



SUBJECT	PROPOSED AMENDMENT OF POLICY SC13 – AT-RISK BEHAVIOUR POLICY		
REPORT TO	PEOPLE, COMMUNITY AND INTERNATIONAL COMMITTEE		
MEETING DATE	NOVEMBER 26, 2019		
MATTER TYPE	<input type="checkbox"/> BOARD DISCUSSION NOT REQUIRED <b>a</b> BOARD DISCUSSION REQUIRED		
ACTION REQUESTED	For People, Community and International Committee’s information and input		
REPORT DATE	November 5, 2019		
EXECUTIVE PROPONENT	Hubert Lai, Q.C., University Counsel		
PRESENTED BY	Mark Crosbie, Associate University Counsel		
SUPPORTED BY	Ainsley Carry, Vice-President Students Barbara Meens Thistle, Vice-President Human Resources		

## EXECUTIVE SUMMARY

The At-Risk Behaviour Policy governs the process followed by UBC when imposing restrictions on individuals who pose a risk to themselves, to others, to property on UBC's premises or who disrupt lawful and legitimate activities on UBC premises. Restrictions including banning individuals from UBC premises, or parts of premises; restricting use of UBC facilities including computing facilities; and imposing no contact orders on individuals. The purpose of the proposed At-Risk Behaviour Policy (SC13) and associated Procedures (together, the "**Proposed Policy**") is to update the current Policy to reflect best practices and to integrate the Policy with policies that didn't exist, or have been substantially revised since this Policy was created. These include:

- Proposed revisions to the Sexual Misconduct Policy (SC17)
- Investigations Policy (SC8)
- Discrimination Policy (SC7)
- Proposed Retaliation Policy (SC18)

The Proposed Policy establishes an up-to-date, principled and flexible approach to addressing At-Risk-Behaviour. More particularly, the Proposed Policy:

1. Contains a statement of General Principles that provide guidance for interpreting the Proposed Policy.
2. Is integrated with other current and proposed revisions to Board policies.
3. Provides clearer and more concise language to describe the process of assessing At-Risk Behaviour and imposing restrictions.
4. Is implemented and interpreted using a trauma-informed approach without compromising administrative fairness for respondents.
5. Facilitates current and anticipated practices for dealing with At-Risk Behaviour on both campuses.
6. Provides clear guidance for Decision Makers regarding the factors to consider when imposing restrictions.

7. Gives Decision Makers more flexibility in addressing At-Risk Behaviour by expanding and listing the types of restrictions that can be imposed on individuals.
8. Clarifies the authority of Decision Makers to impose interim restrictions, subject to requirements that are intended to ensure administrative fairness.
9. Requires that whenever restrictions are imposed that may materially interfere with student life or a students' studies for 21 days or more, the At-Risk Behaviour will be the subject of a formal investigation.
10. Provides for alternative processes for putting restrictions in place on a voluntary basis.
11. Provides guidance for voluntary accommodations that can be made without resorting to formal restrictions.
12. Ensures that jurisdiction to impose restrictions under the Proposed Policy is consistent with jurisdiction to investigate in the proposed Sexual Misconduct Policy (SC13) and Discrimination Policy (SC7).

The most significant issues the committee considered and discussed while reviewing the Proposed Policy were the following:

1. What General Principles should govern the Proposed Policy.
2. Revisions to the definition of At-Risk-Behaviour.
3. What limitations there should be on the jurisdiction of Decision Makers to assess At-Risk Behaviour.
4. What guidance do Decision Makers need when assessing At-Risk-Behaviour.
5. What additional types of restrictions are necessary to meet the objectives of the policy.
6. How to ensure consistency with other policies, in particular, investigatory policies such as the Sexual Misconduct Policy (SC13) and Discrimination Policy (SC7).


The proposed amendments are unanimously recommended by the members of the Committee.

Subject to input from the Board, community consultation will be undertaken. This will include publication on the website of the Office of the University Counsel with a call for comments from the broader UBC community, as well as broadcast e-mails to heads of academic units, administrative units, student governments, and unions/employee associations from the Okanagan and Vancouver campuses. All input from the broader UBC community will be considered by the Committee in formulating its final proposal for amendments to the Proposed Policy.

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## SUPPLEMENTAL MATERIALS

1. Proposed amendments to At-Risk Behaviour Policy (SC13) – clean copy
2. Proposed amendments to At-Risk Behaviour Policy (SC13) – blackline copy
3. List of Members of the Policy Development Committee
4. The current At-Risk Behaviour Policy (SC13) is available at:  
[https://universitycounsel.ubc.ca/files/2019/08/At-Risk-Behaviour-Policy\\_SC13.pdf](https://universitycounsel.ubc.ca/files/2019/08/At-Risk-Behaviour-Policy_SC13.pdf)

 <b>The University of British Columbia Board of Governors</b>	<b>Policy No.:</b>  <b>SC13</b>  <b>Board Committee Information Draft</b>
<b>Long Title:</b>  <p style="text-align: center;">Response to At-Risk Behaviour</p>	
<b>Short Title:</b>  <p style="text-align: center;"><b>At-Risk Behaviour Policy</b></p>	

### Background & Purposes:

UBC strives to provide a welcoming environment in which all individuals can visit, work, and study without threat to personal safety or property, or disruption. When such threats or disruption occur, it is important that UBC intervene to address such behaviour promptly and effectively. This policy outlines procedures for the UBC community to follow when faced with At-Risk Behaviour, which includes behaviour that threatens personal safety or property, or disrupts lawful or legitimate activities on UBC premises.

### 1. General Principles

- 1.1 UBC strives to provide a safe and welcoming environment in which all students, faculty members, staff members, and visitors work, study and interact without threat to personal safety or property, or disruption of their lawful and legitimate activities on UBC Premises. UBC will intervene, to the extent of its legal authority, to address At-Risk Behaviour in accordance with this Policy and its Procedures.
- 1.2 Members of the UBC community and visitors to UBC must comply with any Restrictions imposed on them pursuant to this Policy and its Procedures.
- 1.3 Restrictions imposed pursuant to this Policy against Students, faculty members, and staff members are intended to address safe functioning of UBC and are not intended to be disciplinary or indicative of wrongdoing.
- 1.4 When imposing Restrictions under this Policy, UBC must act fairly, considering both the seriousness of the At-Risk Behaviour and the disruption that the Restrictions will create for the Respondent and other people.
- 1.5 UBC will not tolerate retaliation against anyone who, in good faith, complains, gives evidence, or otherwise participates in a process under this Policy. UBC considers retaliation to be a serious matter because it prevents potential complainants, witnesses, and administrators from acting on their concerns and will deal with retaliation as set out in the Retaliation Policy (SC18).

- 1.6 UBC is committed to reducing barriers to accessing this Policy, and to taking a trauma-informed approach when responding to and assessing At-Risk-Behaviour.
- 1.7 This Policy and Procedures must be interpreted and applied in accordance with the Senates' Statements on Academic Freedom, as may be amended from time to time.
- 1.8 UBC respects the right of members of the UBC community to conduct their own personal lives. This Policy governs conduct only to the extent necessary to protect the integrity and proper functioning of the academic and non-academic activities of UBC; to ensure the peaceful and safe enjoyment of UBC facilities by members of the UBC community and the public; to protect the freedom of members of UBC to participate reasonably in the programs of UBC and in activities in or on UBC's premises; to provide UBC faculty members and staff members with a safe and secure workplace; and to protect the property of UBC and its members and visitors.

## **2. Relationship to Other Processes**

- 2.1 Nothing in this Policy detracts from the powers of UBC and nothing in this Policy shall act to limit or diminish any power or authority that may be exercised by the employees or agents of UBC. Without limiting the generality of the forgoing, nothing in this Policy restricts or governs:
  - 2.1.1 the authority of the UBC administration to manage student residences, faculty housing, and staff housing on UBC Premises; or
  - 2.1.2 the authority of faculty and staff members to manage conduct during research, learning, and teaching activities such as in classrooms, laboratories, and other teaching or research facilities and during field trips and other off campus learning or research activities; or
  - 2.1.3 the authority of any representatives of UBC to carry out their day-to-day responsibilities, including their ability to require people to immediately leave any part of UBC Premises under their authority and to comply with any other reasonable directions.
- 2.2 The exercise of powers pursuant to this Policy does not preclude proceedings being taken regarding the same facts pursuant to other UBC processes, the criminal justice system, or civil law proceedings.
- 2.3 Nothing in this Policy is intended to restrict the lawful exercise of employee rights.



