STUDENT CONDUCT POLICY PROCEDURES

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Number: S 10.05

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Policy Authority: Vice-President Academic and Provost
Parent Policy: Student Conduct Policy (S 10.05)

1.0 PURPOSE

1.1 The purpose of this procedure is to establish the process that will be followed to address a Complaint made under the Student Conduct Policy (S 10.05).

2.0 DEFINITIONS

2.1 See Appendix A to the Student Conduct Policy (S10.05) (“the Policy”) for definitions of words used in the Policy and in these procedures.

3.0 PROCEDURE

3.1 Role Of The Office Of Student Support, Rights And Responsibilities (“SSRR”)

3.1.1 SSRR activities and areas of responsibility include but are not limited to:

a. receiving Complaints of alleged Misconduct;

b. assessing the need for interim measures and imposing same on the Respondent;

c. undertaking a Preliminary Review of Complaints and, when appropriate, addressing Complaints by means of a Resolution Agreement;

d. investigating or engaging an internal or external Investigator to provide a report outlining findings of fact;

e. facilitating transmission of the Investigator’s Report to the Executive Director, Student Affairs, who will decide if there was a breach of the Policy;

f. tracking open cases of alleged Misconduct;
g. tracking cases that have conditions placed on the Respondent;

h. acting as the office of record for all Student Conduct Policy records and files; and

i. preparing the annual report to the Board of Governors regarding Misconduct cases.

3.2 Making A Complaint Of Student Non-Academic Misconduct To The University

Imminent Risk – Contact Campus Public Safety

3.2.1 Complaints related to safety, security, and other urgent matters should be made to Campus Public Safety (“CPS”), who are responsible for the safety and security of members of the University Community as well as visitors, and to safeguard the operation of the University and its property. Campus Public Safety is responsible for documenting the incident, including their observations and any other relevant circumstances (the “Incident Report”). CPS will forward Incident Reports about Misconduct by Students to the SSRR in a timely manner, normally within 24 hours.

Notifying The SSRR Of Student Non-Academic Misconduct

3.2.2 A Complaint about Student non-academic Misconduct should be made to the SSRR as soon as possible after the alleged Misconduct occurs so that the matter can be addressed in a timely manner. A significant lapse of time may hinder the SSRR’s ability to take effective action.

3.2.3 When a Complaint is received about an event(s) that occurred several months previously, the SSRR will undertake a Preliminary Review (see section 3.3) to assess the viability of proceeding given the passage of time, which may include considerations relating to the availability of witnesses and evidence.

3.2.4 The SSRR may forward a Complaint to Campus Public Safety if there appears to be a threat to safety or security, or if it may be required to safeguard the operation of the University or to protect its property.

3.2.5 The University reserves the right to temporarily, or permanently, suspend proceedings under these Procedures if it has a significant concern about the health or well-being of either party.

3.3 Preliminary Review Of Complaint

3.3.1 The Director will consider the Complaint and, based on the information provided to the Director, may reject the Complaint on the grounds that:

   a. the Complaint lies outside the scope and jurisdiction of the Policy;

   b. the alleged conduct, if proven, would not require corrective action; or

   c. an Investigation is unlikely to find the facts necessary to substantiate the Complaint because it would be dependent on parties or witnesses who are not
available or who have refused to participate and/or on information or evidence that is unavailable due to the passage of time, or otherwise.

3.3.2 If the Director rejects the Complaint, the SSRR must inform the Complainant of the rejection in writing, normally within 30 calendar days, and must include written reasons for the decision to reject the Complaint.

3.3.3 The SSRR may refer a Complaint of alleged non-academic Misconduct to the Registrar if it appears there are aspects of the Misconduct related to the University’s policy on Student Academic Integrity (S10.01). If the SSRR is unclear about jurisdiction under the Academic Integrity policy, they may confer with the Academic Integrity Coordinator or the Registrar.

3.3.4 The Complainant will not necessarily be identified to the Respondent during a Preliminary Review.

3.3.5 If the Director determines through a Preliminary Review that a Complaint should proceed, the SSRR will, whenever possible and appropriate, attempt to address the Respondent’s conduct using Voluntary Resolution and a Resolution Agreement.

3.4 Review Of Director’s Decision To Reject A Complaint

3.4.1 The Complainant may request that the Director’s decision to reject the Complaint be reviewed by the Executive Director, Student Affairs (“EDSA”). The Complainant’s request must be made in writing and submitted to the EDSA within 30 calendar days of the Complainant receiving notification that their Complaint was rejected.

3.4.2 The EDSA will consider the Complainant’s request and make a decision. The EDSA’s decision shall be final and will be communicated to the Complainant in writing, with reasons.

