

STANDARD OPERATING PROCEDURE (SOP)

DOCUMENT ID: SOP-162 VERSION #1	TITLE: RESPONDING TO COMPLAINTS OF STUDENT MISCONDUCT	SEARCH KEY:
PURPOSE:	<ul style="list-style-type: none"> To outline the procedures for responding to allegations of misconduct of a Douglas College student. 	POST TO: Public Website <input checked="" type="checkbox"/> DC Connect <input checked="" type="checkbox"/>
SCOPE (Applies To):	<ul style="list-style-type: none"> COLLEGE EMPLOYEES DC STUDENTS COLLEGE COMMUNITY 	
STATUS: FINAL	AUTHOR: SARAH DENCH, AVP, ACADEMIC AND STUDENT AFFAIRS CONTACT INFORMATION: 604-527-5385	CREATED: 2018/04/20 (yyyy/mm/dd)
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PROCESS REVISIONS:	REVISION AUTHOR: N/A	REVISED: (yyyy/mm/dd)
RELEVANT FORMS:	Student Conduct Complaint Form (SCCF) (in development)	REVISED: (yyyy/mm/dd)
ACCORD/POLICY APPROVAL BODY:	<ol style="list-style-type: none"> N. CONSTABLE, DIRECTOR, SAFETY, SECURITY AND RISK MANAGEMENT J. FLEMING, DEAN, FACULTY OF HUMANITIES AND SOCIAL SCIENCES A. KATSAMAKIS, COUNSELLOR, COUNSELLING T. ROSSEEL, DIRECTOR, LEARNING RESOURCES D. SEIBEL, DIRECTOR, STUDENT ACADEMIC AFFAIRS J. SOLMAN, MANAGER, STUDENT SUPPORT AND CONDUCT T. SZIRTH, VP, ADMINISTRATIVE SERVICES & CFO/POLICY OFFICER 	DATE APPROVED: 2018/06/12 (yyyy/mm/dd)
QUALITY ASSURANCE FORMAT APPROVAL: <input checked="" type="checkbox"/> ADMINISTRATORS' COMMUNITY OF PRACTICE (ACP) SOP SUBCOMMITTEE <input checked="" type="checkbox"/> THOR BORGFORD, VICE-PRESIDENT, ACADEMIC AND PROVOST		DATE APPROVED: 2018/07/05 (yyyy/mm/dd)
RELEVANT POLICY:	Douglas College Policies <ul style="list-style-type: none"> Standards of Student Conduct Sexual Violence and Misconduct Prevention and Response Freedom of Information and Protection of Privacy Act of B.C. ("FIPPA") College and Institutes Act of B.C.	

<p>RELEVANT ACRONYMS & DEFINITIONS:</p>	<p>Complainant: A person who files a complaint; a member of the College Community who observes or is the subject of an alleged violation of the Policy, and who seeks recourse under the Policy. In some instances, the College may act as a Complainant where it becomes aware of alleged misconduct and no one comes forward with a complaint, or where an investigation is required by law.</p> <p>Complaint: A formal, written report containing allegations of misconduct or other violation(s) of the Standards of Student Conduct Policy.</p> <p>DC: Douglas College</p> <p>DSU: Douglas Students' Union</p> <p>FIPPA: Freedom of Information and Protection of Privacy Act of B.C.</p> <p>Frivolous, or vexatious complaint: Reports that are knowingly false, intended to harass or embarrass the named party(ies) involved, or is submitted with the intention of causing annoyance or distress.</p> <p>Investigator: A person appointed by the College to investigate alleged violation(s) of the Standards of Student Conduct Policy.</p> <p>Manager: An Administrative Group employee designated as a supervisor of other employees.</p> <p>Misconduct: Bullying and harassment, and other forms of disrespectful, or disruptive/inappropriate conduct.</p> <p>Parties: The Complainant(s) and Respondent(s) named in a complaint under the Standards of Student Conduct Policy.</p> <p>Respondent(s): A person or persons alleged to have engaged in conduct that violates the Standards of Student Conduct Policy.</p> <p>Responsible Administrator: An executive of the College, or an Administrator responsible for the operations of a College Department, Faculty, or service area, e.g., Dean, Director, Chief Information Officer, Registrar. A Responsible Administrator may:</p> <ol style="list-style-type: none"> a. decide whether the policy has been violated; b. make recommendations or decisions regarding remedies or discipline; c. assume the role of Complainant to initiate an investigation; and d. initiate interim measures. <p>SCCF: Student Conduct Complaint Form (to be developed)</p> <p>Student: A person who is as a student at Douglas College in credit or non-credit courses.</p> <p>Supervisor: A person, not necessarily a Responsible Administrator and/or not necessarily with Supervisor in their title, who has been assigned or delegated supervisory responsibility for others while working or studying at Douglas College.</p>
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PREAMBLE:

