



**VANCOUVER COMMUNITY COLLEGE  
ARBITER OF STUDENT ISSUES OFFICE  
TERMS OF REFERENCE**

Adapted & Developed by Tanny Marks

## PREAMBLE

The Terms of Reference (TOR) for the Arbiter of Student Issues Office (hereinafter the 'Office') were established on December 31, 2018 confirming the practices and principles of the Office over its 7+ years tenure. The TOR may be reviewed and/or renewed from time to time with the express consent of the Arbiter of Student Issues (ASI).

The terms 'ASI' or 'Office' are used herein to signify the ASI or the Office, respectively, but also encompass other staff who may be authorized from time to time to carry out certain functions of the Office.

*NOTE: This TOR is adapted with gratitude and permission from the Association of Canadian College and University Ombudspersons (ACCUO) Terms of Reference Sample Clauses available on the ACCUO website. (see: <http://accuo.ca/resources/clause-template/>) The ACCUO sample document was developed by Shelley Lancaster, Ombuds at McMaster University and Marie-José Rivest, Ombudsman at University of Montreal and modeled on an Occasional Paper by Dean M. Gottehrer entitled, "Ombudsman Legislative Resource Documents" (March 1998). The Occasional Paper (#65) may be obtained from the International Ombudsman Institute, Faculty of Law, University of Alberta, Edmonton, Alberta T6G 2H5, Canada.*

## COMMITMENT TO EQUITY, DIVERSITY, INCLUSION, INDIGENIZATION & DECOLONIZATION

### **OFFICE LAND ACKNOWLEDGMENT & SUSTAINED JOURNEY**

The Office recognizes that it works and serves on the unceded and traditional territories of the Coast Salish peoples, namely the Sk̓wxwú7mesh (Squamish), Stó:lō and Səl̓ílwətaʔ/Selilwitulh (Tseil-Waututh) and x̣ʷməθkʷəy̓əm (Musqueam) nations. The ASI continues to pursue its quest to better understand how its ombuds-like services can better align with and serve VCC's Indigenous Communities.

The Office serves very few self-identified Indigenous students and notes that the type of assistance available to students through the ASI does not seem to speak to Indigenous student need around dispute resolution.

The ASI takes an open, inquisitive and reflective stance when contemplating the way forward to decolonize and Indigenize its practice. The Office does note how various facets of the fairness triangle align with EDI and decolonization. In particular, relational and substantive fairness capitalize on the intrinsic value and worth of an individual complainant by focusing on how the person was treated and the substance and

rationale of the decision made about the student. Elements of fairness such as the decision maker's approachability, honesty and forthrightness and their affording of dignity and respect to the student align with EDI and decolonization principles.

Pursuant to VCC's Strategic Innovation Plan commitments to Indigenization and decolonization, the Office looks forward to the College unveiling its institutional framework on Indigenization and decolonization thereby moving the VCC community into a more action-oriented phase regarding Indigenization and decolonization. The ASI hopes to glean from such a framework better direction on how it can better Indigenize and decolonize its processes.

### **EQUITY, DIVERSITY & INCLUSION (EDI)**

The Office is committed to working through an EDI lens. The ASI is privileged to sit on a number of designated equity focused committees and working groups thus allowing for fairness to intersect with equity, diversity and inclusion at the College. The ASI interweaves EDI throughout the entirety of the Office's administration, operations and undertakings rather than applying EDI to discreet individual interventions addressing singular matters of inequity. The ASI works through, leverages and sees the impact of using multiple intersecting EDI and fairness lenses when supporting students around appeals or complaints, when providing the institution recommendations on particular concerns or when supporting the College with a paradigm shift in approaching student issues.

### **HISTORY OF THE OFFICE**

Vancouver Community College (hereinafter the 'College') serves a very diverse student population and addresses complex issues, including disputes. The College is committed to the just and fair treatment of its student body and to ensuring that the College is a healthy place to work, learn and develop one's potential. The Arbiter of Student Issues Office was opened at the end of March 2011 after collaborative dialogue and research conducted between the College Administration and Students' Union of Vancouver Community College (SUVCC). The Office was first opened under the title VCC Student Advocate's Office. The term 'student advocate' soon engendered confusion in the minds of all stakeholders (student and non-student alike) and so the office was officially re-titled to "Arbiter of Student Issues Office" in November of 2011.

