

**Title:** Conducting Investigations  
**Category:** Administration - General  
**Policy No.:** B1001  
**Replaces:** New Policy  
**Applicability:** All Employees  
**Effective Date:** May 3, 2005  
**Source(s):** Langara Council

**Approval:** \_\_\_\_\_  
President

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## 1. PURPOSE

To identify the processes to be followed for conducting investigations and to provide guidance to College employees who are responsible for conducting investigations at the College.

## 2. DEFINITIONS

**Complainant:** is the person making a complaint, or raising a concern under a College policy.

**Respondent:** is the person about whom the complaint is being made.

## 3. AUTHORITY

### 3.1 Acts and Regulations

[B.C. College and Institute Act](#)

### 3.2 Related Policies

[Appeal of Final Grade](#)  
[Code of Academic Conduct](#)  
[Code of Conduct](#)  
[Concerns About Instruction](#)  
[Human Rights](#)

#### 4. RELATIONSHIPS WITH COLLECTIVE AGREEMENTS

[B.C. Nurses' Union Collective Agreement](#)

[Canadian Union of Public Employees, Local 15, Collective Agreement](#)

Langara College Administrators' Association Terms of Employment

[Langara Faculty Association Collective Agreement](#)

#### 5. POLICY

5.1 Investigations conducted by or on behalf of the College must be done in a full, fair, and timely manner, consistent with the principles of natural justice. Individuals under investigation have a right to an impartial investigator, and will be given an opportunity to respond to the full case against them.

5.2 In order to comply with these principles, College employees must follow the Guidelines appended to this policy.

5.3 In any case where legal action is threatened or taken, the matter must be referred to either the Bursar or the Office of the President.

#### 6. GUIDELINES/STANDARDS

Not applicable.

#### 7. EXCEPTIONS

Not applicable.

#### 8. PROCEDURES

8.1 Before commencing an investigation, a College employee must review any applicable policy, collective agreement or terms of employment to ensure that they:

- a. are the authorized and appropriate person to conduct the investigation; and
- b. understand any terms of reference provided for the investigation.

The appropriate College Executive Committee member must be consulted if advice regarding the above is required.

8.2 College employees who are directed under a policy, collective agreement or terms of employment to conduct an investigation on behalf of the College will follow the guidelines appended to this policy.

- 8.3 College employees who investigate a situation or incident for which there is no existing policy at the College must follow the guidelines appended to this policy.

## **9. RESPONSIBILITY**

For inquiries relating to this policy, please contact the Executive Committee member for your area.

## **10. APPENDICES**

Appendix 1: Guidelines for Conducting Investigations

## APPENDIX 1 GUIDELINES FOR CONDUCTING INVESTIGATIONS

### General Considerations

- a. **Investigation Must Be Fair:** As the investigator, you must be in a position to be able to investigate impartially and apply your mind to the facts independent of any prior knowledge, experience or background relevant to the issue. You must step aside if you are the person who is being complained about, or if you have had any involvement in the matter being investigated.
- b. **Make Notes:** maintain as accurate a record as you reasonably can, of all conversations. You may choose to have another person with you during your investigation (a member of staff or a colleague) to take notes or to tape record the conversation. Advise all those in attendance of this person's role. Request and note their agreement to it. If another person makes the notes, you should review them immediately after the meeting, make any changes you think appropriate and initial them to indicate your adoption of them. Write down what was said, who said it, and how it was said. Do not include editorial comments in your notes. If you draw conclusions about a person, make sure your notes clearly distinguish between your conclusions and what the parties say and do. Use quotation marks to indicate direct quotes. Ensure the notes are legible – if necessary have them re-typed.
- c. **Examine Evidence Carefully:** Carefully assess statements given by witnesses. Hearsay is testimony given by a witness, not about what he or she heard, saw, or knew personally, but what others have said. Do not accept such second-hand statements as proof of the matter asserted. Such statements may lead you to further investigation, but do not rely on uncorroborated hearsay to prove crucial facts.
- d. **Respect Privacy:** Conduct your investigation as privately as possible and ask those you talk to in the course of the investigation to treat your discussions as confidential. The investigation should not be discussed with persons unconnected with the investigation, including College officials, unless there is a safety or security issue or if you believe it is a criminal matter. In those circumstances, the President should be notified.

### Before Beginning The Investigation, Review:

- e. **Your Mandate:** Check the applicable written policy or Collective Agreement article, if any, to determine what is required. Are you required to produce a written report? Are you required to engage in mediation first? If you are unclear of your mandate, check with the appropriate College Executive member.

- f. **Timelines:** When conducting an investigation under a policy or Collective Agreement, ensure that you comply with all timelines. Any deviation from required timelines, if allowed, must have the agreement of the relevant parties, that is for example, the complainant and respondent and/or the College and the Union, as defined in the Policy or Collective Agreement. If any extensions are granted or agreed to, confirm agreements in writing, and NOTIFY ALL THOSE AFFECTED.
- g. **Other Requirements – Ensure Appropriate People Are Notified and/or Present:** Under some policies and Collective Agreements, people have the right to have a support person with them. Even if there is no provision for a support person, if a person requests one, you should permit them to bring someone, but make it clear that the support person may not provide input during your investigation. The parties are entitled to obtain legal advice. However, in general, lawyers should not be permitted to examine witnesses or otherwise interfere with your investigation. An investigative meeting should not be turned into a hearing (unless a hearing is required under policy).

