



SIMON FRASER UNIVERSITY
ENGAGING THE WORLD

TO: Senate

FROM Joy Johnson
Chair – Senate Committee on Agenda and Rules

DATE: May 14, 2021

SUBJECT: Student Conduct Policy (S10.05) Revisions

For Consultation

SCAR has determined that Student Conduct Policy (S10.05) Revisions should be forwarded to Senate for consultation at its meeting on May 25, 2021.



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MEMORANDUM

ATTENTION Senate – For Advice **DATE** May 11, 2021
FROM Dr. Catherine Dauvergne **PAGES** 1 of 2
RE: Student Conduct Policy (S10.05) Revisions

The University’s non-academic Student Conduct Policy (S 10.05) is being revised. As non-academic student conduct is outside the jurisdiction of Senate, the proposed revised policy will not require Senate approval. It is, however, being brought forward to Senate for consultation prior to submission to the Board of Governors for approval.

BACKGROUND

Policy S10.05 came into effect in November 2018 and was last updated in January 2020. This policy addresses the non-academic misconduct of students, such as damaging University property, violation of the Residence and Housing Handbook, and threatening behaviour.

The revised policy went out for community consultation February 16 – March 9, 2021. Revisions to the policy were both substantive and editorial in nature, including: removing alumni from its scope, adding sections on retaliation, deliberately misleading complaints and voluntary resolution, and harmonizing the definitions with related University policies.

The only point at which Policy S10.05 and its procedures link to Senate is in the situation where the President suspends a student as a disciplinary measure under the Policy. In such a case, section 61 of the *University Act* applies. Specifically, the Act states that a student suspended by the President has the right to appeal to Senate.

The current S10.05 policy (section 8.5) states: *A Committee of Senate is responsible for hearing appeals of the imposition of suspension by the President.*

The revised S10.05 policy (section 6.6) states: *In accordance with section 61 of the University Act, the President is responsible for suspending a Student and Senate is responsible for Student appeals of the President’s decision.* **The revised S10.05 procedures** (section 3.11) state: *A Student who the President has suspended may appeal the President’s decision to Senate.*

Neither policy S.10.05 or its procedures indicate what that appeal process is. The process remains to be determined by Senate. Options for such a process will be brought to Senate for its consideration and approval at a later date through the relevant Senate Committee or SCAR.

Policy S10.05 revisions are scheduled to go to the Board of Governors for final approval in at the Board’s June 24, 2021 meeting.

Encl: Revised policy S10.05 and its related appendices and procedures

c: R. Khan-Hemani, VPSI and T. Mason-Innes, Executive Director, Student Affairs

STUDENT CONDUCT POLICY

Date
November 22, 2018

Number
S 10.05

**Date of Last
Review/Revision**
Draft – April 19, 2021

**Mandated
Review**
May 20, 2026

Policy Authority: Vice-President, Academic and Provost

Associated Procedure: Student Conduct Policy Procedure

EXECUTIVE SUMMARY

As an educational institution, Simon Fraser University strives to take an educational and developmental approach to student misconduct whenever possible and appropriate. This policy sets out the University’s expectations regarding student conduct and establishes a process for addressing misconduct when it occurs. This includes voluntary resolution processes as well as processes for investigation and imposing discipline, where warranted. This policy adopts the principles of procedural fairness and includes an appeal process.

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1.0 PREAMBLE

- 1.1 Simon Fraser University (“the University”) is a place of research, teaching, and learning, where people value civility and respectful interactions with each other. These values are supported by an atmosphere of safety and good conduct.
- 1.2 As members of the University Community, all Students are expected to behave in a manner that assures other members of the University Community can learn, live, and work in a positive and constructive environment.
- 1.3 The University respects each Student’s autonomy in their personal lives, but it also expects every Student to make responsible decisions about their conduct when it affects, or reasonably has the potential to affect, other members of the University Community and visitors to the University. Students are individually responsible for their own conduct, whether acting individually or in a group.
- 1.4 The University recognizes its role as an educational institution and aims, whenever appropriate, to take an educational and developmental approach to issues of alleged Student Misconduct, informed by knowledge of mental health and well-being, and cultural differences.
- 1.5 This policy governs the conduct of Students to the extent necessary to:
 - 1.5.1 assure a scholarly community characterized by honesty, diversity, free inquiry, and mutual respect;
 - 1.5.2 protect the safety of members of the University Community and visitors to the University;
 - 1.5.3 protect University property;
 - 1.5.4 safeguard the integrity and proper functioning of the University; and
 - 1.5.5 ensure the orderly and safe enjoyment of University facilities by members of the University Community and visitors to the University.