## PROCEDURES ASSOCIATED WITH THE AT-RISK BEHAVIOUR 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 accompanying Policy, being the At-Risk Behaviour Policy.*

### 1. Definitions

1.1 **“At-Risk Behaviour”** means behaviour that:

- 1.1.1 disrupts lawful and legitimate activities on UBC Premises; or
- 1.1.2 leads to a reasonable belief that the safety of any person(s) on UBC Premises is threatened; or
- 1.1.3 leads to a reasonable belief that the safety of property of UBC or the property of another person located on UBC Premises is threatened; or
- 1.1.4 leads to a reasonable belief that the person engaging in the behaviour is at imminent risk of harm; or
- 1.1.5 leads to a reasonable belief that there is a threat to the safety of any person(s) on UBC Premises whether or not such threat was communicated to such person(s).

When determining whether repeated behaviours constitute At-Risk Behaviour, the cumulative impact of those behaviours must be considered.

1.2 **“Campus Security”** means the UBC Okanagan Department of Campus Security or the UBC Vancouver Department of Campus Security, as appropriate.

1.3 **“Complainant”** means an individual who is directly subjected to At-Risk-Behaviour.

1.4 **“Decision Maker”** means the person outlined in section 4.1.4 of the Procedures who is responsible for imposing, modifying, or rescinding Restrictions in each specific instance as outlined in this Policy.

1.5 **“Director of Campus Security”** means the Associate Director, Campus Security, UBC Okanagan, or the Director of Campus Security, UBC Vancouver, as appropriate.

- 1.6 **“Director of Health and Safety”** means the Director of the Department of Health, Safety and Environment, UBC Okanagan or the Director, Occupational Health and Research Safety of the Risk Management Services Department, UBC Vancouver.
- 1.7 **“Director of Investigations”** means the Director of Investigations identified in the Sexual Misconduct Policy (SC17) and the Discrimination Policy (SC7).
- 1.8 **“Disaster Response Plan”** means, as appropriate, the plans contemplated under the Disaster Management Policy (SC10) that are in place for dealing with campus-wide emergencies at UBC Okanagan or UBC Vancouver, as appropriate.
- 1.9 **“Emergency”** means a situation where there is a reasonable belief that At-Risk Behaviour has occurred or may occur and UBC must take immediate action to protect the safety of any person(s) or property on UBC Premises.
- 1.10 **“Head of Student Affairs”** means the Vice-President, Students in respect of At-Risk Behaviour alleged to have been undertaken by a UBC Vancouver Student and the Associate Vice-President, Students (UBC Okanagan) in respect of At-Risk Behaviour alleged to have been undertaken by a UBC Okanagan Student.
- 1.11 **“Health and Safety”** means the Department of Health, Safety and Environmental Services, UBC Okanagan or the division responsible for workplace health and safety in the Department of Safety and Risk Services, UBC Vancouver, as appropriate.
- 1.12 **“Provost”** means the Provost and Vice President Academic (UBC Vancouver) or the Provost and Vice President Academic (UBC Okanagan), as appropriate.
- 1.13 **“Report”** means a Report as defined in the Sexual Misconduct Policy (SC17).
- 1.14 **“Respondent”** means a person who is reported to have engaged in At-Risk-Behaviour.
- 1.15 **“Restrictions”** means any restrictions on a Respondent’s ability to enter upon or to carry out activities upon UBC Premises, or their ability to use UBC facilities or services, or to interact with members of the UBC community, which may include but are not limited to:
  - 1.15.1 prohibiting a Respondent from contacting (directly or indirectly through any means) another person;
  - 1.15.2 excluding a Respondent from all or any part of UBC Premises (this may include restrictions from certain locations at certain times or restricting a person’s options for traversing campus to certain routes);
  - 1.15.3 changing a Respondent Student’s academic schedules for courses, tutorials, lab sections, or providing alternative course work in lieu of attending class;
  - 1.15.4 requiring a Respondent Student to withdraw from courses or other academic activities;

- 1.15.5 relocating a Respondent Student to a different UBC operated residence room, residence building, or residence complex, or requiring the Student to leave the UBC operated residence system altogether;
- 1.15.6 prohibiting activities, or implementing controls over activities that a Respondent may undertake on UBC Premises;
- 1.15.7 prohibiting access to, or implementing controls over, any facilities or services operated by UBC, including without limitation computer and communication systems;
- 1.15.8 imposing restrictions on UBC faculty members and staff members (including faculty members who are not employees) in accordance with any applicable employment laws, contracts, policies, or collective agreements; and
- 1.15.9 any steps required of the Respondent should the Respondent be entitled to apply to remove the Restrictions at a later date.
- 1.16 **“SVPRO”** means the Sexual Violence Prevention and Response Office located at UBC Vancouver or UBC Okanagan, as appropriate.
- 1.17 **“UBC Premises”** means lands and premises over which UBC exercises control.
- 1.18 **“Student”** means a person who is presently enrolled at UBC in a credit course or who is designated by resolution of UBC Senate as a student.

## 2. Assistance and Support

- 2.1 Where a person reasonably believes that a Student, faculty member, or staff member is at risk of harm, in addition to any action taken pursuant to this Policy, appropriate assistance and support should be offered to such person. For assistance with these matters please contact the following offices:

Individual is a	Office to Contact
Student of UBC Okanagan	Office of the Associate Vice President, Students
Student of UBC Vancouver	Office of the Vice President for Students
Staff member or Faculty member of UBC Okanagan	Department of Human Resources
Staff member of UBC Vancouver	Department of Human Resources
Faculty member of UBC Vancouver	Faculty Relations

### 3. Responding to Emergencies

- 3.1 At-Risk Behaviour may or may not result in an Emergency. Where an Emergency does arise, any member of the UBC community who becomes aware of an Emergency should follow these steps:
  - 3.1.1 Wherever possible, get to a safe location and alert those nearby. The first priority is personal safety. Lives take precedence over property.
  - 3.1.2 Dial 911 if appropriate. The individual should provide their location and complete details of the Emergency.
  - 3.1.3 Report the Emergency to either UBC Okanagan Campus Security ((250) 807-8111) or UBC Vancouver Campus Security ((604) 822-2222), as appropriate.
- 3.2 Once Campus Security staff become aware of an Emergency, Campus Security staff are authorized to immediately implement such Restrictions on behalf of UBC as are necessary to respond to the Emergency. Units and employees of UBC must, subject to the provisions of Article 5.0, provide Campus Security with any information requested to assist Campus Security to manage an Emergency.
- 3.3 Campus Security staff will, if it is appropriate to do so, liaise with any appropriate emergency services (for example the police, fire department, ambulance service, etc.).
- 3.4 Where the Emergency calls for action under the Disaster Response Plan, Campus Security will notify the relevant persons as set out in the Disaster Response Plan and decision-making authority for responding to the Emergency will be transferred to such person or persons as set out in the Disaster Response Plan.

### 4. General Provisions for Handling Non-Emergency or Post-Emergency Situations

- 4.1 Where members of the UBC community have a reasonable belief that At-Risk Behaviour has occurred or will occur, but such At-Risk-Behaviour has not resulted in an Emergency or the Emergency has been resolved under Article 3.0 of these Procedures, they must refer the At-Risk Behaviour to the Director of Campus Security for assessment and management pursuant to this Policy as follows:
  - 4.1.1 Where the At-Risk Behaviour might pose a threat to any UBC employees, Campus Security will notify Health and Safety of the At-Risk-Behaviour and the Director of Health and Safety will be responsible for managing UBC's compliance with the Workers Compensation Act and its regulations.
  - 4.1.2 Where At-Risk Behaviour might constitute Sexual Misconduct pursuant to the Sexual Misconduct Policy (SC17) Campus Security will refer the Complainant to the SVPRO.
  - 4.1.3 Campus Security will refer the matter to the appropriate Decision Maker, or retain responsibility for the matter as Decision Maker in accordance with section 4.1.4. Any Restrictions imposed during an Emergency must be reviewed as soon as practicable by



the appropriate Decision Maker. The Decision Maker may maintain, modify or rescind any such Restrictions or impose new Restrictions.