3.5 Interim Measures

3.5.1 The Director may impose interim measures while an alleged incident of Misconduct is being addressed, investigated, or decided. Such measures will be precautionary, take undue hardship for the Respondent into consideration and are expressly not disciplinary. Interim measures will be reassessed on a weekly basis and the parties involved will be notified of any changes to interim measures as soon as possible.

3.5.2 Interim measures are imposed to:

a. safeguard the environments of individuals who have made a Complaint under the Policy and of individuals whose conduct is being questioned;

b. address personal safety;

c. discourage or prevent Retaliation;

d. protect confidentiality;
e. minimize disruption to learning, working, or University Residence environment; and/or
f. preserve the University's ability to conduct a thorough Investigation.

3.5.3 Interim measures may include, but are not limited to, the following:

a. the exclusion of the Respondent(s) from all or any part of the University campuses;
b. limiting proximity to, or contact with, specific individuals;
c. limiting participation in campus activities;
d. limiting the use of the University’s information and communications technology resources;
e. requiring the Respondent(s) to meet regularly with designated University staff members; and/or
f. a Behavioural Contract.

3.5.4 The Office of Student Support, Rights & Responsibilities (SSRR) may request that the Registrar impose interim measures which may include but are not limited to, prohibiting the Student from:

a. further enrollment in class;
b. receipt of official transcripts or other official University documents;
c. use of the University’s information and communication technology resources;
d. graduation; and/or
e. admission to other academic programs at the University.

3.5.5 The SSRR may add a temporary notation to the Respondent’s file in the Student Information System, limiting the Student’s activity in the system with permission from the Executive Director, Student Affairs.

3.5.6 If there are active or imminent acts of violence or threats of violence, the matter will be addressed under the University’s Response to Violence and Threatening Behaviour Policy (GP 25).

3.6 Voluntary Resolution

3.6.1 A Voluntary Resolution process does not result in a determination of whether the Policy has been violated. The focus is on finding a resolution to the Complaint. Examples of Voluntary Resolution include but are not limited to:

a. the Respondent participating in educational activities
b. the Complainant communicating to the Respondent that the Respondent’s behaviour is unacceptable; and/or

c. a facilitated conversation between the Complainant and the Respondent.

3.6.2 After reviewing the Complaint, the SSRR may discuss the matter with the Respondent to determine possible steps the Respondent could take to correct or resolve the issue. The SSRR may refer the Respondent to University and/or community-based support services.

3.6.3 A Respondent may be accompanied by a support person of their choice to the Voluntary Resolution meeting(s).

3.6.4 If the Complaint is not resolved by Voluntary Resolution, the matter may proceed to Investigation under section 3.7 of these procedures.

3.6.5 If the Respondent agrees to the resolution proposed by the SSRR, the SSRR will prepare a written Resolution Agreement outlining action to be taken by the Respondent, which the Respondent will sign.

3.6.6 The SSRR will retain a copy of the signed Resolution Agreement and will monitor the Respondent’s adherence with the Resolution Agreement.

3.6.7 Failure to adhere with a signed Resolution Agreement is prohibited under the Policy (see Appendix B, section 2.2.14). In the event the Respondent does not adhere with the conditions of the Resolution Agreement, the University may pursue both the original conduct addressed by the Resolution Agreement and the breach of the Resolution Agreement.

3.6.8 The Resolution Agreement will be revoked if the Respondent breaches the Resolution Agreement. If the Respondent fails to adhere with any aspect of the Resolution Agreement, the SSRR will proceed to Investigation under section 3.7 of these procedures.

3.6.9 A Resolution Agreement may be entered into at any time prior to the Executive Director, Student Affairs imposing disciplinary measures.

3.7 Investigation

Purpose And Conduct Of Investigation

3.7.1 When a Resolution Agreement is deemed not to be an appropriate course of action, was breached, or could not be reached, SSRR proceed with the Investigation. The SSRR will determine whether and how to investigate the Report, including whether to investigate it internally or whether the Investigation will be undertaken by an external Investigator.

3.7.2 The purpose of the Investigation is to determine what occurred.

3.7.3 In all cases, best efforts will be made to use Investigators with training in trauma-informed Investigations, and especially in cases involving sexualized violence and misconduct, bullying and harassment, and discrimination.
3.7.4 Where more than one Complaint has been made about a Respondent, the SSRR may decide that the Complaints will be investigated together.

3.7.5 The SSRR will notify the Complainant and Respondent in writing that an Investigation is being initiated.

3.7.6 The Complainant and the Respondent may each be accompanied by a support person of their choice to the Investigation meeting(s).