2.0 PURPOSE

- 2.1 The purpose of this policy is to:
 - 2.1.1 define, and provide examples of, behaviour that is prohibited and considered to be Misconduct;
 - 2.1.2 establish a process and assign responsibility for responding to and addressing Complaints about Misconduct.

3.0 SCOPE AND JURISDICTION

- 3.1 This policy applies to Misconduct by a Student that is alleged to have occurred:
- 3.1.1 on any property that is controlled by the University and used for University purposes;
 - 3.1.2 at or during an in-person or virtual meeting, event, or activity that is sponsored by or under the auspices of the University, or in furtherance of University business; or
 - 3.1.3 using the University's Information and Communications Technology resources.
- 3.2 Nothing in this policy shall be interpreted to prohibit peaceful assemblies or demonstrations, lawful labour action including picketing, or to impinge upon freedom of expression.
- 3.3 Students enrolled at Fraser International College ("FIC") are not governed by this policy. FIC has its own policies related to student conduct. Misconduct by an FIC student that is alleged to have occurred as described in section 3.1, will be addressed under FIC's policies.

4.0 DEFINITIONS

- 4.1 See Appendix A for the definition of words used in this policy and its associated procedures.

5.0 POLICY

5.1 Prohibited Conduct

- 5.1.1 Misconduct by a Student is prohibited and may result in disciplinary measures. Misconduct is defined in Appendix A and examples of Misconduct are provided in Appendix B to this policy.
- 5.1.2 Retaliation by any member of the University Community is prohibited and, if found to have occurred, may result in disciplinary measures.
- 5.1.3 Making a deliberately misleading Complaint under this policy is prohibited, and if found to have occurred, may result in disciplinary measures. Making a Complaint based on a genuinely held but mistaken belief is not considered to be deliberately misleading.

5.2 Interim Measures

- 5.2.1 The University may impose interim measures while an allegation of Misconduct is being addressed, investigated, or determined. Such measures will be precautionary and are expressly non-disciplinary.
- 5.2.2 If a threat or the potential of harm to others arises at any time during a process under this policy, the matter will be addressed under the University's Response to Violence and Threatening Behaviour Policy (GP 25).

5.3 Voluntary Resolution

5.3.1 The University may, where appropriate, facilitate a voluntary resolution process to address the Complaint.

5.4 Disciplinary Measures

5.4.1 Appendix C to this policy provides examples of the disciplinary measures that may be imposed for Misconduct. Disciplinary measures may be imposed singly, or in combination, and are not limited to those listed in Appendix C.

6.0 ROLES AND RESPONSIBILITIES

6.1 All Students are responsible for establishing and maintaining a respectful learning, working, and living environment.

6.2 The Vice-Provost and Associate Vice-President, Students and International (“VPSI”) is responsible for implementing this policy and for monitoring its operational aspects and procedures.

6.3 The Executive Director, Student Affairs (“EDSA”) is responsible for:

6.3.1 reviewing decisions of the Office of Student Support, Rights and Responsibilities;

6.3.2 determining if the policy has been breached; and

6.3.3 imposing disciplinary measures up to but not including suspension.

6.4 The Director, Student Support, Rights and Responsibilities (the “Director”) is responsible for administering the procedures under this policy and is responsible for supervising the Office of Student Support, Rights and Responsibilities and its activities. The Director is also responsible for imposing interim measures and for facilitating Voluntary Resolution.

6.5 The VPSI is responsible for determining the outcome of a Student’s appeal of a decision of the Executive Director Student Affairs, except in cases in which the Executive Director has made a recommendation to the President to suspend a Student.

6.6 In accordance with section 61 of the *University Act*, the President is responsible for suspending a Student and Senate is responsible for Student appeals of the President’s decision.

