

**RESOLUTION OF NON-ACADEMIC
MISCONDUCT ALLEGATIONS****University Policy No:** AC1300**Classification:** Academic and Students**Approving authority:** Senate and Board of Governors**Effective date:** August 2017**Supersedes:** August 2011**Last Editorial Change:****Mandated review:** August 2024**Associated Procedures and Appendices:**[Appendix "A" – Examples of Non-Academic Student Misconduct](#)[Appendix "B" – Statement of Rights of Complainant and Respondent](#)[Procedures for the Submission of and Response to an Allegation of Non-Academic Misconduct](#)[Non-Academic Misconduct Appeal Procedures](#)**PURPOSE**

- 1.00 The university's goal is to be a diverse, dynamic and welcoming learning community. The purpose of this policy is to:
- (a) help foster a campus community characterized by accountability, respect, fairness, and safety;
 - (b) identify what constitutes Non-Academic Student Misconduct;
 - (c) set out transparent processes for submitting, investigating and resolving allegations of Non-Academic Misconduct; and
 - (d) articulate the rights and responsibilities of Students involved in Non-Academic Misconduct proceedings.

DEFINITIONS*For the purposes of this policy:*

- 2.00 **Administrative Authority** means individuals with administrative responsibility for Units including but not limited to: Vice-Presidents, Deans, Chairs, Executive Directors, Directors or other senior positions at the university.
- 3.00 **Complainant** means an individual who makes an allegation of Non-Academic Misconduct.
- 4.00 **Non-Academic Misconduct** includes but is not limited to where a Student engages in any of the following types of conduct on university property or in connection with a University Activity:
- (a) theft, damage or destruction of property;
 - (b) unauthorized entry or presence on university property;
 - (c) fraud or impersonation;

- (d) disruptive or dangerous behaviours to self or others;
- (e) unlawful possession or use of alcohol that violates the university liquor policy;
- (f) use or possession of illicit drugs; or
- (g) other activities that result in criminal charges or conviction or a court judgment.

Note: The university will respond to allegations of sexualized violence involving students in accordance with the university Sexualized Violence Prevention and Response policy (under development).

Appendix "A" provides detailed examples of Non-Academic Misconduct which may engage the processes and sanctions outlined in this policy and its associated procedures.

- 5.00 **Participant** means an individual who participates in a proceeding connected to a Student Non-Academic Misconduct allegation.
- 6.00 **Respondent** means a Student who is alleged to have violated this policy.
- 7.00 **Student** includes all of the following:
- (a) a person who is registered, enrolled, or participating in any credit course or program offered by the university;
 - (b) an undergraduate who has been enrolled at the university for one or more of the last three terms and is eligible to continue in a program of study;
 - (c) a graduate student who is enrolled at the university in the current term and is eligible to continue;
 - (d) a graduate student who is on an approved or personal leave and is eligible to enroll at the university when the leave ends; or
 - (e) a visiting or exchange or audit student who has been formally admitted to the university for the purposes of taking courses or to take part in an approved research term.
- 8.00 **Support Person** means someone who provides support or advice to a Complainant, Respondent, or witness during a Non-Academic Misconduct proceeding.
- 9.00 **Unit** means academic or administrative areas at the university, including but not limited to: faculties, divisions, departments, schools, offices and centres.
- 10.00 **University Activity** includes any activity that is directly connected to the operations of the university at any location, or any activity where a Student or Student group is formally representing the university.
- 11.00 **University Community** means:
- (a) credit and non-credit students, including distance students and continuing studies students;
 - (b) employees (faculty, librarians, and staff);
 - (c) anyone holding a university appointment;
 - (d) post-doctoral fellows;

- (e) all persons who are employed under contracts with university faculty members as the employer and who provide research or administrative services directly supporting faculty members' research activities;
- (f) visiting researchers;
- (g) anyone contractually required to abide by university policies;
- (h) anyone volunteering with a university program or activity;
- (i) members of the Board of Governors and Senate; and
- (j) anyone who ordinarily resides on campus because of their relationship with the university.