The following procedures will be used for responding to **student misconduct** complaints made under the **Douglas College (DC) Standards of Student Conduct Policy**.

Depending on the seriousness of the allegation, there are three levels that may be used in responding to a **student misconduct** allegation. The following response levels are not intended to be necessary, consecutive steps, as the level of initial response will vary according to the particular circumstances.

STEPS:

A. Caution and Temporary Exclusion

i. Where **misconduct** on the part of a **student** is reported to or observed by one of the following:

- An **employee** designated as the person responsible for the instructional or service environment, such as a **classroom instructor** or **librarian**
- A **Supervisor**
- A **practicum Supervisor**
- **College Security** personnel

That person may caution the **student** to cease the conduct immediately. The **student** may also be required to leave the area or campus in which the event took place for a specified period of time.

ii. Provided that the **student** complies with the caution and any temporary exclusion order, the matter may be treated as resolved or referred for follow-up and investigation.

iii. If the **student** does not comply with the caution, the matter will be referred to the **Responsible Administrator**, who may have the **student** removed from the area in which the event took place for the remainder of that day, and may also initiate further action that may result in sanctions being imposed on the **student**.

B. Informal Conflict Resolution

i. Where a report or **complaint** has not been resolved by a caution, efforts may be made to resolve the alleged violation of the Policy informally.

ii. A person making a report or **complaint** may choose to approach the **respondent** directly, in person or in writing, about the alleged misconduct with a request that it cease, provided they feel safe and capable of doing so.

iii. Alternatively, a person making a report or **complaint** may first consult with an appropriate College employee such as a **Supervisor**, **Manager** or **Administrator** responsible for a learning or service environment for advice or assistance in pursuing informal resolution.

C. Referral to the Responsible Administrator

i. A **complainant** may file a **complaint** under the Douglas College *Standards of Student Conduct Policy* by submitting a **SCCF** or written report to the **Responsible Administrator**. The **complaint** should set

C. Referral to the Responsible Administrator (cont.)

out the relevant details regarding the alleged violation of the Policy; a list of any potential witnesses and a summary of the information they are expected to provide; and relevant documents and any action taken by the **complainant** to attempt to resolve the alleged violation(s) and the result of those actions.

ii. A **complainant** has the right to withdraw a **complaint** at any stage of the process. However, the College may continue to act on the issue identified in the complaint to comply with its obligations under law or the Policy.

iii. Upon receipt of a **complaint**, the **Responsible Administrator** must first determine if it falls within the scope of the Policy. If it does not, the **Responsible Administrator** will inform the **complainant** in writing.

iv. If no previous attempt has been made to resolve the **complaint** informally, the **Responsible Administrator** may propose an alternate dispute resolution process if it is appropriate in the circumstances. Otherwise, the **Responsible Administrator** will investigate or appoint an **investigator** to investigate the **complaint**.

v. Participation in an alternative dispute resolution process is entirely voluntary. If either the **complainant** or the **respondent** do not agree to that alternate process or wish to discontinue their participation in that process, then the **Responsible Administrator** will investigate or appoint an **investigator** to investigate the **complaint**.