- 4.1.4 The appropriate Decision Maker will be determined in relation to the identity of the Respondent as follows:

<b>Respondent is a</b>	<b>Decision Maker</b>
Student	Head of Student Affairs
Student who is also an employee	Head of Student Affairs and Vice President Human Resources jointly
Staff member	Vice President, Human Resources
Faculty member (whether or not an employee)	Vice President Human Resources
Any other person	Director of Campus Security

- 4.1.5 A Decision Maker may delegate all or any portion of their authority to act or to make any decision contemplated by this Policy to one or more persons, provided the delegation is made in writing. The Vice President Human Resources will ensure that persons on both the Vancouver campus and the Okanagan campus can exercise the Vice President Human Resources' authority pursuant to this Policy.
- 4.2 A Decision Maker may seek advice or information from any persons or groups of persons the Decision Maker believes may assist them to exercise their authority pursuant to this Policy, including but not limited to:
- 4.2.1 the SVPRO and the Independent Investigations Office regarding matters that may involve sexual misconduct; and
- 4.2.2 Campus Security and the Office of the University Counsel as a general resource regarding the matters contemplated in this Policy.
- 4.3 Where Restrictions are imposed or reviewed pursuant to section 4.1.3 of these Procedures, such Restrictions must take into consideration the factors listed in Article 6.0.
- 4.4 Unless and until modified or rescinded in writing as provided in 4.1.3 of these Procedures, all Restrictions implemented under Article 3.0 of these Procedures will remain in effect.

## **5. Communication**

- 5.1 Campus Security should take steps, as soon as reasonably practicable, to notify persons who have been threatened or impacted by At-Risk-Behaviour of the status of any threats and UBC's response. The Office of the University Counsel should be consulted where appropriate regarding any privacy considerations with respect to such notifications.
- 5.2 All Decision Makers, after imposing, modifying or rescinding Restrictions, must promptly provide a copy of such decision to the Director of Campus Security.

- 5.3 Information about At-Risk Behaviour will be treated as confidential and may only be disclosed to others, including others at UBC, where to do so is necessary under the terms of this Policy, or as otherwise authorized by the BC Freedom of Information and Protection of Privacy Act.
- 5.4 Nothing in this Policy requires employees of UBC to disclose information, where such disclosure would cause an employee who has a professional designation in the medical or mental health fields to breach the code of ethics governing their profession.

## **6. Considerations when Imposing Restrictions**

- 6.1 Restrictions can only be imposed where the At-Risk Behaviour:
  - 6.1.1 occurred on UBC Premises; or
  - 6.1.2 occurred in a context with a real and substantial connection to UBC. Each incident and its connection to UBC will be considered on its particular factual circumstances.
- 6.2 Restrictions must, in the opinion of the person imposing, modifying, or rescinding Restrictions, be reasonably necessary to properly respond to the At-Risk Behaviour while balancing the interests of the Respondent and the legitimate interests of UBC, the Complainant (if any), and any other impacted members of the UBC community. Restrictions must be the least restrictive measures for the shortest period of time necessary to:
  - 6.2.1 protect members of the UBC community;
  - 6.2.2 preserve the confidence of the UBC community in UBC's ability to maintain a safe environment;
  - 6.2.3 preserve the integrity of any subsequent investigation; and
  - 6.2.4 avoid interference, to the extent possible, with the Complainant's or Respondent's UBC activities.
- 6.3 When determining what Restrictions to impose, modify, or rescind, the Decision Maker must consider, as applicable:
  - 6.3.1 the nature of the allegation(s), assessed objectively, with regard to:
    - (a) the degree of threat to any person's physical safety;
    - (b) the degree of threat to any property;
    - (c) the existence of a power imbalance between the Complainant and the Respondent; and
    - (d) where an incident involves multiple Respondents, the degree of participation of the Respondent who is the subject of the Restrictions;

- 6.3.2 the Senates' Statements on Academic Freedom and UBC's commitment to freedom of expression; and
- 6.3.3 the principles of trauma-informed decision making.
- 6.4 When determining what Restrictions to impose, modify, or rescind, the Decision Maker may consider any other information the Decision Maker considers relevant including but not limited to, as applicable:
  - 6.4.1 without being required to conduct an investigation, the prima facie strength of the case against the Respondent including initial evidence available to the Decision Maker regarding the At-Risk-Behaviour;
  - 6.4.2 any previous relevant findings regarding the Respondent from previous UBC investigations of which the Decision Maker is aware; and
  - 6.4.3 the Respondent's compliance with existing or past Restrictions.
- 6.5 The Decision Maker will provide the Respondent with the reason for the imposition, modification or rescission of Restrictions.
- 6.6 Where a report of At-Risk-Behaviour is made anonymously or by someone who wishes to remain anonymous, UBC may be unable to impose Restrictions where doing so would violate procedural fairness.

## **7. Special Provision for Reports of Sexual Misconduct**

- 7.1 Where the Director of Investigations has received a Report that may include At-Risk Behaviour and has determined that UBC has jurisdiction to investigate pursuant to the Sexual Misconduct Policy (SC17), the Director of Investigations will provide the Decision Maker with a written description of the reported At-Risk Behaviour to enable the Decision Maker to determine what, if any, Restrictions should be imposed on the Respondent in accordance with the provisions of this Policy. Before making this determination, the Decision Maker may request information from the SVPRO and any other UBC units.

## **8. Special Provisions for Faculty Members and Staff Members**

- 8.1 The implementation of Restrictions in respect of a Respondent who is a UBC faculty member or staff member (including faculty members who are not employees) must not be inconsistent with any applicable employment laws, contracts, policies, or collective agreements.

## **9. Special Provisions for Students**

- 9.1 Imposing Restrictions on a Student pursuant to Article 3.0 or Article 4.0 of these Procedures is not a disciplinary action or a finding of wrongdoing, however, imposing Restrictions may nonetheless affect the ability of a Student to study and participate in student life. If it appears that Restrictions (other than Restrictions voluntarily agreed to pursuant to Article 10) will need to be maintained for more than 21 days and such Restrictions would materially:

9.1.1 affect the Respondent's ability to continue with their studies at UBC; or

9.1.2 interfere with the Respondent's participation in student life at UBC;

then one of the following actions must take place:

9.1.3 if the At-Risk Behaviour or some component of the At-Risk Behaviour appears to constitute misconduct pursuant to the UBC Student Code of Conduct, the Head of Student Affairs will consult with the person responsible for managing that process, and if that person agrees, refer the matter to be handled as a misconduct case pursuant to section 61 of the University Act, in which case the Restrictions will be automatically rescinded upon a decision being made by the President and replaced by whatever discipline, if any, that may be imposed by the President; or

9.1.4 if the At-Risk Behaviour is disclosed as result of a Report made pursuant to the Sexual Misconduct Policy (SC17), the matter will be adjudicated pursuant to that policy in which case the Restrictions will be automatically rescinded upon a decision being made by the President and replaced by whatever discipline, if any, that may be imposed by the President; or

9.1.5 If the At-Risk Behaviour is investigated under another existing UBC process with adequate procedural protections, the Head of Student Affairs may rely upon the factual findings of that process, and upon receipt of the findings of that process, may modify or rescind existing Restrictions or impose new Restrictions; or

9.1.6 if the At-Risk Behaviour is not dealt with pursuant to sections 9.1.3 to 9.1.5 the Head of Student Affairs will undertake an investigation in accordance with the Investigations Policy (SC8). Upon completion of this investigation the Head of Student Affairs will make a finding, based on a balance of probabilities, regarding whether the Respondent engaged in the At-Risk Behaviour, and if so, may modify or rescind existing Restrictions on a Student or impose new Restrictions.