The College's commitment to fairness (procedural/relational/substantive) and equity finds voice in the Office. The Office liaises with members of leadership and senior leadership on systemic issues and in defining and advancing the strategic goals of the College, particularly those directed at ensuring that VCC is a fair and equitable environment in which to learn.

## MANDATE

**The Office is a dedicated resource available to guide a student who finds themselves either at the centre of a complaint or lodging a complaint; acts as a neutral and impartial agent imbued with the ability to explore complaints with all parties concerned; and offers both informal and formal conflict resolution processes to resolve disputes brought to its attention.** The Office leads in establishing the principles of a fair environment in which broad systemic fairness issues are identified and addressed. The Office advises decision makers and others at all levels of the institution on issues related to fairness. The Office consults with all members of the College community on College resources, policies and procedures with respect to the equitable treatment of students. The Office mediates or intervenes to help resolve disputes, remedy unfair situations and to apprise individuals and units of their rights and responsibilities relevant to student issues. The ASI provides information, resources and education related to dispute resolution, organizational change and fair processes. Akin to the Post-Secondary Ombudsperson role with an enhanced mandate that serves the diverse and often multi-barriered VCC student body, the ASI strives:

- **Student Grievances, Disputes & Appeals:** To provide support to VCC students around complaints and appeals arising at VCC and relative to VCC policies, inclusive of outlining both formal and informal pathways of resolution
- **Referrals:** To refer students to VCC Counselling Services around personal conflict and VCC Disability Services around disability accommodation needs, to facilitate access to other relevant VCC services and to provide an understanding of external dispute resolution resources and supports, in particular information about the Students' Union of Vancouver Community College, the Office of the Ombudsperson of British Columbia and the British Columbia Human Rights Tribunal
- **Patterns of Inequity:** To map, illuminate and make recommendations for removal of systemic barriers in order to strengthen the College
- **Change Agent:** To use professional influence to effect change and arrive at mutually agreed upon solutions without imposing a resolution
- **Procedural/Relational/Substantive Fairness:** To identify gaps in policy, procedure, protocol and/or practices and recommend change in order to address any fairness or natural justice issues
- **Consultation:** To provide consultative support to non-student College interest holders around student centred matters or disputes, in particular to provide orientation on student centred policy, roles, rights and responsibilities

The Office will make recommendations to relevant College actors with a view to remedying the situation of an individual student or ameliorating a systemic barrier, as appropriate. Recommendations may be made upon request or of the Office's own motion. Recommendations issued by the Office shall not be construed either as reflections of the operating philosophy of the funding organization(s) or any other body on campus.

In the course of inquiry or exploration and in bringing recommendations forward, the Office will seek to ensure that the principles of natural justice and fairness are observed. The Office may have a right to attend and/or speak at meetings of the governing bodies.

## **STRUCTURE OF THE OFFICE**

### **REPORTING STRUCTURE OF THE OFFICE**

The ASI reports to the Vice President, Students & Community Development and the Office is a department under the Students & Community Development division of the College. The Office is well placed within this portfolio given the complexities of students' profiles that attend the College. Collaboration between the Office and other student services bolsters the effectiveness of the Office and allows for 'Wrap Around' servicing of students.

The ASI may delegate responsibilities conferred by the TOR to any member of the Office's staff including Practicum Students, Casual Employees or Consultants.

### **OFFICE RESOURCES**

- One person office (Arbiter of Student Issues); no permanent support staff
- Access to limited consultant, expert and casual administrative support
- Open 28 hours per week, four days per week (Tuesdays, Wednesdays, Thursdays and Fridays) with flexible schedule
- Seated at the Broadway Campus
- Services both College Campuses (Downtown and Broadway)
- Services provide in-person or remotely

### **OFFICE PRACTICUM STUDENT**

- The Office may provide opportunities for Practicum Students in either an administrative/clerical or a substantive client servicing capacity.
- All Office values, responsibilities, practices and accountabilities will be extended to Practicum Students. Practicum Students will be bound by all Office parameters and, in particular, client confidentiality and the Office's principles of impartiality and neutrality.
- Opportunities for Practicum Students will be meaningful and supportive of the Practicum Student's educational goals.