INVESTIGATION

1. An investigation into a student misconduct complaint is not an adversarial process. Hearings will not be held as part of the investigation process.
2. In all investigations, the **respondent** will be provided with a copy of the **complaint** and be given full opportunity to respond.
3. The **investigator** will advise participants in the investigation process of the option to have a support person present for any interviews. For **students**, this would normally be the **Douglas Student Union (DSU) Ombudsperson** or a person seconded from a list of potential supports as maintained on the **DC** website. The **investigator** has discretion to consider requests for others to be support persons.
4. The **investigator** will conduct the investigation in a procedurally fair manner, following principles of administrative fairness, using a process determined by the **investigator**. The investigation process may include some or all of the following steps:
 - i. Requesting a written response to the **complaint** from the **respondent**, including a list of any potential witnesses along with a summary of the information those witnesses are expected to provide, and any relevant documentation.

INVESTIGATION (cont.)

- ii. Meeting with or requesting further information from the **complainant**.
 - iii. Meeting with or requesting further information from the **respondent**.
 - iv. Meeting with or requesting further information from any other individuals who may have relevant information, including any witnesses identified by the **parties**.
 - v. Obtaining any other relevant evidence.
 - vi. An **investigator** may choose to record some or all interviews conducted.
5. Once the investigation is complete, the **investigator** will prepare a written report that will normally include a summary of the evidence considered, any assessment of credibility that was required to be made, the **investigator's** findings of fact, and a determination as to whether, on a balance of probabilities, the DC Policy has been violated.
 6. A copy or a summary of the investigator's report will be provided to the **complainant** and the **respondent** and to the **Responsible Administrator**.
 7. Based on the findings of the **investigator's** report, the **Responsible Administrator** will determine what sanctions or other measures are appropriate.
 8. Where an investigation upholds the **complaint** in whole or in part, the **Responsible Administrator** will determine an appropriate penalty or sanction for the **respondent**, except where suspension is deemed the appropriate penalty, the **Responsible Administrator** must make that recommendation to the **President** for action.
 9. Penalties and sanctions imposed under this Policy will be commensurate with the seriousness of the **misconduct** and be progressive in nature. It may include, but is not limited to, one or more of the following:
 - a. Mandatory education or awareness training;
 - b. Letter of reprimand;
 - c. Restriction of access to specific College activities, facilities and/or services;
 - d. College Community Service Order
 - e. Restitution Order
 - f. Suspension for a defined period of time or permanent suspension (expulsion) from Douglas College. Under Section 37 of the *College and Institute Act of BC*, the **President** has sole authority to suspend.
 10. If the **investigator's** report determines that this Policy has not been violated, the **Responsible Administrator** will dismiss the **complaint** and notify the **complainant** and **respondent**.
 11. If the **investigator's** report determines that the **complaint** was **frivolous, vexatious** or vindictive in nature, the College may take appropriate disciplinary action against the **complainant**.
 12. A finding of **misconduct** under the Policy and any sanctions imposed on the **respondent** as a consequence will form part of the **respondent's** official student record at **DC** and should be taken into account if there are subsequent findings of **misconduct**. The Registrar's Office will be notified to place information on the student record.