SCOPE/JURISDICTION

- 12.00 This policy applies to the conduct of Students on university property and/or when participating in a University Activity.
 - 12.01 This policy does not address academic appeals or matters related to academic integrity as set out in the [university's Graduate and Undergraduate Academic Calendars](#).
 - 12.02 Visitors or other individuals who are not University Community members may submit allegations of Non-Academic Misconduct against Students, where an allegation occurs on campus or in connection with a University Activity.
- 13.00 This policy continues to apply to a Student who withdraws from the university or takes a leave of absence, if the Student was registered, enrolled, or participating in a course or program at the time that Non-Academic Misconduct was alleged to have occurred.
- 14.00 This policy is designed to be used in conjunction with other university policies and documents that set out conduct expectations, including but not limited to those listed in the Related Policies and Documents section of this policy.
 - 14.01 When circumstances arise that are specifically addressed under other university policies, procedures, or regulations, the processes and response mechanisms contained within those documents will normally be followed unless the Associate Director, Student Life (or designate), in consultation with the appropriate Administrative Authority for the other policy or process, deems that it is appropriate to proceed under this policy.
 - 14.02 A Student's conduct may be investigated under other university policies or processes, and/or collective agreements (when a Student is also a university employee), in addition to this policy. Proceedings under this policy will respect a Student's rights under other policies, processes, or collective agreements. In cases where more than one policy or process may apply, the Office of Student Life will consult with the General Counsel to determine jurisdiction, and will work with appropriate offices to co-investigate as required.
 - 14.03 A Student athlete's conduct may be addressed under the [Student Athlete Code of Conduct](#). Athletics and Recreation may refer student athlete conduct allegations

under this policy instead of, or in addition to, any actions taken by Athletics and Recreation.

- 14.04 A Student's conduct in university residences may be addressed by Residence Services under Residence policies, contracts, and Community Living standards. Residence Services may refer Student conduct issues to be reviewed or investigated under this policy instead of, or in addition to, any action taken by Residence Services.
- 14.05 In cases where the application of this policy conflicts with another university policy, the Office of Student Life, in consultation with the appropriate Administrative Authority, will determine an appropriate course of action consistent with the pertinent policies.
- 15.00 The university may take action beyond the scope of this policy where it is reasonably believed that immediate action is required to:
- (a) protect the health or safety of any individual or the University Community;
 - (b) prevent damage or destruction of the university's property, infrastructure or assets; or
 - (c) remove a Student from university property, limit a Student's use of the property, or impose other interim measures where there is a high potential of risk to themselves or others posed by the Student's continued presence.

In such cases, the university will follow the Response to At-Risk Behaviour policy and other applicable university policies and practices.

- 16.00 The university may undertake proceedings under this policy where the matter is also being investigated or reviewed by a law enforcement agency or authority external to the university. If the university's investigation determines that the Non-Academic Misconduct Policy has been violated, the university may apply sanctions against a Student, regardless of any other discipline applied externally.
- 16.01 No aspect of this policy will prevent the university from referring a matter to an appropriate law enforcement agency as required.

POLICY

[Appendix "A"](#) provides detailed examples of Non-Academic Misconduct which may engage the processes and sanctions outlined in this policy and its associated procedures

Interpretation

- 17.00 This policy and its associated procedures will not be interpreted in a manner that:
- (a) limits the President's authority to deal summarily with any matter of Student discipline in accordance with the *University Act*;
 - (b) unreasonably limits demonstrations or assemblies that are safe, non-violent and non-destructive;
 - (c) unreasonably limits the free expression of ideas; or

- (d) prevents any member of the University Community or member of the public from proceeding with criminal or civil actions independent of any action(s) taken by the university.