3.7.7 All Investigations under these procedures should:

a. be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;

b. be objective, and be fair and impartial to both the Complainant and the Respondent when evaluating the allegations;

c. comply with all relevant provisions in any applicable collective agreement or policy, including notice, timelines, and other process requirements;

d. be sensitive to the interests of all parties involved and maintain confidentiality to the extent possible under the circumstances; and

e. be focused on finding facts and evidence, which includes interviewing the Complainant, the Respondent, witnesses, and such other persons as the Investigator determines might have relevant information, as well as obtaining and reviewing any documents that the Investigator considers may contain relevant information.

3.7.8 The Investigator will be provided with, and will adhere to, the terms of reference for the Investigation, protocols for conducting the Investigation, and a timeline for completing the Investigation. Within those parameters, the Investigator has the discretion to conduct the Investigation in a manner they deem most appropriate in the circumstances, but always in accordance with the principles of procedural fairness.

3.7.9 In general, the Investigator will interview whomever the Investigator determines might have relevant information and who is willing to participate in the process. The Investigator may request one or more interviews with the Complainant and Respondent. The Investigator will also consider any evidence they decide is relevant for the Investigation Report.

3.7.10 If the Complainant or the Respondent refuses to cooperate with the Investigation, the Investigator may proceed with the Investigation without that person’s participation.

3.7.11 Upon the conclusion of an Investigation, the Investigator will prepare a written report (“Investigator’s Report”) in a manner that facilitates compliance with the access to information and protection of privacy provisions of the Freedom of Information and Protection of Privacy Act.

3.7.12 Where an external Investigator conducts the Investigation, the Guidelines in Appendix D will apply.
3.8 **Investigator’s Report**

3.8.1 Upon conclusion of the Investigation, the Investigator will prepare and submit the Investigator’s Report, which will include the findings of facts in the case, disputed and undisputed.

3.9 **Decision, Disciplinary Measures, And Notice Of Right To Appeal**

3.9.1 The Executive Director, Student Affairs will:

read and consider the Investigator’s Report;

a. provide the Respondent with a copy of the Investigator’s Report (redacted if necessary); and

b. provide the Respondent with an opportunity to meet with the Executive Director, Student Affairs to discuss the Investigator’s Report and to provide any submissions regarding the Investigator’s Report or about consequences which may be imposed by the Executive Director, Student Affairs.

3.9.2 At this stage, the Respondent may seek to negotiate a Resolution Agreement as described in section 3.6 of these procedures. Resolution Agreements do not constitute disciplinary measures.

3.9.3 The Executive Director, Student Affairs will consider the Investigator’s Report, the discussion, and submissions from the meeting with the Respondent, if any, and will decide whether, on a Balance of Probabilities, there was a breach of the Policy.

3.9.4 If the Executive Director, Student Affairs decides there was no breach of the Policy, they will dismiss the Complaint and their decision is final.

3.9.5 If the Executive Director, Student Affairs decides there was a breach of the Policy, they may do any of the following:

a. impose one or more of the Disciplinary Measures set out in Appendix C to the Policy, except suspension; or

b. recommend that the President suspend the Respondent.

3.9.6 In deciding upon the appropriate University response to a finding of a breach of the Policy, consideration must be given to the principles in section 1.0 of the Policy and to the following factors:

a. the extent of the Misconduct;

b. the impact of the Misconduct on members of the University Community;

c. the inadvertent or the deliberate nature of the Misconduct;
d. whether the act in question is an isolated incident or part of repeated acts of Misconduct; and

e. any other mitigating or aggravating circumstances.

3.9.7 The Executive Director, Student Affairs (“EDSA”) will communicate in writing to the Respondent:

a. their decision, with reasons, as to whether there was a breach of the Policy;

b. the disciplinary measures imposed, if any; and

c. notice that the Respondent has the right to appeal the decision and the disciplinary measures, where to direct the appeal, and the time limit and process for bringing an appeal.

3.9.8 If the Executive Director, Student Affairs recommends to the President that the Respondent be suspended, the EDSA will communicate this to the Respondent. The Respondent will be provided with an opportunity to meet with the President or to make a written submission to the President, or both, as they choose.

3.9.9 The President may suspend the Respondent or refer the matter back to the Executive Director, Student Affairs to impose a lesser sanction. If the President suspends the Respondent, the Respondent may appeal (see section 3.10 below).

3.9.10 The Executive Director, Student Affairs will, where appropriate, provide the Registrar with a copy of the decision, including any disciplinary measures.