9.2 If the Head of Student Affairs has imposed Restrictions on a Student pursuant to section 9.1.6 of these Procedures, the Student may request a review of the decision of the Head of Student Affairs. The review will be carried out by the Provost. The following provisions will apply to such review:

9.2.1 The Student must provide the Provost with a request for a review in writing within 14 days of the decision of the Head of Student Affairs pursuant to section 9.1.6 of these Procedures. The request for review will state the Student's concerns regarding the decision of the Head of Student Affairs and will include any documentation upon which the Student wishes to rely.


9.2.2 The Provost may modify the decision of the Head of Student Affairs and modify any Restrictions if:

- (a) the Provost determines that, based upon the evidence considered by the Head of Student Affairs, the decision of the Head of Student Affairs, or the Restrictions imposed by the Vice President, are unreasonable; or
  - (b) the Student provides the Provost with new information that was not reasonably available to the Student at the time the decision of the Head of Student Affairs was made and such information, in the opinion of the Provost, would have changed the decision of the Head of Student Affairs if it had been considered by the Head of Student Affairs.
- 9.2.3 The Provost will review the request for review of the Student, and may solicit a written response from the Head of Student Affairs. The Provost will not rehear the matter or conduct a new investigation into the matter.
- 9.2.4 Any Restrictions imposed on the Student will remain in force until such time as the Provost has provided a written decision regarding the request for review.
- 9.2.5 The Provost may accept a request for review pursuant to section 9.2.1 later than 14 days from the decision of the Head of Student Affairs if the Provost is satisfied, in the Provost's absolute discretion, that the Student was unable to provide it within 14 days.
- 9.2.6 Each of the Provosts may establish a process to follow with respect to requests for review, provided that such process is consistent with this Policy. The Provosts may establish different processes for UBC Okanagan and UBC Vancouver.

## **10. Voluntary Measures**

- 10.1 If the Decision Maker believes that an alternative process for addressing the At-Risk Behaviour may be appropriate in the circumstances, they will discuss this option with the Complainant (if any) and the Respondent. If the Respondent and Complainant (if any) agree to participate in an alternative process and the Decision Maker is satisfied that an alternative process is appropriate, then the Decision Maker will explore the options available and will refer the matter to that process and may modify or rescind existing Restrictions or impose new Restrictions as a result of that process.
- 10.2 Participation in an alternative process is entirely voluntary. If either the Complainant (if any) or the Respondent decides they no longer wish to participate in the alternative process at any time, then the Decision Maker will deal with the matter in accordance with the other provisions of this Policy. Notwithstanding the preceding sentence, once Restrictions have been established with the voluntary agreement of the Respondent and Complainant (if any) they are binding on the Respondent, are no longer voluntary, and must be complied with by the Respondent.
- 10.3 Nothing in this Policy prohibits UBC from taking measures to protect, or provide comfort and assistance to a Student, faculty member, or staff member that do not impact the Respondent provided such measures comply with and are approved in accordance with UBC's rules and procedures. Examples of possible measures include but are not limited to:

- 10.3.1 access to counseling and medical services;
- 10.3.2 assistance in arranging rescheduling of exams and assignments and extensions of deadlines;
- 10.3.3 academic support;
- 10.3.4 change in the Complainant's class schedule, including the ability to transfer course sections or withdraw from a course without penalty;
- 10.3.5 change in the Complainant's UBC work schedule or job assignment;
- 10.3.6 change in housing provided by UBC;
- 10.3.7 safety planning;
- 10.3.8 voluntary leaves of absence; and
- 10.3.9 any other remedial measure that can be used to achieve the goals of this Policy.

 <b>The University of British Columbia Board of Governors</b>	<b>Policy No.:</b>  <b>SC13</b>  <a href="#"><u>Board Committee</u></a> <a href="#"><u>Information Draft</u></a>
<b>Long Title:</b>  <p style="text-align: center;">Response to At-Risk Behaviour</p>	
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### Background & Purposes:

The University ~~UBC~~ strives to provide a welcoming environment in which all individuals can visit, work, and study without threat to personal safety or property, or disruption. When such threats or disruption occur, it is important that ~~the University act to control~~ UBC intervene to address such behaviour promptly and effectively. This policy outlines procedures for the ~~University~~ UBC community to follow when faced with ~~behaviour that threatens personal safety or property, or disrupts lawful or legitimate activities.~~

~~1. Response to At Risk Behaviour~~ 1.1 ~~Members of the University community who encounter~~ At-Risk Behaviour, which includes behaviour that threatens personal safety or property, or disrupts lawful or legitimate activities, ~~must follow the Procedures associated with this Policy.~~ on UBC premises.

### 1. General Principles

1.1 UBC strives to provide a safe and welcoming environment in which all students, faculty members, staff members, and visitors work, study and interact without threat to personal safety or property, or disruption of their lawful and legitimate activities on UBC Premises. UBC will intervene, to the extent of its legal authority, to address At-Risk Behaviour in accordance with this Policy and its Procedures.

1.2 Members of the UBC community and visitors to UBC must comply with any Restrictions imposed on them pursuant to this Policy and its Procedures.

- 1.3 Restrictions imposed pursuant to this Policy against Students, faculty members, and staff members are intended to address safe functioning of UBC and are not intended to be disciplinary or indicative of wrongdoing.
- 1.4 When imposing Restrictions under this Policy, UBC must act fairly, considering both the seriousness of the At-Risk Behaviour and the disruption that the Restrictions will create for the Respondent and other people.
- 1.5 UBC will not tolerate retaliation against anyone who, in good faith, complains, gives evidence, or otherwise participates in a process under this Policy. UBC considers retaliation to be a serious matter because it prevents potential complainants, witnesses, and administrators from acting on their concerns and will deal with retaliation as set out in the Retaliation Policy (SC18).
- 1.6 UBC is committed to reducing barriers to accessing this Policy, and to taking a trauma-informed approach when responding to and assessing At-Risk-Behaviour.
- 1.7 This Policy and Procedures must be interpreted and applied in accordance with the Senates' Statements on Academic Freedom, as may be amended from time to time.
- 1.8 UBC respects the right of members of the UBC community to conduct their own personal lives. This Policy governs conduct only to the extent necessary to protect the integrity and proper functioning of the academic and non-academic activities of UBC; to ensure the peaceful and safe enjoyment of UBC facilities by members of the UBC community and the public; to protect the freedom of members of UBC to participate reasonably in the programs of UBC and in activities in or on UBC's premises; to provide UBC faculty members and staff members with a safe and secure workplace; and to protect the property of UBC and its members and visitors.

## 2. Relationship to Other Processes



2.1 Nothing in this Policy detracts from the powers of UBC and nothing in this Policy shall act to limit or diminish any power or authority that may be exercised by the employees or agents of UBC. Without limiting the generality of the forgoing, nothing in this Policy restricts or governs:

2.1.1 the authority of the UBC administration to manage student residences, faculty housing, and staff housing on UBC Premises; or

2.1.2 the authority of faculty and staff members to manage conduct during research, learning, and teaching activities such as in classrooms, laboratories, and other teaching or research facilities and during field trips and other off campus learning or research activities; or

2.1.3 the authority of any representatives of UBC to carry out their day-to-day responsibilities, including their ability to require people to immediately leave any part of UBC Premises under their authority and to comply with any other reasonable directions.

2.2 The exercise of powers pursuant to this Policy does not preclude proceedings being taken regarding the same facts pursuant to other UBC processes, the criminal justice system, or civil law proceedings.

2.3 Nothing in this Policy is intended to restrict the lawful exercise of employee rights.



## PROCEDURES ASSOCIATED WITH THE AT-RISK BEHAVIOUR 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 accompanying Policy, being the At-Risk Behaviour Policy.*

### 1. ~~1.~~ Definitions

1.1 “At-Risk Behaviour” means behaviour that:

- 1.1.1 disrupts lawful and legitimate activities on ~~University~~UBC Premises; or
- 1.1.2 leads to a reasonable belief that the safety ~~or security~~ of any person(s) on ~~University~~UBC Premises is threatened; or
- 1.1.3 leads to a reasonable belief that the safety of property of ~~UBC or the University~~ ~~or property of~~ another person located on ~~University~~UBC Premises is threatened; or
- 1.1.4 leads to a reasonable belief that the ~~individual~~person engaging in the behaviour is at imminent risk of harm ~~to himself or herself~~; or
- 1.1.5 leads to a reasonable belief that there is a threat to the safety ~~or security~~ of any person(s) on ~~University~~UBC Premises whether or not such threat was communicated to such person(s).