### **FUNDING**

The Office is funded exclusively by Vancouver Community College. The Office may look at the adoption of other models of funding if appropriate to its principles, values and mandate.

### **VALUES OF THE OFFICE**

#### **PHILOSOPHY**

- The Office is not meant to replace established channels of assistance but may be leveraged if an individual requires guidance in identifying pathways of communication or support, would prefer to discuss a problem with an impartial and neutral party, or has already gone through established channels without satisfaction. Where there may be another College office or unit for the resolution of complaints or the provision of information, the Office shall re-direct enquiries there, underlining the referral's responsibility for initiating the appropriate actions, encouraging the referee to return to the Office if not satisfied with the processes undertaken.
- The ASI does not accept notice on behalf of the College or any other party regarding complaints. The Office is not an "office of notice" for reporting complaints. Simply advising the Office of a situation is not a suitable substitute for the complainant advising the appropriate authority. The Office does not act on a situation if the complainant is not willing to engage in the dispute resolution process. Furthermore, there is no ability for the ASI to work with anonymous complainants. The ASI must be in possession of sufficient detail of the complaint, inclusive of the complainant's identity, in order to properly advise the complainant on their dispute resolution options.
- Whenever practical, the Office shall seek the resolution of a student's grievance, appeal or problem at the lowest level within the College.

- Where the Office is satisfied that the requirements of the principles of natural justice and fairness have been met, it has the right to terminate its involvement in a case.

### **GUIDING PRINCIPLES**

- *Neutrality and Impartiality:* The Office does not represent one party's interests over another's. The Office acts in consideration of, and with respect for, the legitimate interests and concerns of all affected parties. Prior to formulating an opinion or a recommendation, the Office will look at the facts of the case brought to its attention or discovered through inquiry or investigation, objectively, without any bias for or against the issue under review or toward any party to the conflict or dispute.
- *Fairness:* The Office looks to enforce fairness in process and procedure surrounding conflict.
- *Equity:* The Office strives to arrive at equitable outcomes that improve the quality of student life at VCC.
- *Objectivity:* The Office looks at the complaint from all angles in trying to arrive at a resolution.

### **ACCESSIBILITY**

Any member of the College community has the right to seek the assistance of the Office without reprisal or threat of reprisal from any other College member or office. Any individual or body found to make such reprisals or threats will be reported by the Office to the relevant authority (i.e., supervisor, administrator, human resources, etc.).

### **CONFIDENTIALITY**

- The Office shall meet with persons or groups on a confidential basis and shall not intervene without their consent.
- The Office shall communicate to a complainant the extent to which it can respect their request for confidentiality. The Office will outline to the complainant the necessity to disclose details that identify them should the complainant request the pursuit of an inquiry or intervention. Any disclosure shall be limited to those who have a need to know.
- The Office will make use of and educate the College membership around the concepts of 'implied consent' and 'need to know' where confidentiality is concerned.
- Limitations to confidentiality are triggered:
  - when there is perceived or imminent threat of harm to self or others or commission of a crime

- where the ASI has been harassed, bullied or discriminated against and disclosure of information is necessitated to inform the harassment, bullying or discrimination
- where the ASI becomes the subject of a complaint and disclosure of information is necessitated to answer the complaint
- where the law requires and dictates the release of information
- Confidentiality will be respected even though acceding to such may prevent the resolution of a problem.
- The Office will not be compelled to give evidence about anything learned in the exercise of its duties unless about and authorized by a specific complainant. The College will endeavour to protect the ASI from subpoena by others both inside and outside the College.
  - Notwithstanding this standard, the Office may disclose a matter in order to establish grounds for conclusions or recommendations in a report provided the identity of the individual(s) involved is not made known, or is made known with their permission.

## FUNCTIONS OF THE OFFICE

It shall be the special concern of the Office that:

- Decisions affecting individual students are made with reasonable promptness.
- Procedures, policies, protocols and practices used to make decisions affecting students are adequate and consistently applied and that criteria and rules on which the decisions in questions are based are appropriate, and adhere to standards of procedural fairness and adequately publicized.
- The rights and responsibilities of College members are adequately defined and publicized.
- Any gaps and inadequacies in student centred College policies and procedures which might jeopardize a student's human rights or procedural fairness/natural justice rights be brought to the attention of the proper College authority.