General Principles

- 18.00 The university is committed to promoting a safe, respectful and supportive learning, living, and working environment. As part of the University Community, each Student is responsible for their personal conduct as it affects the University Community, University Activities and the university's property.
- 19.00 Students who are on university property and/or participating in a University Activity are expected to assume responsibility for their actions, ensure lawful personal conduct, and respect the rights, privileges and safety of others.
- 20.00 The university recognizes its responsibility to take measures to prevent Non-Academic Misconduct within the University Community and to diligently investigate allegations of Non-Academic Misconduct.
 - 20.01 Participants who engage with this policy can expect the university to:
 - (a) treat them with fairness, dignity, and respect;
 - (b) provide timely access to support, resources, and referrals;
 - (c) provide access to dedicated neutral support for Participants;
 - (d) have an opportunity to have any investigation and adjudication process explained to them, including available options and potential outcomes;
 - (e) provide opportunities to engage in community accountability processes where appropriate;
 - (f) provide a fair and unbiased process;
 - (g) keep their information confidential (except when disclosure is required by law or university policy – see section 35.00);
 - (h) provide access to regular updates on ongoing proceedings; and
 - (i) take steps to provide equitable access to the non-academic misconduct process as required for Participants with accessibility or other needs (e.g., language interpretation, Participants with disabilities, international Students, etc).

An overview of the rights of Complainants and Respondents who engage in the non-academic misconduct process is set out in Appendix 'B'.

- 21.00 The university is committed to providing clear and transparent processes in all proceedings involving allegations of Non-Academic Misconduct and is committed to implementing the principles of natural justice and procedural fairness in the resolution of allegations under this policy.
- 22.00 The university views allegations of Non-Academic Misconduct seriously and may pursue disciplinary action against a member of the University Community who is found to have made a false, frivolous or vexatious allegation against a Student.

- 23.00 A Participant may, at their discretion, have a Support Person attend at any proceeding related to an allegation of Non-Academic Misconduct to provide support and advice. The Office of Student Life can provide a neutral support person when a Participant has not identified one.

Management of Allegations of Non-Academic Misconduct

- 24.00 For the purposes of managing Student conduct, the Office of Student Life is responsible for:
- (a) providing guidance to the University Community for informally resolving incidents of Non-Academic Misconduct and the process for doing so;
 - (b) performing administrative processes to implement this policy and its associated procedures;
 - (c) conducting preliminary reviews of allegations of Non-Academic Misconduct;
 - (d) providing support and guidance to Students engaged in the Non-Academic Misconduct resolution process;
 - (e) investigating or coordinating investigations of allegations of Non-Academic Misconduct where warranted;
 - (f) determining or recommending a reasonable course of action upon the completion of an investigation; and
 - (g) monitoring compliance with sanctions under this policy.

Informal Resolution

- 25.00 The university recognizes that many disputes or incidents can be resolved informally by mutual agreement without submitting an allegation under this policy. Wherever possible, members of the University Community are encouraged to use respectful and direct communication to resolve such disputes or incidents informally by way of apology, conciliation, education, consultation, or mediation. University Community members may seek advice from the Office of Student Life for matters involving Students.

Submission of an Allegation of Non-Academic Misconduct

- 26.00 A University Community member who wishes to make an allegation of Non-Academic Misconduct must submit a signed written allegation in accordance with the [Procedures for the Submission of and Response to an Allegation of Non-Academic Misconduct](#).

26.01 Written allegations must include a description of the alleged incident with sufficient details.

- 27.00 The university may take steps under this policy as the Complainant.

Interim Measures

- 28.00 The university may impose interim measures before an investigation is concluded where immediate action is required to protect university community members' health or safety, or university property. Interim measures will be determined on a case-by-case basis and imposed in accordance with the Response to At-Risk Behaviour Policy.
- 29.00 When the health or safety of Complainants or others is at issue, the university will inform them of relevant restrictions imposed on the Respondent.

Review and Investigation of an Allegation of Non-Academic Misconduct

30.00 Allegations of Non-Academic Misconduct will be reviewed and where appropriate investigated by the Office of Student Life to determine whether or not this policy has been violated. Decisions are made using the balance of probabilities standard of proof. This means that the information collected during the investigation must show that it is more likely than not that a policy violation occurred in order for the investigator to find that a Student is responsible for Non-Academic Misconduct.

30.01 The review and investigation of allegations will be in accordance with the [Procedures for the Submission of and Response to an Allegation of Non-Academic Misconduct](#).

Determination and Imposition of Sanctions

31.00 After investigation, the university may impose sanctions where Non-Academic Misconduct is found to have occurred. Sanctions may be applied independently or in combination for any violation of this policy. All efforts will be made to communicate decisions in a timely manner.