When determining whether repeated behaviours constitute At-Risk Behaviour, the cumulative impact of those behaviours must be considered.

- 1.2 **“Campus Security”** means the UBC Okanagan Department of ~~Parking and~~ Campus Security or the UBC Vancouver Department of Campus Security, as appropriate.
- 1.3 **“Complainant”** means an individual who is directly subjected to At-Risk-Behaviour.
- 1.4 **“Decision Maker”** means the person outlined in section 4.1.4 of the Procedures who is responsible for imposing, modifying, or rescinding Restrictions in each specific instance as outlined in this Policy.
- 1.5 ~~1.3~~ **“Director of Campus Security”** means the Associate Director ~~of~~ Campus Security ~~and Parking Services~~, UBC Okanagan, or the Director of Campus Security, UBC Vancouver, as appropriate.
- 1.6 ~~1.4~~ **“Director, of Health, and Safety and Environment”** means the Director of the Department of Health, Safety and Environment, UBC Okanagan or the ~~Manager~~ Director, Occupational Health and Research Safety of the Risk Management Services Department, UBC Vancouver, ~~as appropriate~~.
- 1.7 **“Director of Investigations”** means the Director of Investigations identified in the Sexual Misconduct Policy (SC17) and the Discrimination Policy (SC7).
- 1.8 ~~1.5~~ **“Disaster Response Plan”** means as appropriate, the plans contemplated under the Disaster Management Policy (SC10) that are in place for dealing with campus-wide emergencies at UBC Okanagan or UBC Vancouver, as appropriate.
- 1.9 ~~1.6~~ **“Emergency”** means a situation where ~~At-Risk Behaviour leads to~~ there is a reasonable belief that ~~the University~~ At-Risk Behaviour has occurred or may occur and UBC must take immediate action to protect the safety ~~and security~~ of any ~~property or~~ person(s) or property on ~~University~~ UBC Premises.
- 1.10 ~~1.7~~ **“Head of Student Affairs”** means: ~~1.7.1 — The the~~ Vice President, Students ~~(in respect of At-Risk Behaviour alleged to have been undertaken by a UBC Vancouver); or~~ ~~1.7.2 — The Student and the~~ Associate Vice President, Students (UBC Okanagan) ~~as appropriate~~ in respect of At-Risk Behaviour alleged to have been undertaken by a UBC Okanagan Student.
- 1.11 ~~1.8~~ **“Health, and Safety and Environment”** means the Department of Health, Safety and ~~Environment~~ Environmental Services, UBC Okanagan or the division responsible for workplace health and safety in the ~~Risk Management Services~~ Department of Safety and Risk Services, UBC Vancouver, as appropriate.
- 1.12 ~~1.9~~ **“Provost / Principal”** means: ~~1.9.1~~ the Provost and Vice President Academic (UBC Vancouver); ~~or~~ ~~1.9.2~~ the ~~Deputy Provost and~~ Vice ~~Chancellor and Principal~~ President Academic (UBC Okanagan), as appropriate.
- 1.13 ~~1.10~~ **“Report”** means a Report as defined in the Sexual Misconduct Policy (SC17).
- 1.14 **“Respondent”** means a person who is reported to have engaged in At-Risk-Behaviour.

1.15 **“Restrictions”** means any restrictions on a ~~person~~Respondent’s ability to enter upon or to carry out activities upon UniversityUBC Premises, or their ability to use University facilities, ~~including but not limited to:~~UBC facilities or services, or to interact with members of the UBC community, which may include but are not limited to:

1.15.1 prohibiting a Respondent from contacting (directly or indirectly through any means) another person;

1.15.2 excluding a Respondent from all or any part of UBC Premises (this may include restrictions from certain locations at certain times or restricting a person’s options for traversing campus to certain routes);

1.15.3 changing a Respondent Student’s academic schedules for courses, tutorials, lab sections, or providing alternative course work in lieu of attending class;

~~1.10.1 the exclusion of one or more persons from all or any part of University Premises;~~

1.15.4 requiring a Respondent Student to withdraw from courses or other academic activities;

1.15.5 relocating a Respondent Student to a different UBC operated residence room, residence building, or residence complex, or requiring the Student to leave the UBC operated residence system altogether;

1.15.6 ~~1.10.2 the prohibition of or the implementation of~~prohibiting activities, or implementing controls over ~~any~~ activities that ~~one or more persons~~a Respondent may undertake on UniversityUBC Premises;

1.15.7 ~~1.10.3 the prohibition of~~prohibiting access to, or ~~implementation of~~implementing controls over, any facilities or services operated by ~~the University~~UBC, including without limitation computer and communication systems-;

1.15.8 imposing restrictions on UBC faculty members and staff members (including faculty members who are not employees) in accordance with any applicable employment laws, contracts, policies, or collective agreements; and

1.15.9 any steps required of the Respondent should the Respondent be entitled to apply to remove the Restrictions at a later date.

1.16 ~~1.11~~ **“UniversitySVPRO”** means the Sexual Violence Prevention and Response Office located at UBC Vancouver or UBC Okanagan, as appropriate.

1.17 **“UBC Premises”** means lands and premises ~~in which the University has a property interest or over which the University otherwise~~UBC exercises ~~jurisdiction or~~ control.

1.18 ~~1.12~~ **“University Student”** means a person who is presently enrolled at ~~the University~~UBC in a credit course-.

~~2- Implementation~~ 2.1 The Associate Vice-President, Human Resources, the Head of Student Affairs, and the Provost / Principal may delegate all or any portion of their authority to act or to make any decision contemplated by this Policy to one or more persons, provided the delegation is made in writing. The Associate Vice-President, Human Resources will ensure that a person is present on the Vancouver Campus and the Okanagan Campus who has the authority to exercise his or her powers pursuant to this Policy. or who is designated by resolution of UBC Senate as a student.

## 2. Assistance and Support

~~2.1~~ 2.2 Where a person reasonably believes that a ~~University~~ Student, faculty member, or University employee staff member is at risk of harm ~~to himself or herself, but does not believe the risk of such harm is imminent, in addition to any action taken pursuant to this Policy,~~ appropriate assistance and support should be offered to such person. For assistance with these matters please contact the following offices:

Individual is a		Office to Contact
<del>2.2.1</del>	<del>Regarding Students</del> <u>Student</u> of UBC Okanagan	<del>Department of Student Health and Wellness</del> <u>Office of the Associate Vice President, Students</u>
<del>2.2.2</del>	<del>Regarding Students</del> <u>Student</u> of UBC Vancouver	<del>Student Development and Services,</del> Office of <u>the</u> Vice President <u>for</u> Students
<del>2.2.3</del>	<del>Regarding Staff and</del> <u>member or</u> Faculty <u>member</u> of UBC Okanagan	Department of Human Resources
<del>2.2.4</del>	<del>Regarding Staff</del> <u>member</u> of UBC Vancouver	Department of Human Resources
<del>2.2.5</del>	<del>Regarding Faculty</del> <u>member</u> of UBC Vancouver	Faculty Relations

## 3. Responding to Emergencies

3.1 At-Risk Behaviour may or may not result in an Emergency. Where an Emergency does arise, any member of the ~~University~~ UBC community who becomes aware of an Emergency should follow these steps:

3.1.1 Wherever possible, get to a safe location and alert those nearby. The first priority is personal safety. Lives take precedence over property.

3.1.2 Dial 911 ~~to contact the police~~if appropriate. The individual should provide ~~his/her~~their location and complete details of the Emergency.

3.1.3 Report the Emergency to either UBC Okanagan Campus Security ((250) 807-8111) or UBC Vancouver Campus Security ((604) 822-2222), as appropriate.