Although authorized to function in the widest possible context and with a minimum of constraints, the Office shall not:

- Be a voting member of any committee, hiring board or council of the College, but may be a non-voting member or a consultant on policy and procedure development;



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- ❑ Make policy or replace established legislative or judicial procedures, although any or all of these may be explored or questioned and recommendations may be made for their improvement;
  - ❑ Set aside a student's request to preserve anonymity even though acceding to such a request may prevent resolution of the problem;
  - ❑ Exercise a judicial function, or make binding decisions in any case. The ASI shall have no actual authority to impose remedies or sanctions, or to enforce or change any policy, rule or procedure;
  - ❑ Act as the advocate of any party during the investigation or processing of a complaint;
  - ❑ Initiate an investigation until all existing avenues for seeking redress have been exhausted;
  - ❑ Exercise authority beyond the legal authority of the College.
  - ❑ Act as an office of record: advising the Office of a situation is not a substitute for advising the appropriate authority.

### **DIRECT STUDENT SERVICING/INTERVENTION**

The Office provides students with case intake, research, issue definition, complaint/policy navigation, action planning, formal and informal dispute resolution options, coaching, sober second look, meeting facilitation, case exploration, meeting & appeal hearing observation, information, referrals and other interventions as required.

*The method of intervention remains at the discretion of the Office but may include:*

- ❑ requesting that a College official meet with a student complainant;
- ❑ meeting directly with the respondent or other parties;
- ❑ facilitating communication between the parties;
- ❑ reviewing any relevant College record;
- ❑ making informal inquiries into a matter
- ❑ utilizing a form of shuttle diplomacy;
- ❑ facilitating a meeting between the parties;
- ❑ mediating a dispute;

- offering recommendations for a fair resolution
- etc.

### **LEADERSHIP & SENIOR LEADERSHIP**

The Office liaises with members of leadership and senior leadership on student systemic issues and issues of fairness, equity and procedural fairness for students. The ASI achieves this outcome by: working closely with the Vice President, Students & Community Development, Registrar, Associate Vice President, Student & Enrolment Services and other lead and senior lead administrators (Deans/Directors, Vice Presidents, President, etc.) on issues related to systemic fairness; participating in strategic planning; advising decision makers on how to achieve fair resolutions; reporting on findings from inquiries; making recommendations where appropriate on such findings; and through such recommendations serving as an effective influencer for positive change.

### **POLICY ENGAGEMENT**

The Office shall bring to the attention of those in authority any policies, rules, procedures, protocols or practices which appear unclear, inequitable or unfair or which might jeopardize student rights or freedoms. The Office may suggest changes to existing policies, rules, procedures, protocols or practices or offer advice on the development of new policies, rules, procedures, protocols or practices.

Office's Key Purposes for Policy Engagement:

- ❖ Providing direction on how to solve individual student complaints or academic related issues;
  - ❖ Instituting measures to address systemic issues;
  - ❖ Setting a culture of fairness, transparency, consistency, timeliness, accountability, and reasonability;
  - ❖ Mitigating risk to the institution.
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- The Office advises students and personnel on their rights and responsibilities under student-centred College policies, procedures, protocols and practices.
  - The Office engages the College and individual departments to strengthen policies, rules, procedures, protocols or practices to bolster procedural fairness/natural justice throughout the College. The Office provides consultation, advice and recommendations on matters of substantive and procedural fairness related to policy through 'voice no vote' standing as a policy committee member; through community

comment on policies, procedures and protocols; and via individual consultations about specific policies, rules, procedures, protocols or practice issues.

- The Office holds ‘observer status’ standing in policy re tribunals held for adjudication of student issues. The ASI will be invited to attend tribunals held to decide student complaints/appeals as a silent observer, will make note of procedural fairness issues and other fairness issues and bring forward those issues to the relevant authorities. Such observations are provided as comment on general gaps in proceedings and do not form part of the specific student’s case. The ASI will further provide post tribunal debriefs to hearing adjudicators upon request from hearing panel members. Such debriefs will form part of the Office’s educational efforts around procedural, relational and substantive fairness.