31.01 Sanctions for confirmed Non-Academic Misconduct and factors in determining appropriate sanctions are established in the [Procedures for the Submission of and Response to an Allegation of Non-Academic Misconduct](#).

31.02 Failure to comply with a sanction may result in the imposition of further sanctions, which may include restricting a Student's access to programs, services, or locations on campus, and/or placing an administrative hold on a Student's account.

Notice of Decision

32.00 Where a decision on an allegation of Non-Academic Misconduct has been made, the Respondent will be provided with written notice of the rationale for any decision made and of any sanction(s) to be applied. The Respondent will be provided with an opportunity to have the decision explained to them.

32.01 If a suspension is imposed (permanent or time-limited), this will be documented on a Student's transcript for the duration of the suspension.

Appealing a Non-Academic Student Decision or Sanction

33.00 A Respondent may appeal a decision or action taken by the university under this policy provided that sufficient grounds exist in accordance with the [Procedures for Appealing a Decision Made Under a Non-Academic Misconduct Proceeding](#).

Confidentiality and Management of Records

34.00 The information and records created 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 \(FIPPA\)](#), and the university [Protection of Privacy Policy \(GV0235\)](#). The information and records will be treated as highly confidential, in compliance with FIPPA and with applicable university policies and collective agreements.

35.00 The university may use or disclose personal information, including where:

- (a) it is authorized by the affected individual;
- (b) the university determines compelling circumstances exist that affect anyone's health or safety in accordance with the [Procedures for the Disclosure of Student Personal Information in Emergency or Compelling Circumstances](#);
- (c) it is authorized or required by law, for example, an incident involving a minor, occupational health and safety legislation, and human rights legislation;
- (d) it is for the purpose of preparing or obtaining legal advice for the university;
- (e) it complies with a subpoena, a warrant or an order issued by a court, person, or body in Canada with jurisdiction to compel the production of information;
- (f) the university uses or discloses the information for the purpose for which the information was obtained or compiled or a consistent purpose (for example, where it is necessary to fulfill the university's duty of procedural fairness or where necessary for the conduct of the investigation);
- (g) an employee needs the information to perform their employment duties (such as to: facilitate support or interim measures; respond to an allegation; implement this policy; or take corrective action resulting from these processes);
- (h) the information is disclosed to a law enforcement agency in Canada to assist in a specific investigation; or
- (i) the information is being disclosed to the Complainant, the Respondent, or another person, under conditions consistent with section 37.00.

36.00 Should the university be compelled to disclose Participants' confidential information, Participants will be informed to the extent permitted or compatible with the purpose of the demand for information.

37.00 The university may disclose information in order to ensure that reporting processes are fairly conducted, in accordance with the following principles:

- (a) the Respondent has the right to notice of the allegation sufficient to allow the Respondent to understand the nature of the allegation (subject to any redactions made in response to health or safety concerns), including the material details of the allegations being made;
- (b) the Complainant has the right to know the outcome of the investigation, but not the details of any disciplinary actions that may have been taken against the Respondent unless disclosing that information is necessary for health or safety reasons or because it affects the Complainant; and
- (c) other persons normally do not have the right to know any confidential information except to the extent required to give effect to this policy or where it is necessary for health or safety reasons.

38.00 Witnesses must keep in confidence any information that they learn solely as a result of the reporting or investigation process. Allegations of witnesses intentionally breaching confidentiality may be reviewed under applicable university policies or collective agreements.

39.00 Records created under this policy and its associated procedures will be retained for five years after the Respondent's last date of registration. After five years, the records will be securely destroyed or deleted.

Annual Report

40.00 An annual report detailing the nature of Non-Academic Misconduct allegations, types of offenses, investigation outcomes and actions taken under this policy will be completed by the Office of the Associate Vice-President Student Affairs and provided to the Senate and the Board of Governors. The annual report must not contain personal information about Students.

