

SIMON FRASER UNIVERSITY ADMINISTRATIVE AND PROFESSIONAL STAFF ASSOCIATION

Investigation and Discipline Policy

The Board of Simon Fraser University Administrative and Professional Staff Association (“**SFU APSA**”) has the authority to govern itself and determine appropriate policies and procedures for good governance. This includes the authority to investigate and, if appropriate, discipline one or more Directors whose conduct is found to have breached their duties or is otherwise inconsistent with the applicable expectations and obligations.

This policy outlines the process by which the Board may investigate and review the conduct of a Director and, if warranted in the circumstances, assess discipline against a Director for failure to properly carry out his or her duties and obligations as a Director.

1 Interpretation

- 1.1 In the case of any ambiguity in the interpretation of this policy or a matter arising out of it, the Board will determine the matter, and the Board’s decision is final.
- 1.2 In this policy, capitalized terms reflect the definitions set out in the Bylaws.
- 1.3 In this policy, and except as otherwise required by context, the terms “they,” “them,” and “their” are used as gender-neutral pronouns to refer to an individual regardless of gender.

2 Misconduct

- 2.1 A Director who violates, disregards or otherwise fails to fulfill or comply with the duties or obligations of a Director, as set out in the *Societies Act*, the Bylaws or SFU APSA’s Code of Conduct may be subject to discipline by the Board in accordance with the Bylaws and this policy.
- 2.2 A Director who engages in conduct that is contrary to the interests of SFU APSA or which will or may reflect poorly on SFU APSA and its Board and membership may be subject to discipline by the Board in accordance with the Bylaws and this policy.

3 Report of Misconduct

- 3.1 Any person, including a Director, Member, staff person or member of the public, may submit a report or complaint alleging misconduct by one or more Directors. Except in unusual circumstances, a report must be submitted in writing by an identifiable individual to be reviewed.

4 Review of Report of Misconduct

- 4.1 The President, Vice-President, Secretary, and Treasurer (the “**Officers**”) will, with support from the Executive Director, review every report or complaint of misconduct as it arises to determine if the matter warrants further review and hearing. The Officers may try to resolve matters informally where appropriate. Wherever possible, the Officers will review a report of misconduct within two (2) weeks of receiving the report.
- 4.2 If a report or complaint of misconduct relates to the conduct of an Officer, then that Officer has a conflict of interest and will not participate in the discussion or decision of the matter reported. Except

as required by sections 4.1 and 4.2, materials or information relating to the report or complaint of misconduct that is circulated to or among the Officers, or subsequently to the Board, will not be provided to the Officer or Officers in question.

- 4.3 If the Officers determine the conduct under report warrants a formal process, they will determine a time, within 60 days, when the Board will hold a hearing to review the matter and authorize notice in writing of the hearing to all Directors.

5 Formal Notice of Review

- 5.1 Prior to formal notice being sent, the President (or Vice-President, in a case of a matter involving the President) will:
- (a) contact the Director(s) whose conduct has been reported and describe the nature of the alleged misconduct and the process underway for a formal hearing; and
 - (b) invite the Director(s) to provide, in writing, further information, response or submission for the Board's consideration at the hearing.
- 5.2 The President (or Vice-President, in the case of a matter involving the President) will provide notice in writing to all Directors at least 14 days in advance of the hearing that the Board will consider the report of misconduct and all relevant information to determine whether discipline is justified. Notice must include the date, time and location of the hearing, as well as any details regarding the availability of participation by Electronic Means.
- 5.3 In order to ensure confidentiality, notice of a hearing will not include any report received in relation to the matter at the hearing and will not include details of the alleged misconduct.

6 Review and Investigation

- 6.1 Prior to a hearing, the President (or Vice President, if applicable) may, with the assistance of the Officers and the Executive Director as necessary, investigate the allegations set out in a report by appropriate methods, including interviewing and requesting written statements from the Director(s) in question, witnesses, and other relevant individuals.

7 Hearing

- 7.1 The hearing for Director misconduct or failure of duty may be held as a standalone meeting or as part of a regular meeting of the Board, but in every case will be held in-camera. The meeting may, in the Officers' sole discretion, be held in person or via secure Electronic Means.
- 7.2 The Executive Director or SFU APSA legal counsel may be present at the request of the President (or Vice-President, if applicable), but no other staff or others will be present during a hearing. Directors under investigation may have, at that Director's own expense, legal counsel present, but are not entitled to have legal counsel speak for a Director or to address the hearing.
- 7.3 At the hearing, the President (or Vice-President, if applicable), acting as hearing chairperson will review the initial report and such other relevant evidence as has been gathered, including any written statement or response provided by the Director(s) under investigation.
- 7.4 Where the hearing chairperson has determined in advance that it is necessary or appropriate, they may request the attendance of a witness or other individual to provide a statement or evidence to the hearing in person. Such individuals may be questioned by any Director (including a Director under investigation) provided that questions are relevant to the issues at hand and are not

otherwise inappropriate or disrespectful, as determined by the hearing chairperson. The hearing chairperson has authority to disallow inappropriate or irrelevant questions.

- 7.5 Each of the Directors whose conduct is under investigation will have an opportunity to address the Board to respond to the report and other evidence, or to provide additional relevant submissions. Submissions must be reasonable and relevant to the issues at hand. Filibustering is not permitted.
- 7.6 Any Director present may ask questions of the hearing chairperson or another Director. A Director under investigation is not required to answer questions if he or she does not wish, but the refusal to answer questions may result in an adverse inference by the other Directors present.
- 7.7 Following the presentation and submissions, the Director(s) under investigation (being in a conflict of interest) will leave the hearing room and the remaining Directors will:
- (a) discuss the issues further as they deem necessary;
 - (b) determine whether discipline is warranted and, if warranted, what kind of discipline is appropriate in the circumstances;
 - (c) prepare and consider a motion to discipline the Director(s) in question; and
 - (d) hold a vote on the motion.
- 7.8 The Board may take into account any credible evidence that is relevant to the alleged misconduct or failure of duty, including past conduct of the Director(s) in question. The Board may assess one or more of the following disciplinary actions against a Director for misconduct or failure of duty:
- (a) warning;
 - (b) formal censure;
 - (c) requirement to participate in appropriate education seminars;
 - (d) removal from a position as an Officer pursuant to Bylaw 11.4; or
 - (e) proposal for removal as a Director by Special Resolution pursuant to Bylaw 7.11.
- 7.9 Any disciplinary action must be approved by majority of the Directors present at the meeting, provided that the Director in question is deemed to have a conflict of interest and shall not vote or be present when the vote is cast.
- 7.10 Following the determination, the Director(s) under investigation will be called in, and the determination of the hearing will be conveyed, including the wording of the motion, the result of the vote (and whether such result was unanimous or not) and the disciplinary action to be imposed, if any.
- 7.11 Except in exceptional circumstances, the determination of a hearing will not be adjourned or deferred to a subsequent meeting.
- 8 Disclosure and Confidentiality**
- 8.1 Minutes of the hearing will be recorded, but kept separate from minutes of regular meetings of the Board.

- 8.2 A summary of the disciplinary hearing, including the result and the disciplinary action, if any, imposed, will be prepared and circulated to all Directors. A copy of the summary will be kept by SFU APSA in a separate and secure manner.
- 8.3 Director discipline will be kept strictly confidential, except where the Board, in its discretion, expressly determines that it is appropriate or necessary to release information regarding the misconduct to members, or is legally obligated to make disclosure to proper authorities.

Date of Approval: October 9, 2024.