### **COMMITTEE ENGAGEMENT (‘Voice No Vote’)**

The Office will occupy membership on various College committees as a member with ‘voice no vote’ to contribute more fully to eliminating and preventing any patterns of unfairness. The inability for the ASI to vote on committee business will preserve the Office’s impartiality and neutrality. Membership on committees will vary depending on Office capacity, relation of committee’s mandate to that of the Office’s, and subject matter or issue the Office seeks to remedy and/or inform. The following comprises a list of various committees of which the ASI is or has been a member. The list is exemplary and may not reflect the actual membership of the Office for a given period.

#### *VCC Committee Activity*

Member - Education Council Policy Committee

Member - Education Council, Appeals Oversight Committee

Member - Tribunal Training Sub-Committee to Appeals Oversight Committee

Member - Operations Council Administrative Policy Committee

Member - Student Services Administrator Policy Group

Member - Positive Space Committee

Member - Employee Engagement Strategy Committee

Member - CARE About Gendered Violence Project Task Force

Member - Gender Based Violence Education & Prevention Committee

Member - Health Sciences Retention Committee

Member - Advisory Committee on Instruction of Students with Disabilities

Member - Committee for Supporting Students with Disabilities

Member - Prevention of Bullying Strategy Working Group

Member - Emergency Management Committee

Etc.

### **PROFESSIONAL DEVELOPMENT AND PROFESSIONAL ASSOCIATIONS**

Staying current on best practices, emerging issues in the post-secondary landscape, new approaches, legislation, case law and social trends is imperative to the ASI's work at the individual student level and for ensuring organizationally that the College continues to strengthen its processes and protocols where fairness is progressively and regularly built-in.

Membership in related professional associations gives the Office access to, among other things, best practices, professional development opportunities, professional community consultation, noted trends, sector expectations and changes, Office tools, etc. The following list is exemplary and may not reflect the actual membership of the Office for a given period:

Member - North West Ombuds Group (NWOOG)

Member - Community College Ombuds Group (CCOG)

Member - Association of Canadian College and College Ombudspersons (ACCUO)

Member - Canadian Association of College and College Student Services (CACUSS)

Member - British Columbia (Post-Secondary) Student Conduct Administrator's Roundtable (SCAR)

Etc.

**EDUCATION & AWARENESS BUILDING**

- Provides individual consultations to staff, faculty & administrators
- Provides workshops/seminars
- Provides training (sometimes in collaboration with other units or committees)

Around:

- The 'ombuds' concept
- Academic documentation;
- Procedural/substantive/relational fairness issues;
- Student/personnel relationships,
- Student/ personnel rights,
- Student/ personnel roles,
- Student/ personnel responsibilities,
- Student centred policy, procedures, protocols & practices
- Student dispute resolution (formal & alternative dispute resolution)
- Systemic issues and gaps & recommendations for change
- Student complaint management
- Action Planning
- Student Academic and non-Academic Documentation Best Practices
- Policy Navigation
- Policy Consultation
- Additional Student Services Referrals
- Etc.

**COLLABORATION WITH SUVCC, EXTERNAL POST-SECONDARY INSTITUTIONS & OTHER ORGANISATIONS**

- Consults with relevant external service providers on policy/procedures/protocol/practice, issues of procedural, relational and substantive fairness and specific fact patterns.

- Collaborates closely with the SUVCC on specific student complaints, recognizing that the SUVCC provides students with advocacy around general student issues and specific student complaints and appeals, most especially during hearing processes.

## JURISDICTION

- The Office may, at its sole discretion and without receiving an official complaint from the College community, identify and initiate its own motion inquiry into any inadequacies in existing College procedures, policies, process, protocol or practice that might jeopardize the rights of College students.
- The Office may inquire into the application of any procedure, policy, process, protocol or practice of the College.
- The Office shall be permitted to explore any issue impacting a College student.
- Once a formal complaint or appeal process has been commenced by a student, the Office shall not intervene except in cases of serious procedural or procedural fairness irregularities. This does not prohibit the Office from continuing to offer advice, assistance or recommendations to the relevant party(ies) without becoming directly involved in the process.
- The Office shall be given, upon request, written reasons for any administrative decision taken within the College with regard to a student complainant where the Office requests such for the purpose of advising or assisting the student complainant or where the Office seeks the information to inform a particular systemic issue or pattern.