CONFIDENTIALITY

1. To encourage persons who have witnessed or who have been subject to behaviours that are in violation of the Policy to come forward, and to protect the rights and reputations of the **parties** throughout the investigation and resolution process, confidentiality of all persons and information involved in a disclosure or **complaint of misconduct** is expected.
2. Confidentiality must, however, be distinguished from anonymity. If a **complainant** wishes to proceed with a **complaint**, the **respondent** must be made aware of the nature of the allegations, including the identity of the **complainant**.
3. To protect the integrity, fairness and effectiveness of investigations and to ensure compliance with the ***Freedom of Information and Protection of Privacy Act of B.C. (FIPPA)***, all participants in an investigation must act in accordance with the requirements set out as follows:
 - a. Individuals, including the **complainant** and the **respondent**, who have obtained personal information about an identifiable individual through their participation in an investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this does not prevent:
 - i. Any participants in an investigation from disclosing information about themselves, or
 - ii. College representatives from disclosing investigation-related information as authorized under this Policy.
4. The College will not disclose any personal information related to an investigation except to the extent such disclosure is:
 - a. expressly authorized by the affected individual;
 - b. to a College representative, if necessary for the performance of that person's duties;
 - c. to a **complainant, respondent, witness** or other participant in the investigation, if necessary for the conduct of the investigation;
 - d. authorized by this Policy; or
 - e. authorized or required under law.
5. Information may also be shared where:
 - a. an individual is at imminent risk of self-harm;
 - b. an individual is at imminent risk of harming another; or
 - c. there are reasonable grounds to believe that others in the College Community or wider community may be at risk of harm.
6. To maintain the integrity of the investigation process, the College must ensure that both **complainants** and **respondents** know the investigation findings.
7. Under **FIPPA**, the College is only authorized to disclose disciplinary actions it has taken against a **respondent** if the disclosure is authorized by the College for compelling health or safety reasons.
8. All recorded personal information will be treated as "supplied in confidence" for the purposes of compliance with **FIPPA** and responding to access requests under that legislation.
9. Any person breaching confidentiality may be subject to discipline or other appropriate action.

APPEALS

1. Under the College Policy, the following parties have a right of appeal:
 - a. A **respondent** who has been found to have violated this Policy following an investigation and been disciplined as a result.
 - b. A **complainant** who has been found to have made a **complaint** that was **frivolous, vexatious** or vindictive in nature following an investigation and been disciplined as a result.
 - c. A member of the College Community, who may or may not be a Party to a **complaint** who is found to have breached confidentiality or to have engaged in retaliation and been disciplined as a result.

2. There are two grounds of appeal available to the appellant:
 - i. That an error was made in the process used (“procedural error”) and/or
 - ii. that the discipline imposed was improper.

An appeal is not to be a reconsideration of the original **complaint**. An appeal must be submitted in writing, setting out the specific grounds for the appeal, within ten (10) working days of the decision being appealed.

3. The person to whom the **Responsible Administrator** reports will hear the appeal except where the imposition of a suspension is being appealed, in which case the appeal will be considered by the **Douglas College Board**, as required by the *College and Institutes Act of B.C.*

4. The appeal may be upheld or dismissed, in whole or in part, and/or referred back to the **Responsible Administrator** for reconsideration. The person or body deciding the appeal will give reasons for the decision in writing to the **party** who filed the appeal.

APPENDIX

Education and Awareness

1. A manual on investigative procedures will be developed by the College, and training on appropriate investigative procedures will be provided to all **Responsible Administrators**.
2. The **Director, Safety, Security and Risk Management** (or designate) shall ensure that a College safety/procedures manual is available to **Students, Employees and Users of the College**.
3. **Students** will be informed of the College *Standards of Student Conduct Policy* through the distribution of informational materials at the beginning of each semester.
4. **Students** who are impacted by inappropriate behaviors shall have access to support services through the College Counselling Services or be referred to community agencies, as appropriate.
5. Information on any incident resulting in disciplinary actions will be sent to the **Manager, Student Support and Conduct** (and the appropriate administrator/supervisor at locations other than the New Westminster Campus). The **Manager, Student Support and Conduct** will maintain a list of **students/users** who have been disciplined for disruptive/inappropriate behavior.
6. The **Manager, Student Support and Conduct** or designate, will prepare annual statistical reports of incidents under this Policy that result in disciplinary action, and circulate these to the **Senior Management Team**.