7.0 PROCEDURES

7.1 Complaints of alleged Misconduct will be received and managed according to the Student Conduct Procedures, except:

7.1.1 in cases where the conduct is prohibited under another University policy, procedure, or regulation; the processes provided for under those authorities will normally be followed

unless the Executive Director, Student Affairs, in consultation with the appropriate administrative authority, decide the case should proceed under this policy;

- 7.1.2 in cases involving alleged Misconduct that may fall within the definition of “sexual harassment” in the University’s Human Rights Policy (GP 18), the Complainant may choose to proceed under GP 18 or under the Sexual Violence and Misconduct Prevention, Education, and Support Policy (GP 44). A Complainant who chooses to do so cannot subsequently proceed with the same Complaint under the Student Conduct Policy (S10.05).

8.0 PROCEDURAL FAIRNESS

- 8.1 The University will address alleged Misconduct in an objective, fair, and timely manner.
- 8.2 An impartial and appropriately qualified person will be responsible for the management and/or investigation of Complaints.
- 8.3 A Respondent may be accompanied by a support person of their choice to meetings related to this policy. Any SFU Student may seek out the services of the Ombudsperson, an independent, impartial, and confidential resource. The Ombudsperson can provide information and guidance on students' rights and responsibilities, and University regulations, policies, and procedures.
- 8.4 A Complainant and a Respondent will each be advised of the procedures that will be followed.
- 8.5 A Respondent will be informed of the particulars of the allegation and will be given an opportunity to respond.

9.0 ANNUAL REPORT

- 9.1 The Responsible Officer will report annually through the President to the Board of Governors on the administration of this policy.

10.0 RELATED LEGAL, POLICY AUTHORITIES AND AGREEMENTS

- 10.1 The legal and other University Policy authorities and agreements that may bear on the administration of this policy and may be consulted as needed include but are not limited to:

10.1.1 *University Act*, R.S.B.C. 1996, c. 468

10.1.2 *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 16

10.1.3 *Human Rights Code*, R.S.B.C. 1996, c. 210

10.1.4 Student Academic Integrity (S 10.01)

10.1.5 Senate Committee on Disciplinary Appeals (S 10.03)

- 10.1.6 Human Rights Policy (GP 18)
- 10.1.7 Fair Use of Information and Communications Technology (GP 24)
- 10.1.8 Response to Violence and Threatening Behaviour (GP 25)
- 10.1.9 Bullying and Harassment Policy (GP-TBA)
- 10.1.10 Sexual Violence and Misconduct Prevention, Education and Support Policy (GP 44)
- 10.1.11 SFU's Information Policies (I-10 series)
- 10.1.12 Residence Handbook and Residence Licence Agreement
- 10.1.13 SFU Field School Code of Conduct; SFU Field School Student Acknowledgement

11.0 ACCESS TO INFORMATION AND PROTECTION OF PRIVACY

- 11.1 The information and records made and received to administer this policy 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. The information and records will be treated in a confidential manner, in compliance with the *Act* and with the University's policies.

12.0 RETENTION AND DISPOSAL OF RECORDS

- 12.1 Information and records made and received to administer this policy are evidence of the University's actions to respond to non-academic Misconduct of Students. Information and records must be retained and disposed of in accordance with a records retention schedule approved by the University Archivist.

13.0 POLICY REVIEW

- 13.1 This policy must be reviewed at least once every five years.

14.0 POLICY AUTHORITY

- 14.1 The authority of this policy is vested with the Simon Fraser University Board of Governors in accordance with its powers under the British Columbia *University Act*, Part 6, sections 27(1) and 27(2)(x), (x.1), (x.2), and (y).
- 14.2 This policy is administered under the authority of the Vice-President, Academic and Provost.

15.0 INTERPRETATION

- 15.1 Questions of interpretation and application of this policy or its procedures shall be referred to the Vice-President Academic and Provost and the General Counsel and University Secretary, who will jointly make a decision, which will be final.

16.0 PROCEDURES AND OTHER ASSOCIATED DOCUMENTS

- 16.1 The procedures for this policy are: Student Conduct Procedures.
- 16.2 Appendix A contains the definitions applicable to this policy and its associated procedures.
- 16.3 Appendix B contains examples of Misconduct.
- 16.4 Appendix C contains examples of disciplinary measures.
- 16.5 Appendix D contains Guidelines for Investigations by External Investigators.