3.9.11 The Registrar is responsible for taking any relevant actions in accordance with the decision, including making a notation on a Student’s transcript and placing an academic hold on a Student’s academic status for the duration of a suspension.

3.9.12 The Office of Student Support, Rights & Responsibilities will determine if any members of the University Community or academic or administrative departments need to be notified of any relevant actions related to the decision.

3.9.13 Upon request, the Executive Director, Student Affairs will provide the Complainant with a written decision summarizing the outcome of their Complaint.

3.10 Appeals To VPSI (From A Decision Of The EDSA)

3.10.1 The Complaint has no right to appeal a decision of the Executive Director, Student Affairs.

3.10.2 A Respondent may appeal the decision made by the Executive Director, Student Affairs and any disciplinary measures they imposed to the Vice Provost and Associate Vice-President, Students and International (“VPSI”). The VPSI will be the final point of appeal.
3.10.3 Appeals to the VPSI can be submitted on one or more of the following grounds:

   a. That a procedural error occurred of sufficient magnitude that it may reasonably be said to have affected the fairness of the process or altered the outcome of the case against the Respondent;

   b. That a factual error occurred of sufficient magnitude that it may reasonably be said to have altered the outcome of the case against the Respondent;

   c. That the penalty imposed on the Respondent is excessive considering all the circumstances of the case; or

   d. That new material evidence is available which, despite the exercise of due diligence by the Respondent wishing to appeal, could not have been made available to the Executive Director, Student Affairs at the time of the decision giving rise to the appeal.

3.11 Appeals To Senate (From A Decision Of The President)

3.11.1 A Student who the President has suspended may appeal the President’s decision to Senate.

3.12 Deliberately Misleading Complaints

3.12.1 Making a deliberately misleading Complaint under the Student Conduct Policy or its procedures is prohibited conduct that is subject to a range of corrective and disciplinary measures. Making a Complaint on a genuinely held but mistaken belief that Misconduct occurred is not considered to be deliberately misleading.

3.12.2 If the University determines that a deliberately misleading Complaint of Misconduct was made, the SSRR will, in consultation with the office responsible for the addressing the conduct of the Complainant, consider disciplinary action.

3.13 Multiple Proceedings

3.13.1 The University reserves the right to:

   a. proceed with, defer, or suspend its own processes where criminal, civil, or administrative proceedings are commenced about the alleged Misconduct;

   b. inform the relevant law enforcement agent without the consent of the Complainant if it has a reasonable belief that the safety of one or more persons may be at risk. Where practical, the University will inform the Complainant of its decision in advance;

   c. undertake proceedings under the Policy and these procedures where the matter is also being investigated or reviewed by authorities external to the University and, if the University determines that there has been a breach of this Policy, the University may discipline a Student regardless of the outcome of any processes external to the University.
3.14 **Access To Information, Confidentiality And Protection Of Privacy**

3.14.1 The information and records made and received to administer the Policy and these procedures are subject to the access to information and protection of privacy provisions of British Columbia’s *Freedom of Information and Protection of Privacy Act* and the University’s Information Policy series. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable University’s policies.

3.14.2 Complaints made under the Student Conduct Policy and addressed under these procedures may involve the collection, use, and disclosure of sensitive personal information. Confidentiality is required to that people will feel free to come forward. Confidentiality is also required so that the reputations and interests of those alleged to have engaged in Misconduct are protected. Either party may discuss the case in confidence with their support person, but the parties and their respective support person must be diligent about keeping all information they learn strictly confidential.

3.14.3 Subject to any limits or disclosure requirements imposed by law or by the Policy or these procedures, any and all information, oral and written, created, gathered, received, or compiled through the course of a Complaint is to be treated as confidential by both the Respondent and Complainant, their representatives, support persons, witnesses, and the officials designated by the Policy or these procedures.

3.14.4 Any person breaching confidentiality may be subject to disciplinary sanction or other appropriate action.

3.15 **Related Legal, Policy Authorities, And Agreements**

3.15.1 The legal and other University policy authorities that may bear on the administration of these Procedures, and may be consulted as needed, include, but are not limited to:


d. Student Academic Integrity (S10.01)

e. Senate Committee on Disciplinary Appeals (S10.03)

f. Human Rights Policy (GP 18)

g. Fair Use of Information and Communications Technology (GP 24)

h. Response to Violence and Threatening Behaviour (GP 25)

i. Bullying and Harassment Policy (GP 47)
j  Sexual Violence and Misconduct Prevention, Education and Support Policy (GP 44)

k  SFU’s Information Policies (I-10 series)

l  Residence Handbook and Residence Licence Agreement

m  SFU Field School Code of Conduct; SFU Field School Student Acknowledgement