program and/or temporary access restriction to University property or premises;
 - e) No contact contract with impacted parties;
 - f) Relocation to another class and/or cohort or location in student housing.

- g) Suspension from the University for a specified period of time, after which the student is eligible to return. Conditions for readmission may be imposed, including a reintegration plan. Suspension will typically result in an academic hold on the student's account.
- h) Permanent suspension from the University

7.2 Decisions to suspend will be made by the President in accordance with 61(1) of the *University Act*

7.3 Where disciplinary action results in the suspension, termination or removal of a student, the Office of Student Affairs will provide notification and appropriate information to impacted University community members to the limits extended as per the Freedom of Information and Protection of Privacy Act.

8. ALTERNATIVE RESOLUTIONS

8.1. Complainants or Respondents may request alternative resolution methods, such as restorative justice or other transformative justice measures where reconciliation and healing takes place through a facilitated, accountable process between people in order to address the harm caused. The University will review requests and seek expert advice in determining if the alternative resolution method is appropriate and in the interest of all impacted parties.

8.2. Restorative or transformative justice processes will only be conducted by University employees trained in these methods or by an external expert.

9. CONFIDENTIALITY

9.1 Students have a right to privacy and confidentiality per the BC Freedom of Information and Protection of Privacy Act and the University Act. Accordingly, and in line with B.700 Privacy and Access to Information Policy, student records remain confidential (except in certain instances listed in 9.5 and as in keeping with BC FIPPA). Students have the right to access their records if a request is made in writing.

9.2 All persons involved in an investigation must keep information related to the investigation, allegations, or outcome confidential and refrain from public disclosure, including online disclosure through social media platforms unless expressly permitted by the University or required by law. Information sharing to a third party for the purposes of support and counsel is encouraged; however, the person disclosing must accept the risk and responsibility associated with any information that a said third party thereafter shares. University employees who participate in or conduct an investigation process must maintain confidentiality pursuant to Policy B. 506 – “Standards of Conduct”.

- 9.3 Information, documents, and communication collected during the course of an investigation are considered to be confidential in nature. As such, records of an investigation will be disclosed only to the extent permitted under the BC Freedom of Information and Protection of Privacy Act.
- 9.4 In keeping with the confidential nature of the process, the University may provide limited details regarding the status of investigations to Members of the University Community only as it relates to the safety and security of individuals and/or the University Community or as deemed necessary to gather evidence or monitor compliance with interim measures or sanctions.
- 9.5 The University will share identifying information only when it is necessary to respond to safety concerns or a legal reporting requirement. Whenever appropriate, University will disclose in a timely manner to Complainants, Respondents and Witnesses that this identifying information is being shared to address any concerns and set up reasonable safety and support measures as needed. The University will also try to share the minimum amount of information to satisfy the safety concern or legal requirements. Circumstances may include:
- a) When a person is at risk of harm to self or others;
 - b) There are reasonable grounds to be concerned about future risk or violence to members of the University community and/or broader community;
 - c) Disclosure is required by law (e.g. suspected abuse of someone under the age of 16; compliance with the Occupational Health and Safety Act, Human Rights Code or Civil action);
 - d) Reliable information that the incident of misconduct is available in the public domain (e.g. Online images, video or content on social media);
 - e) To comply with the reporting requirements of regulatory bodies.

10. RETALIATION

The University will not tolerate any retaliation, directly or indirectly, or threats of retaliation against anyone who reports or who participates in a process that responds to a report. Members of the University community who are found to have engaged in such conduct may be subject to sanctions up to and including suspension or termination of student employment.

11. GENERAL PROVISIONS

Once per academic year, an annual report will be created by the Office of Student Affairs. This annual report will be publicly shared (via the university website) and will include data on the number of reports, themes and trends observed in the data. Data shared will not include any confidential information.

12. DESIGNATED OFFICER

The Vice President of Strategic Planning, Assessment, and Institutional Effectiveness is the Policy Owner, responsible for the oversight of this policy. The Administration of this Policy and the development, subsequent revisions to and operationalization of any associated procedures is the responsibility of the Associate Vice President, Student Success.

7 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