STUDENT CONDUCT POLICY PROCEDURES

Date
November 22, 2018

Number
S 10.05

**Date of Last
Review/Revision**
Draft - April 19, 2021

**Mandated
Review**
May 20, 2026

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 Voluntary 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 so 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:

- a *University Act*, R.S.B.C. 1996, c. 468
- b *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, c. 16
- c *Human Rights Code*, R.S.B.C. 1996, c. 210
- 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-TBA)
- 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

APPENDIX A - STUDENT CONDUCT POLICY: DEFINITIONS

Date November 22, 2018	Number S 10.05
Date of Last Review/Revision Draft April 19, 2021	Mandated Review May 20, 2026

Policy Authority: Vice-President Academic and Provost

Parent Policy: Student Conduct Policy (S 10.05)

1.0 PURPOSE

1.1 The definitions in this Appendix define the words used in the Student Conduct Policy (S 10.05) (“the Policy”) and in the Student Conduct Procedures.

2.0 DEFINITIONS

2.1 **Balance of Probabilities** is a standard of proof. It means ‘more likely than not’.

2.2 **Behavioural Contract** (“Contract”) means a written agreement negotiated between the University and the Respondent to a Complaint. The Contract outlines the expectations and responsibilities of the Student and the University. The Contract will usually include conditions that the Student must meet and any consequences for the Student if they fail to fulfill them. The Contract is not normally part of a Student’s record and is maintained in the Office of Student Support, Rights and Responsibilities; it will be retained and disposed of in accordance with section 12 of the Policy. In certain circumstances, the University and the Student may agree to retain the Contract on the Student’s file.

2.3 **Complainant** means any member of the University Community who makes a Complaint under the Policy. The University may also be a Complainant.

2.4 **Complaint** means a Complaint about the conduct of a Student made to Campus Public Safety or to the Office of Student, Support, Rights and Responsibilities (“SSRR”) by a member of the University Community or a visitor to the University, outlining the behaviour and its circumstances. The Complaint will set out the allegations made by a Complainant with respect to the Respondent or Respondents. In the case where the Complaint is from a visitor, the University reserves the right to take on the role of Complainant.

2.5 **Director** means the Director of the Office of Student Support, Rights and Responsibilities.

- 2.6 **Investigation** means an investigation process overseen by the Office of Student Support, Rights and Responsibilities, whether conducted by an internal or external Investigator, to determine what occurred.
- 2.7 **Investigator** means the person responsible for conducting the Investigation.
- 2.8 **Misconduct** means behaviour the Student knows, or ought reasonably to know, would have an adverse effect on:
- 2.8.1 the safety of members of the University Community and visitors;
 - 2.8.2 the integrity or the proper functioning of the University and its activities;
 - 2.8.3 the use of University facilities; or
 - 2.8.4 the condition of University property.
- Misconduct includes a Student engaging in, attempting to engage in, or assisting another Student to engage in, such conduct.
- Examples of Misconduct are provided in Appendix B to the Student Conduct Policy (S 10.05).
- 2.9 **Office of Student Support, Rights and Responsibilities (“SSRR”)** means the University administrative office assigned the mandate to carry out the operational procedures under the Policy.
- 2.10 **Resolution Agreement** means a written agreement between the Respondent and the University, whereby the Respondent agrees to the terms and conditions set out in the Resolution Agreement to address the Complaint without recourse to Investigation or discipline. This is considered a voluntary resolution; it is non-disciplinary. The Resolution Agreement is confidential and held in the Office of Student Support, Rights and Responsibilities.
- 2.11 **Respondent** means a Student or Students against whom a Complaint has been made pursuant to the Student Conduct Policy (S 10.05).
- 2.12 **Responsible Officer** means the Executive Director, Student Affairs.
- 2.13 **Retaliation** means an adverse action or threatened action, direct or indirect, taken or made through any means, against a person who invoked the Policy or its procedures in good faith, or against a person who participated or cooperated in good faith in a University process addressing a Complaint. Retaliation is prohibited conduct.
- 2.14 **Student** includes any of the following: a person who has accepted an offer of admission to the University; an undergraduate who has been enrolled for one or more of the last three (3) terms, including the current term, and is eligible to continue; a graduate student who is enrolled at the University in the current term and is eligible to continue; a graduate student who is not enrolled in the current term but is eligible to enroll at the University when the approved leave ends; a visiting, exchange, or special audit student who has been admitted to the University for the purposes of taking courses, or to take part in an approved research term; or a person enrolled at the University in a non-credit program or course.
- 2.15 **Suspension** means a Student ceases to be a Student of the University for a specified period of time, which may be temporary or permanent. A notation is made on the Student’s academic transcript during the period of Suspension.