3.2 Once Campus Security staff become aware of an Emergency, Campus Security staff ~~will liaise with the police to check whether they have been notified, and if so whether the Emergency has been resolved by the police, and to ascertain whether any further action is required. If the Emergency is unresolved, Campus Security staff will engage with any appropriate agencies and~~ are authorized to immediately implement such Restrictions on behalf of ~~the University~~UBC as are necessary to respond to the Emergency. Units and employees of ~~the University must~~UBC must, subject to the provisions of Article 5.0, provide Campus Security with any ~~requested~~ information ~~if such information is requested~~ to assist Campus Security to manage an Emergency.

3.3 ~~Where Restrictions are imposed or reviewed pursuant to Articles 3.4, 4.3, 4.4, 4.5 or 4.6 of these Procedures, such Restrictions must be, in the opinion of the decision maker, reasonably necessary to properly respond to the At Risk Behaviour or Emergency and consideration must be given to balancing the interests of both the individual exhibiting the At Risk Behaviour and the legitimate interests of the University and other members of the University community. Consideration should also be given to the University's commitment to freedom of expression and academic freedom. The Office of the University Counsel should be consulted for guidance where appropriate before imposing a Restriction. Campus Security staff will, if it is appropriate to do so, liaise with any appropriate emergency services (for example the police, fire department, ambulance service, etc.).~~

~~3.4 Any Restrictions imposed pursuant to Article 3.2 of these Procedures must be reviewed as soon as practicable and adjusted as appropriate by the Director of Campus Security, or another manager who has been delegated this authority in writing by the Director of Campus Security.~~

3.4 ~~3.5~~ Where the Emergency calls for action under the Disaster Response Plan, Campus Security will notify the relevant persons as set out in the Disaster Response Plan and decision-making authority for responding to the Emergency will be transferred to such person or persons as set out in the Disaster Response Plan.

~~3.6 Campus Security should take steps, as soon as reasonably practicable, to notify persons who have been threatened or impacted by At Risk Behaviour of the status of any threats and University response. The Office of the University Counsel should be consulted where appropriate regarding any privacy considerations with respect to such notifications.~~

#### 4. General Provisions for Handling Non-Emergency or Post-~~Emergencies~~Emergency Situations

- 4.1 Where members of the UBC community have a reasonable belief that At-Risk Behaviour has occurred or will occur, but such At-Risk-Behaviour has not resulted in an Emergency or the Emergency has been resolved under Article 3.0 of these Procedures, they must refer the At-Risk Behaviour ~~must be referred to the Director of~~ Campus Security for assessment and management pursuant to this Policy ~~as follows:~~

4.1.1 Where the At-Risk Behaviour might pose a threat to any ~~University~~UBC employees, Campus Security will notify Health, ~~and~~ Safety ~~and Environment~~ of the At-Risk-Behaviour and the Director, ~~of~~ Health, ~~and~~ Safety ~~and Environment~~ will be responsible for managing ~~the University~~UBC's compliance with the Workers Compensation Act and its regulations.

4.1.2 Where At-Risk Behaviour might constitute Sexual Misconduct pursuant to the Sexual Misconduct Policy (SC17) Campus Security will refer the Complainant to the SVPRO.

4.1.3 Campus Security will refer the matter to the appropriate Decision Maker, or retain responsibility for the matter as Decision Maker in accordance with section 4.1.4. Any Restrictions imposed during an Emergency must be reviewed as soon as practicable by the appropriate Decision Maker. The Decision Maker may maintain, modify or rescind any such Restrictions or impose new Restrictions.

4.1.4 The appropriate Decision Maker will be determined in relation to the identity of the Respondent as follows:

<u>Respondent is a</u>	<u>Decision Maker</u>
<u>Student</u>	<u>Head of Student Affairs</u>
<u>Student who is also an employee</u>	<u>Head of Student Affairs and Vice President Human Resources jointly</u>
<u>Staff member</u>	<u>Vice President, Human Resources</u>
<u>Faculty member (whether or not an employee)</u>	<u>Vice President Human Resources</u>
<u>Any other person</u>	<u>Director of Campus Security</u>

4.1.5 A Decision Maker may delegate all or any portion of their authority to act or to make any decision contemplated by this Policy to one or more persons, provided the delegation is made in writing. The Vice President Human Resources will ensure that persons on both the Vancouver campus and the Okanagan campus can exercise the Vice President Human Resources' authority pursuant to this Policy.

- 4.2 A Decision Maker may seek advice or information from any persons or groups of persons the Decision Maker believes may assist them to exercise their authority pursuant to this Policy, including but not limited to:

4.2.1 the SVPRO and the Independent Investigations Office regarding matters that may involve sexual misconduct; and

4.2.2 Campus Security and the Office of the University Counsel as a general resource regarding the matters contemplated in this Policy.

4.3 Where Restrictions are imposed or reviewed pursuant to section 4.1.3 of these Procedures, such Restrictions must take into consideration the factors listed in Article 6.0.

4.4 ~~4.2~~ Unless and until modified or rescinded in writing as provided in ~~Articles 4.3 through 4.6~~ 4.1.3 of these Procedures, all Restrictions implemented under Article 3.0 of these Procedures will remain in effect.

## 5. Communication

5.1 Campus Security should take steps, as soon as reasonably practicable, to notify persons who have been threatened or impacted by At-Risk-Behaviour of the status of any threats and UBC's response. The Office of the University Counsel should be consulted where appropriate regarding any privacy considerations with respect to such notifications.

5.2 All Decision Makers, after imposing, modifying or rescinding Restrictions, must promptly provide a copy of such decision to the Director of Campus Security.

5.3 Information about At-Risk Behaviour will be treated as confidential and may only be disclosed to others, including others at UBC, where to do so is necessary under the terms of this Policy, or as otherwise authorized by the BC Freedom of Information and Protection of Privacy Act.

5.4 Nothing in this Policy requires employees of UBC to disclose information, where such disclosure would cause an employee who has a professional designation in the medical or mental health fields to breach the code of ethics governing their profession.

## 6. Considerations when Imposing Restrictions

6.1 Restrictions can only be imposed where the At-Risk Behaviour:

6.1.1 occurred on UBC Premises; or

6.1.2 occurred in a context with a real and substantial connection to UBC. Each incident and its connection to UBC will be considered on its particular factual circumstances.

6.2 Restrictions must, in the opinion of the person imposing, modifying, or rescinding Restrictions, be reasonably necessary to properly respond to the At-Risk Behaviour while balancing the interests of the Respondent and the legitimate interests of UBC, the Complainant (if any), and any other impacted members of the UBC community. Restrictions must be the least restrictive measures for the shortest period of time necessary to:

6.2.1 protect members of the UBC community;

6.2.2 preserve the confidence of the UBC community in UBC's ability to maintain a safe environment;



6.2.3 preserve the integrity of any subsequent investigation; and

6.2.4 avoid interference, to the extent possible, with the Complainant's or Respondent's UBC activities.

6.3 When determining what Restrictions to impose, modify, or rescind, the Decision Maker must consider, as applicable:

6.3.1 the nature of the allegation(s), assessed objectively, with regard to:

(a) the degree of threat to any person's physical safety;

(b) the degree of threat to any property;

(c) the existence of a power imbalance between the Complainant and the Respondent; and

(d) where an incident involves multiple Respondents, the degree of participation of the Respondent who is the subject of the Restrictions;

6.3.2 the Senates' Statements on Academic Freedom and UBC's commitment to freedom of expression; and

6.3.3 the principles of trauma-informed decision making.

6.4 When determining what Restrictions to impose, modify, or rescind, the Decision Maker may consider any other information the Decision Maker considers relevant including but not limited to, as applicable:

6.4.1 without being required to conduct an investigation, the prima facie strength of the case against the Respondent including initial evidence available to the Decision Maker regarding the At-Risk-Behaviour;

6.4.2 any previous relevant findings regarding the Respondent from previous UBC investigations of which the Decision Maker is aware; and

6.4.3 the Respondent's compliance with existing or past Restrictions.