### Proceeding With Your Investigation

- h. **Obtain the Complaint:** This should be in writing, submitted by either the complainant or through the complainant's signed agreement to your documentation of their verbal complaint. The complaint should include:
  - i. Complainant's name, personal information such as: student number, position title, employee status, address, phone number, email address, cell phone, other contact numbers;
  - ii. Respondent's name, and any information known about the respondent (see above);
  - iii. Detailed description of the situation/incident;
  - iv. List of any witnesses to the situation/incident, along with as much information as possible to assist in identifying and contacting witnesses;
  - v. Date and signature of complainant.
- i. **Consider Preliminary Issues:** Is this a trifling matter? Even if everything in the complaint is true, does it breach any policy of the College? If you dismiss the matter at this stage, inform the complainant, in writing, giving reasons.
- j. **Interview The Complainant:** ensure that you get all the details; follow up on what is described in the complaint; sweeping statements or the complainant's own conclusions about another's motivation or the complainant's feelings are not sufficient to establish facts. Get the facts that are the basis for the complaint. Get the names of all witnesses known to the complainant.

- k. **Interview Witnesses:** ensure that you get the entire picture; look for consistency between witnesses; follow up to get the information; go back to the complainant or to witnesses if it is not clear. Know where the consistent and inconsistent statements are. Where possible, obtain a signed statement from the witness. It is usually better to interview the complainant's witnesses before interviewing the respondent, so that the respondent can hear the entire case against them.
- l. **Interview the Respondent:** Ensure that the respondent is told what the complaint is. The respondent must know all of the allegations, including those verified by the witnesses that you have already interviewed. Copies of the complaint and any witness statements must be provided. Listen to the response/explanation of the respondent. Get the names of any witnesses provided by the respondent.
- m. **Interview The Respondent's Witnesses:** If the respondent makes counter-allegations against the complainant, put those to the complainant for response. Be thorough in your questioning.

### Investigation Outcome

- n. **Make a Decision:** The task for the investigator is usually to make two determinations: (1) Did the behaviour occur, and (2) If it did – can the behaviour be characterized as misconduct? Under some policies you may only have to make the first determination: make sure you know your mandate. The decision should be made only when you have collected all of the information required to answer the questions that any reasonable person would have about the same situation.
- o. **Write A Report:** You may not have to produce a detailed report such as that described below, in every instance. However, you should inform the parties of your decision in writing. Ensure that you follow any requirements set out in an applicable policy or Collective Agreement. If there are no requirements, in general you should use the following format:
  - **Introduction:** Specify under which policy or Collective Agreement you are conducting the investigation, and describe the nature of the issue or concern.
  - **Investigation Methodology:** Describe how you conducted your investigation, including whom you interviewed, when you met them, over what time period your investigation was conducted.
  - **Allegations of the complainant(s):** Set out the complaint. You may quote from the written complaint, and provide additional detail based on your interview(s) with the complainant.
  - **Witnesses' responses:** Describe what the witnesses said. Point out where the stories corroborate and where they are inconsistent.

- **Response to the allegations:** Set out the respondent's response. Deal with any factual discrepancies. Point out where the stories are consistent and where they differ.
  - **Findings of fact and credibility:** Based on the evidence you have just described make a determination about what happened. Point out where the facts are uncontested. Do not include irrelevant facts. Where there are discrepancies in important facts, you must make a determination about which version is true. This involves your judgment about the credibility of the parties. Credibility is not just based on who is telling the truth. Both parties may believe they are telling the truth. Finding one party more credible than another does not necessary mean you are calling the other party a liar. Credibility depends not just on truthfulness, but also on the opportunity and ability to observe, the ability to recall, and conscious or subconscious bias. Do not include facts that are irrelevant to the issues. Gossip or rumours about a person that are not supported by facts before you, should not be included.
  - **Conclusions regarding breach of policy or misconduct:** Once you have determined the facts, you must conclude whether based on those facts, there has been a violation of policy or some form of misconduct. Relate the facts to the policy or rule in question. Explain how the facts fit into the policy. Point out which facts you relied upon. If you find a violation, explain clearly which facts led you to that conclusion.
  - **Decision regarding consequences in the event of a violation:** If you are the person who is responsible for determining the consequences of a violation, make your decision and set it out clearly. In some policies you may be entitled to make recommendations as to the consequence. Check the relevant policy and ensure you are fulfilling your mandate. If there is no provision for making a recommendation as to penalty, do not include a recommendation in your report.
- q. **Check Your Report:** After completing the report, check for clarity and completeness. Keep it as concise as possible. Eliminate wordiness. Check grammar and spelling. Write it as though a third party with no knowledge of the incident will be reading it.