- 2.16 **University (or SFU)** means Simon Fraser University.
- 2.17 **University Community** means all Students and employees of the University, and all people who have a status at the University mandated by legislation or other University policies, including research assistants, post-doctoral fellows, members of Senate and the Board of Governors, volunteers, visiting and emeritus faculty, and visiting researchers.
- 2.18 **Voluntary Resolution** means the process whereby the University and Respondent intend to address the Complaint through a Resolution Agreement.
- 2.19 **Withdrawal** means a Student is de-registered from their course(s) or is removed from particular academic and/or non-academic activities. The Student may be subsequently granted permission to register for those courses or activities in another term. A notation may be made on the transcript and the normal fee penalties may apply.

APPENDIX B - STUDENT CONDUCT POLICY: Examples of Prohibited Conduct

Date November 22, 2018	Number S 10.05
Date of Last Review/Revision Draft - April 19, 2021	Mandated Review May 20, 2026

Policy Authority: Vice- President, Academic and Provost

Parent Policy: Student Conduct Policy (S 10.05)

1.0 PURPOSE

1.1 The purpose of this Appendix is to provide examples of conduct that is prohibited by section 5.1 of the Student Conduct Policy (S 10.05) (“the Policy”).

2.0 PROHIBITED CONDUCT

2.1 Misconduct is defined in section 2.8 of Appendix A to the Policy. Misconduct may result in the imposition of disciplinary measures. Examples of disciplinary measures are provided in Appendix C to the Policy.

2.2 Examples of Misconduct are provided below, in subsections 2.2.1 to 2.2.16 of this Appendix, to illustrate the type of conduct that is prohibited and will be subject to University action. Engaging in such conduct could lead to intervention or discipline by the University. This list of examples is not exhaustive and any conduct that a Student knows, or ought reasonably to know, is Misconduct is prohibited by the Policy.

2.2.1 **Misconduct Against People** includes, by word or action:

- a. physical aggression, assault, intimidation, threat, or coercion;
- b. threatening or endangering the health, safety, or well-being of any person;
- c. sexual violence and misconduct, which means a sexual act or acts targeting a person’s sexuality, gender identity, or gender expression that is committed, threatened, or attempted against a person without the person’s consent and may or may not involve physical contact. It includes, but is not limited to: sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, stealthing, and the distribution of sexually explicit photographs or videos of a person without their consent; or

- d. behaviour that the Student knows, or ought reasonably to know, would be unwelcome and would cause another person to feel threatened, intimidated, or harassed.
- 2.2.2 **Hazing** means engaging in initiation ceremonies or other rituals that are dehumanizing or degrading, including initiation ceremonies associated with sports teams or clubs. This includes individual or collective acts to intimidate or humiliate another person.
- 2.2.3 **Disruptive or Dangerous Behaviour** includes disrupting University activities by:
- a. Creating a situation that endangers or threatens the physical safety, health, or well-being of any individual; and/or
 - b. Harming, injuring, or threatening any person.
- 2.2.4 **Unauthorized Possession or Use of Dangerous Substances** includes possessing or using toxic, or otherwise dangerous, substances or materials on University premises without the knowledge and prior written permission of the University's Chief Safety Officer or designate.
- 2.2.5 **Unauthorized Possession or Use of Weapons or Dangerous Objects** includes possessing or using real or replica firearms (including registered firearms) or other weapons, explosives (including fireworks), ammunition, or other dangerous objects on University premises without the knowledge and prior written permission of the University's Chief Safety Officer or designate.
- 2.2.6 **Alcohol** means possessing or consuming alcoholic beverages, except as permitted by law or by University policy.
- 2.2.7 **Illegal or Controlled Substances** includes the manufacture, sale, delivery, possession, or use, in any amount, of any illegal or controlled substance and/or possession of drug paraphernalia, except as permitted by law.
- 2.2.8 **Misconduct Against Property** includes:
- a. possessing or using University property, or property that does not belong to the Student, without the owner's consent or authority;
 - b. destroying, interfering with, or damaging University property or resources, or property that does not belong to the Student;
 - c. defacing any University property including buildings or premises;
 - d. removing books or other library or archival material without authorization; or
 - e. defacing or deliberately misplacing library or archival materials, or engaging in actions which deprive other members of the University Community or the public of their opportunity to access these University resources.
- 2.2.9 **Unauthorized Entry or Presence** means entering or remaining in any University building, facility, or premises, or allowing others to have access to areas designated for

faculty or staff, without authorization or contrary to express instructions from persons in authority (such as instructors, administrators, or security personnel).