~~4.3—Where the individual exhibiting the At-Risk Behaviour is a University employee, Campus Security will refer the matter to the Associate Vice-President, Human Resources, who will assume responsibility for responding to the At Risk Behaviour appropriately and in a manner that is consistent with any applicable employment laws, contracts or collective agreements. The Associate Vice-President, Human Resources, must review any existing Restrictions affecting the University employee as soon as is reasonably practicable and may maintain, modify or rescind any such Restrictions or impose new Restrictions.~~

6.5 The Decision Maker will provide the Respondent with the reason for the imposition, modification or rescission of Restrictions.

~~4.4—Where the individual exhibiting the At-Risk Behaviour is a University Student, Campus Security will refer the matter to the Head of Student Affairs, who will assume responsibility for responding to the At-Risk Behaviour appropriately. The Head of Student Affairs must review any existing Restrictions affecting the University Student as soon as is reasonably practicable and may maintain, modify or rescind any such existing Restrictions or impose new Restrictions.~~

6.6 Where a report of At-Risk-Behaviour is made anonymously or by someone who wishes to remain anonymous, UBC may be unable to impose Restrictions where doing so would violate procedural fairness.

~~4.5—Where the individual exhibiting the At-Risk Behaviour is both a University employee and a University Student, Campus Security will refer the matter to both the Associate Vice-President, Human Resources, and the Head of Student Affairs, who will each assume responsibility for responding to the At-Risk Behaviour in accordance with this Policy. In such situation, the Associate Vice-President, Human Resources, and the Head of Student Affairs will coordinate their activities, which may include determining that only one of them is necessary to manage the situation. The Associate Vice-President, Human Resources, and the Vice-President, Students, must review any existing Restrictions affecting the University Student as soon as is reasonably practicable and maintain, modify or rescind any existing Restrictions or impose new Restrictions provided that they consult with each other prior to doing so to ensure their actions are coordinated.~~

## 7. Special Provision for Reports of Sexual Misconduct

7.1 4.6—Where the individual exhibiting the At-Risk Behaviour is neither a University employee nor a University Student, or the individual's status has not yet been determined, Campus Security will retain jurisdiction over the matter and will be responsible for ensuring that the At-Risk Behaviour is responded to in a manner that is consistent with the University's general legal obligations. The Director of Campus Security may modify or rescind existing Restrictions or impose new Restrictions. Director of Investigations has received a Report that may include At-Risk Behaviour and has determined that UBC has jurisdiction to investigate pursuant to the Sexual Misconduct Policy (SC17), the Director of Investigations will provide the Decision Maker with a written description of the reported At-Risk Behaviour to enable the Decision Maker to determine what, if any, Restrictions should be imposed on the Respondent in accordance with the provisions of this Policy. Before making this determination, the Decision Maker may request information from the SVPRO and any other UBC units.

## 8. Special Provisions for Faculty Members and Staff Members

~~4.7—Where the Associate Vice-President, Human Resources, and/or the Head of Student Affairs have assumed responsibility for responding to At-Risk Behaviour pursuant to Article 4.3, 4.4, or 4.5 of these Procedures, they will keep Campus Security informed of the status of the matter and any Restrictions that they may have implemented, modified or rescinded in respect of such matter. The Director of Campus Security, or his or her designate, will be~~

available as a resource for the Associate Vice-President, Human Resources, and/or the Head of Student Affairs, to consult with regarding the matters contemplated in this Policy.

- 8.1 The implementation of Restrictions in respect of a Respondent who is a UBC faculty member or staff member (including faculty members who are not employees) must not be inconsistent with any applicable employment laws, contracts, policies, or collective agreements.

## **9. 5-Special Provisions for Students**

- 9.1 ~~5.1 The implementation of~~Imposing Restrictions ~~in respect of~~on a ~~University~~ Student pursuant to Article ~~4.43.0~~ or ~~4.5~~Article 4.0 of these Procedures is not a disciplinary action ~~and is intended to be an interim measure pending a final resolution of the At-Risk Behaviour. However, the implementation of~~for a finding of wrongdoing, however, imposing Restrictions may nonetheless affect the ability of a ~~University~~ Student to ~~continue with his or her studies at the University~~study and participate in student life. If it appears that Restrictions ~~that~~(other than Restrictions voluntarily agreed to pursuant to Article 10) will need to be maintained for more than 21 days and such Restrictions would materially :

9.1.1 affect the ~~University Student~~Respondent's ability to continue with ~~his or her studies~~will need to be maintained for more than 21 days, then: their studies at UBC; or

9.1.2 interfere with the Respondent's participation in student life at UBC;

then one of the following actions must take place:

9.1.3 ~~5.1.1~~ if the At-Risk Behaviour or some component of the At-Risk Behaviour appears to constitute misconduct pursuant to the UBC Student Code of Conduct, the Head of Student Affairs will consult with the person responsible for managing that process, and if that person agrees, refer the matter to be handled as a misconduct case pursuant to section 61 of the University Act, in which case the Restrictions will be automatically rescinded upon a decision being made by the President and replaced by whatever discipline, if any, that may be imposed by the President; or

9.1.4 if the At-Risk Behaviour is disclosed as result of a Report made pursuant to the Sexual Misconduct Policy (SC17), the matter will be adjudicated pursuant to that policy in which case the Restrictions will be automatically rescinded upon a decision being made by the President and replaced by whatever discipline, if any, that may be imposed by the President; or

9.1.5 ~~5.1.2 if the At-Risk Behaviour is not referred as a misconduct case pursuant to Article 5.1.1 of these Procedures, the Head of Student Affairs will undertake an investigation pursuant to Article 5.2 of these Procedures to ascertain what, if any, Restrictions need to be taken on an ongoing basis to manage the At-Risk Behaviour or its consequences, in which case the Restrictions will be automatically rescinded and replaced by whatever Restrictions are determined to be necessary pursuant to Articles 5.2 and 5.3 of these Procedures.~~If the At-Risk Behaviour is investigated under another existing UBC process with adequate procedural protections, the Head of Student Affairs may

rely upon the factual findings of that process, and upon receipt of the findings of that process, may modify or rescind existing Restrictions or impose new Restrictions; or

~~5.2—Where an investigation is required under Article 5.1.2 of these Procedures, the Head of Student Affairs may conduct the investigation as he or she deems appropriate and will seek advice from the Office of the University Counsel where appropriate. Without limiting the generality of the foregoing:~~

~~5.2.1—the University Student exhibiting the At-Risk Behaviour will normally be given notice of the investigation and an opportunity to present information to be considered in the course of the investigation;~~

~~5.2.2—other University officers, employees, and external consultants or professionals may be consulted in the course of the investigation;~~

~~5.2.3—witnesses or other members of the University community who may have relevant information may be asked to provide information in the course of the investigation;~~

~~5.2.4—the Head of Student Affairs may require information or advice to be provided in writing, in person, by teleconference, or in any other manner that he or she deems appropriate;~~

9.1.6 ~~5.2.5—where the University Student does not comply with the requirements of the Head of Student Affairs, the Head of Student Affairs may proceed without the further involvement of the University Student and the refusal of a University Student to comply with the requirements of the Head of Student Affairs may constitute a misconduct case to be dealt with pursuant to section 61 of the *University Act* if the At-Risk Behaviour is not dealt with pursuant to sections 9.1.3 to 9.1.5 the Head of Student Affairs will undertake an investigation in accordance with the Investigations Policy (SC8).~~ ~~5.3—Upon completion of an~~this ~~investigation pursuant to Article 5.1.2 of these Procedures,~~ the Head of Student Affairs will make a finding, based on a balance of probabilities, regarding whether the ~~University Student~~Respondent engaged in the At-Risk Behaviour, and if so, may modify or rescind existing Restrictions on a ~~University~~ Student or impose new Restrictions. ~~These Restrictions may be imposed permanently or for a period of time, and they may provide for any steps required of the University Student should the University Student be entitled to apply to remove the Restrictions at a later date. If the Head of Student Affairs does not find that the University Student engaged in the At Risk Behaviour, the Head of Student Affairs will remove any Restrictions on the Student.~~

~~5.4—The Head of Student Affairs will provide the University Student with a written decision which will include a summary of his or her findings—~~

9.2 ~~5.5—If the Head of Student Affairs has imposed Restrictions on a University Student pursuant to Article 5.3~~section 9.1.6 of these Procedures, the ~~University~~ Student may request a review of the decision of the Head of Student Affairs. The review will be carried out by the Provost/~~Principal~~. The following provisions will apply to such review:

9.2.1 ~~5.5.1~~ The ~~University~~ Student must provide the Provost ~~/Principal~~ with ~~his or her~~ a request for a review in writing within 14 days of the decision of the Head of Student Affairs pursuant to ~~Article 5.4~~ section 9.1.6 of these Procedures. The request for review will state the ~~University~~ Student's concerns regarding the decision of the Head of Student Affairs and will include any documentation upon which the ~~University~~ Student wishes to rely.