## ACCESS TO INFORMATION

- The Office shall have access to all College authorities.
- The Office shall have access to files, records, reports, documents and information needed in fulfilling the functions of the Office. Requests by the Office for information should be handled in a mutually convenient and expeditious manner by members of the College community. The Office shall not be required to explain why the information is being sought.

## OFFICE PROCEDURES

- The ASI may, as they see fit, adopt whatever rules, regulations, policies, procedures or protocols necessary to govern the day-to-day operations of the Office. These include, but are not limited to, procedures for receiving and processing complaints, exploring attenuate issues, reporting findings and recommendations and marketing the Office.
- The ASI shall maintain suitable records of inquiries and cases. The files of the Office shall be for the exclusive use of the ASI and their staff and shall not be released to anyone else for any purpose unless compelled by law or upon consent of and request by the student.
- Case records will normally be maintained for seven years, or longer at the discretion of the ASI. Materials received from parties to the case, or copies of documents submitted to the ASI in their formal capacity, will be deemed property of the Office. Files may be destroyed once the ASI has deemed the file inactive; unnecessary to maintain for any pending internal or external proceeding; and outside the prescribed retention period.

## ACCOUNTABILITY & TRANSPARENCY

The Office reports annually based on the calendar year (January 1 – December 31):

- The Annual Report is critical to the Office’s accountability.
- The Annual Report is useful as a public relations tool.
- The Annual Report must not contain individual identifying characteristics because of the importance of retaining confidentiality.
- The Annual Report is an opportunity to report on trends, issues, and practices and to recommend systemic improvements and to report on any other relevant information concerning the activities of the Office for the year. When providing recommendations to the College and/or specific units on specific issues or gaps at the College, the Office will endeavour to provide an opportunity for the College/unit to respond to those issues in advance of the published Report and will publish those responses alongside the recommendations in the Report.
- The Annual Report may make public a recommendation on a specific issue or finding.
- The Annual Report includes statistical data.

- The Annual Report shall be published on the College's internal and external websites under the Office's webpages.
- The Office shall endeavor to continually evaluate its processes and to collect feedback from users, to review feedback and adopt new or improved practices where warranted.

## TERMS OF EMPLOYMENT OF THE ARBITER OF STUDENT ISSUES

- The Arbiter of Student Issues is a VCC employee.
- Candidates for the Office shall be identified by a search committee highly representative of the College community and inclusive of students, staff, faculty and administrators.
- Minimum qualifications are designed to ensure that an appropriate individual is selected to hold the Office. The ASI should be a person of recognized knowledge, judgment, objectivity, impartiality and integrity and with:
  - Ability to work in a diplomatic and credible manner with people, especially students and College personnel.
  - Demonstrated willingness and ability to make a minimum two-year commitment to the position.
  - Highly developed interpersonal communications skills, skills in active listening and dispute resolution, including Alternative Dispute Resolution.
  - Solid understanding of Procedural Fairness and Natural Justice precepts.
  - Understanding of substantive and relational fairness.
  - Analytical skills.
  - Experience in policy development and committee work shall be considered an asset.
  - Conflict resolution skills shall be considered an asset.





### COMPLAINTS AGAINST THE ASI

- Any College member may make a complaint against the ASI by using the customary modes of grievance provided for in College policy and/or by contacting the Vice President, Students & Community Development.
- The College member shall seek and be provided with alternative support to that of the ASI for their complaint including support from the Vice President, Students & Community Development and/or advocacy from the SUVCC.
- As respondent to the complaint the ASI shall also be entitled to avail themselves of a support person and/or advocate.
- The College member and the ASI will be afforded all procedural fairness rights as they would for any other issue of complaint.

*Janny Marks*

Arbiter of Student Issues

Feb. 22, 2024

Date

*Janel*

Vice President, Students & Community Development

Feb 23, 2024

Date