2.2.10 **Fraud, Misuse, and Impersonation** include:

- a. forging, misusing, misrepresenting, or altering any University record;
- b. obtaining any textbooks, study aids, equipment, materials, or services by fraudulent means;
- c. submitting a manufactured, forged, altered, or converted document, including a forged or altered medical certificate, death certificate, or travel document to a University official which the Student knows, or ought reasonably to have known, to be altered;
- d. impersonating an instructor, Student, or other member of the University Community;
- e. obtaining a financial or other advantage by fraudulent means; or
- f. misrepresenting identity, status, qualifications, or authority.

2.2.11 **Violation of a University Policy** means contravening a University policy, rule, regulation, or the like including, but not limited to, the Fair Use of Information and Communications Technology Policy (GP 24), the Human Rights Policy (GP 18), the Confidentiality Policy (I 10.10), the Sexual Violence and Misconduct Education, Prevention, and Support Policy (GP 44), and the Bullying and Harassment Policy (GP-TBA).

2.2.12 **Violation of Residence and Housing Handbook or Residence Contract** means a violation of the published rules and community standards governing University Residence as set out in the Residence and Housing Handbook or violation of the Residence License Agreement.

2.2.13 **Misuse of Disciplinary Procedures** means falsifying or misrepresenting information, or causing others to falsify or misrepresent information, which either leads to, or is presented as, part of a University disciplinary process. This includes making a deliberately misleading complaint under the Student Conduct Policy or any other policy against any member of the University Community.

2.2.14 **Failure to Comply with Disciplinary Measures or a Resolution Agreement or a Behavioural Contract** means failing to comply with measures imposed pursuant to the procedures under the Policy, failing to comply with the terms of a Resolution Agreement or with the terms of a Behavioural Contract entered into pursuant to the procedures under the Policy, or failing to comply with any other disciplinary measures imposed by the University. Failure to comply could result in further disciplinary measures.

2.2.15 **Illegal Conduct** includes criminal convictions for behaviour that is University-related and is contrary to the purpose, spirit, and intent of the Policy. This includes behaviour that violates a provincial or federal law, including Public Health regulations and the *Quarantine Act*.

2.2.16 **Retaliation** against a person who invoked the Policy or its procedures in good faith, or against a person who participated or cooperated in good faith in a University process under the Policy or its procedures.

APPENDIX C - STUDENT CONDUCT POLICY: Examples of Disciplinary Measures

Date	Number
November 22, 2018	S 10.05
Date of Last Review/Revision	Mandated Review
Draft – April 19, 2021	May 20, 2026

Policy Authority: Vice-President, Academic and Provost

Parent Policy: Student Conduct Policy (S 10.05)

1.0 PURPOSE

1.1 The purpose of this Appendix is to provide examples of disciplinary measures that may be imposed under the Student Conduct Policy (S 10.05) (“the Policy”). See section 5.4 of the Policy.

2.0 DISCIPLINARY MEASURES

2.1 Pursuant to section 5.4 of the Policy, disciplinary measures may be imposed singly or in combination, and are not limited to those listed below.

2.1.1 **Warning or Reprimand** means a written warning or reprimand to the Student.

2.1.2 **Non Academic Probation** means a written reprimand and order for a designated probationary period in which the Student must fulfill certain conditions, demonstrate good conduct, or otherwise be subject to the imposition of further or more severe disciplinary sanctions.

2.1.3 **Restitution** means payment of compensation for loss, damage, or harm that may be monetary or in the form of appropriate service or material replacement.

2.1.4 **Apology** means issuance of a statement, apology, or retraction in an appropriate form in public or in private.

2.1.5 **Loss of Privileges** means a denial of specified privileges for a specified period, including services or privileges for which the Student pays fees. Privileges include, but are not limited to, those that, if restricted, may affect full participation in campus life and/or residence life, but do not make it impossible to complete academic requirements. Loss of privileges for which a fee has been paid will not result in a partial or full refund of that fee.