9.2.2 ~~5.5.2~~ The Provost ~~/Principal~~ may modify the decision of the Head of Student Affairs and modify any Restrictions if:

- (a) the Provost ~~/Principal~~ determines that, based upon the evidence considered by the Head of Student Affairs, the decision of the Head of Student Affairs, or the Restrictions imposed by the Vice President, are unreasonable; or
- (b) the Student provides the Provost ~~/Principal is provided~~ with new information that was not reasonably available to the Student at the time the decision of the Head of Student Affairs was made ~~his or her decision~~ and such information, in the opinion of the Provost ~~/Principal~~, would have changed the decision of the Head of Student Affairs if it had been considered by the Head of Student Affairs.

9.2.3 ~~5.5.3~~ The Provost ~~/Principal~~ will review the request for review of the ~~University~~ Student, and may solicit a written response from the Head of Student Affairs. The Provost ~~/Principal~~ will not rehear the matter or conduct a new investigation into the matter.

9.2.4 ~~5.5.4~~ Any Restrictions imposed on the ~~University~~ Student will remain in force until such time as the Provost ~~/Principal~~ has provided ~~his or her~~ a written decision regarding the request for review.

9.2.5 ~~5.5.5~~ The Provost ~~/Principal~~ may accept a request for review pursuant to ~~Article 5.5.1~~ section 9.2.1 later than 14 days from the decision of the Head of Student Affairs if the Provost ~~/Principal~~ is satisfied, in ~~his or her~~ the Provost's absolute discretion, that the Student was unable to provide it within 14 days.

9.2.6 ~~5.5.6~~ ~~The Provost /Principal~~ Each of the Provosts may establish a process to follow with respect to requests for ~~reviews~~ review, provided that such process is consistent with this Policy. ~~Different~~ The Provosts may establish different processes ~~may be put in place~~ for UBC Okanagan and UBC Vancouver ~~and UBC Okanagan~~.

## 10. Voluntary Measures

10.1 If the Decision Maker believes that an alternative process for addressing the At-Risk Behaviour may be appropriate in the circumstances, they will discuss this option with the Complainant (if any) and the Respondent. If the Respondent and Complainant (if any) agree to participate in an alternative process and the Decision Maker is satisfied that an alternative process is appropriate, then the Decision Maker will explore the options available and will

refer the matter to that process and may modify or rescind existing Restrictions or impose new Restrictions as a result of that process.

## **6. General**

10.2 Participation in an alternative process is entirely voluntary. If either the Complainant (if any) or the Respondent decides they no longer wish to participate in the alternative process at any time, then the Decision Maker will deal with the matter in accordance with the other provisions of this Policy. Notwithstanding the preceding sentence, once Restrictions have been established with the voluntary agreement of the Respondent and Complainant (if any) they are binding on the Respondent, are no longer voluntary, and must be complied with by the Respondent.

~~6.1 Nothing in this Policy detracts from the powers of the University and nothing in this Policy shall act to limit or diminish any power or authority that may be exercised by the employees or agents of the University. Without limiting the generality of the forgoing, nothing in this Policy restricts or governs:~~

10.3 Nothing in this Policy prohibits UBC from taking measures to protect, or provide comfort and assistance to a Student, faculty member, or staff member that do not impact the Respondent provided such measures comply with and are approved in accordance with UBC's rules and procedures. Examples of possible measures include but are not limited to:

~~6.1.1 the authority of the University administration to manage student residences, faculty housing, and staff housing on University Premises in accordance with the procedures for those facilities~~

10.3.1 access to counseling and medical services;

~~6.1.2 the authority of a faculty member to manage conduct in his or her classroom; or~~

10.3.2 assistance in arranging rescheduling of exams and assignments and extensions of deadlines;

~~6.1.3 the authority of any representatives of the University to carry out their day to day responsibilities, including their ability to require people to immediately leave any part of University Premises under their authority.~~

10.3.3 academic support;

~~6.2 The exercise of powers pursuant to this Policy does not preclude proceedings being taken regarding the same facts pursuant to other University processes, the criminal justice system, or civil law proceedings.~~

10.3.4 change in the Complainant's class schedule, including the ability to transfer course sections or withdraw from a course without penalty;

~~6.3 Nothing in this Policy requires employees of the University to disclose information, where such disclosure would:~~

10.3.5 change in the Complainant's UBC work schedule or job assignment;

~~6.3.1 be in violation of the Freedom of Information and Protection of Privacy Act; or~~

10.3.6 change in housing provided by UBC;

~~6.3.2~~ ~~cause an employee who has a professional designation in the medical or mental health fields to breach the code of ethics governing their profession.~~

10.3.7 safety planning;

~~6.4~~ ~~Nothing in this Policy is intended to restrict the lawful exercise of employee rights.~~

10.3.8 voluntary leaves of absence; and

10.3.9 any other remedial measure that can be used to achieve the goals of this Policy.

Document comparison by Workshare 9.5 on Tuesday, November 5, 2019  
2:10:17 PM

Input:	
Document 1 ID	file:///C:/Users/ylui/Desktop/Safety, Conduct, and Environment - 14 - SC13.docx
Description	Safety, Conduct, and Environment - 14 - SC13
Document 2 ID	file:///C:/Users/ylui/Desktop/Formatted-At Risk Behaviour - SC13 - Final Draft for Board Committee.docx
Description	Formatted-At Risk Behaviour - SC13 - Final Draft for Board Committee
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
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Style change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	366
Deletions	229
Moved from	38
Moved to	38
Style change	0
Format changed	0
Total changes	671



The Office of the University Counsel constituted a Policy Review Committee comprised of the following members, which includes representatives from the administrative units responsible for managing At-Risk-Behaviour on both the Okanagan and Vancouver campuses. The committee also has student and faculty representatives from both campuses. The committee members are:

Mark Crosbie (Chair)	Associate University Counsel
Paul Hancock (Secretary)	Legal Counsel, Information and Privacy
Representative, IIO Michelle Cameron	Advisor, Independent Investigations Office (IIO)
Representative, SVPRO Vancouver Sasha Wiley-Shaw	Educator, Sexual Violence Prevention & Response Office (Vancouver)
Representative, SVPRO Okanagan Shilo St. Cyr	Director, Sexual Violence Prevention & Response Office (Okanagan)
Representative, Campus Security UBC Vancouver Ali Mojdehi	Acting Director, Campus Security
Representative, Campus Security UBC Okanagan Troy Campbell	Acting Associate Director, Campus Security
Representative, Vice-President, Human Resources (both campuses) Kristin Cacchioni	Senior Manager, Faculty and Employee Relations (Okanagan)
Representative, Vice-President Students, UBC Vancouver Chad Hyson	Director, Student Conduct & Safety
Associate-Vice President Students, UBC Okanagan Ian Cull	Associate-Vice President Students, UBC Okanagan

Faculty Member, UBC Okanagan Robert Campbell	Associate Professor, Okanagan School of Education; Senate Committee on Student Appeals on Standing and Discipline (UBC Okanagan)
Faculty Member, UBC Vancouver Abby Collier	Professor of Drug Metabolism and Pharmacokinetics - Senate Committee on Student Appeals on Academic Discipline (UBC Vancouver)
Student, UBC Vancouver Chiara de Silva	Political Science Major Faculty of Arts
Student, UBC Okanagan Hatem Zubaidi	BMSc, BSc (Hons) Microbiology Candidate  Undergraduate Research Assistant