- 2.1.6 **Restriction or Prohibition of Access or Use** means a denial for a specified period, or conditions imposed on, the Student's right to access or use of any part or all of the University's premises, equipment, facilities, services, activities, programs, meetings, or events, or those held by or in association with the University. This includes restricting or prohibiting a Student from visiting Residence as the guest of another person.
- 2.1.7 **Restriction on Contact** means restriction or limitation from contact (i.e., in person, on-line, text message, phone, etc.) with an individual or individuals for a specified period of time. This may include a requirement that the Student remove themselves from an area of campus or on-line venue/forum/discussion should they encounter a specified individual or individuals.
- 2.1.8 **Conditions for (Re)enrollment** include, but are not limited to, any of the following:
- a. Behavioural Contracts;
 - b. Work assignments, service to the University, or other such discretionary assignments that are considered appropriate, provided that any such work or services is available and not otherwise prohibited;
 - c. Agreement upon mental health support service(s), such as participation in counselling or mental health services at SFU, or coordinated with an external mental health provider acceptable to the University; or
 - d. Agreed upon participation in an SFU-based or externally-based program of academic or personal support.
- 2.1.9 **Loss of Fees** includes the forfeiture or loss of payments, fees, or refunds.
- 2.1.10 **Financial Sanctions** includes fines, disentitlement to, or revocation of, bursaries, awards, and scholarships.
- 2.1.11 **Withdrawal** means removal of the Student from one or more courses for one or more terms (which may require re-application for admission to a program or faculty or withdrawal from any internship, practicum, or research project).
- 2.1.12 **Suspension from the University** means suspension of the Student from the University, either for a specified period after which the Student is eligible to return, or a permanent Suspension from the University. Suspensions will normally also result in withdrawal and/or the imposition of an academic hold.

APPENDIX D - STUDENT CONDUCT POLICY: Guidelines for Investigations by External Investigators

Date April 19, 2021	Number S 10.05
Date of Last Review/Revision Draft: April 19, 2021	Mandated Review May 20, 2026

Policy Authority: Vice-President Academic and Provost

Parent Policy: Student Conduct Policy (S 10.05)

1.0 PURPOSE

1.1 This Appendix provides general guidelines for Investigations conducted by an external Investigator under the Student Conduct Procedures (“Procedures”) established under the Student Conduct Policy (S 10.05) (“Policy”) (see section 3.7.12 of the Procedures).

2.0 INVESTIGATOR

2.1 The external Investigator must be impartial and appropriately qualified.

3.0 INVESTIGATOR’S TERMS OF REFERENCE AND INVESTIGATION PROCEDURES

3.1 As outlined in section 3.7.7 of the Student Conduct Procedures, all Investigations must:

- 3.1.1 be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;
- 3.1.2 be objective, and be fair and impartial to both the Complainant and the Respondent when evaluating the allegations;
- 3.1.3 comply with all relevant provisions in the Policy and Procedures, including notice, timelines, and other process requirements;
- 3.1.4 be sensitive to the interests of all parties involved and maintain confidentiality to the extent possible under the circumstances; and
- 3.1.5 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.

- 3.2 The Office of Student Support, Rights & Responsibilities will provide the Investigator with terms of reference for the Investigation, a protocol for conducting the investigation, and a timeline for completing the Investigation and preparing the Investigator's Report.
- 3.3 The Investigator will adhere to the terms of reference and the protocol and timelines for conducting the investigation. Within those parameters, the Investigator has the discretion to conduct the investigation in the manner they deem most appropriate in the circumstances, but always in accordance with the principles of procedural fairness, including that:
 - 3.3.1 the Complainant and the Respondent shall each be advised of the procedures that will be followed; and
 - 3.3.2 the Respondent shall be advised of the allegations in the Report and shall be given an opportunity to respond.
- 3.4 If the Complainant or Respondent or any other person who may have relevant information refuses to cooperate or to participate in the investigation, the investigator may proceed with the investigation in their absence.

4.0 INVESTIGATOR'S REPORT

- 4.1 Upon conclusion of the Investigation, the Investigator will prepare the 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*.
- 4.2 The Investigator's Report will include Investigator's findings of fact in the case, disputed and undisputed.
- 4.3 The Investigator will submit the Investigator's Report to the Office of Student Support, Rights and Responsibilities.