AUTHORITIES AND OFFICERS

- i) Approving Authority: Senate and the Board of Governors
- ii) Designated Executive Officer: President
- iii) Procedural Authority: President
- iv) Procedural Officer: Associate Vice-President Student Affairs

RELEVANT LEGISLATION

[University Act](#)

[Freedom of Information and Protection of Privacy Act](#)

RELATED POLICIES AND DOCUMENTS

[University of Victoria Calendar](#)

[Human Rights, Equity and Fairness policy \(GV0200\)](#)

[Sexualized Violence Prevention and Response Policy \(GV0245\)](#)

[Discrimination and Harassment policy \(GV0205\)](#)

[Violence and Threatening Behaviour policy \(SS9105\)](#)

[Acceptable Use of Electronic Information Resources policy \(IM7200\)](#)

[Liquor policy \(AD2400\)](#)

[Residence Contract](#)

[Residence Community Living Handbook](#)

[Family Housing Agreement](#)

[Protection of Privacy policy \(GV0235\)](#)

[Records Management Policy \(IM7700\)](#)

[Student-Athlete Code of Conduct](#)

Forms

[Non-Academic Student Misconduct Incident Report Form](#)

APPENDIX "A" – EXAMPLES OF NON-ACADEMIC STUDENT MISCONDUCT

PURPOSE

- 1.00 The purpose of this document is to provide examples of the types of activities that may be considered Non-Academic Misconduct under this policy and subject to discipline by the university.

Examples of Non-Academic Misconduct

Note: the following section provides examples of Non-Academic Student Misconduct and is intended to help clarify the type of conduct that may be subject to discipline by the university. The following section is not intended to provide an exhaustive list; conduct may still be considered as Non-Academic Misconduct if it does not appear below.

- 2.00 Non-Academic Misconduct may include but is not limited to when one or more of the following occurs on university property or in connection with a University Activity:

2.01 Theft, Damage and Destruction

Examples include instances such as a Student:

- (a) possessing or using property owned by the university, a member of the University Community, or that of a third-party that is acquired without appropriate consent or authority;
- (b) misappropriating, destroying, defacing, vandalizing or otherwise damaging university property, equipment or other assets or the property, equipment or assets of other members of the University Community or a third-party; or
- (c) tampering with fire or emergency equipment.

2.02 Unauthorized Entry or Presence

Examples include instances such as a Student:

- (a) entering or remaining in a university property, or facility or providing unauthorized access to another individual to university property or facilities without proper authority or contrary to express instructions by a university staff member;
- (b) entering or remaining in any university property, or facility for the purpose of damage, destruction, alteration or theft.

2.03 Fraud, Misuse or Impersonation

Examples include instances such as a Student:

- (a) forging, altering or misusing a university document, OneCard, record or piece of identification;
- (b) submitting a forged, or altered document to university staff for the purpose of deception;
- (c) fraudulently obtaining any property or equipment; or
- (d) impersonating a member of the University Community.

2.04 Disruptive or Dangerous Behaviours

Examples include instances such as a Student:

- (a) obstructing University Activities or engaging in or demonstrating disruptive behaviour;
- (b) creating a situation that endangers the health, safety or well-being of any member of the University Community or public;
- (c) possessing or using a weapon;
- (d) possessing or using an object resembling a weapon that reasonably could be viewed as a threat to a member of the University Community or public;
- (e) harming or threatening any member of the University Community or public;
- (f) engaging in harassing behaviour against a member of the University Community or public not covered under the university's Discrimination and Harassment policy (GV0205); or
- (g) engaging in hazing activities.

2.05 Alcohol and Drugs

Examples include instances such as a Student:

- (a) contravening liquor laws or the university's [Liquor Policy \(AD2400\)](#);
- (b) manufacturing, possessing, using, or trafficking illicit drugs; or
- (c) trafficking prescription drugs or medications.

2.06 Non-Compliance with University Policy

Failure to comply with a university policy, including this policy.

Illegal Activities

2.07 Any other Student activity occurring on university property or in connection with a University Activity that results in criminal charges or conviction, or a court judgment, may be deemed as Non-Academic Misconduct under this policy.

Failure to Follow Previous Sanctions

2.08 Failure to follow a mandated sanction from a previous violation of this policy or unwillingness to participate in resolution of an allegation may lead to the application of additional sanctions.

Assisting in Non-Academic Misconduct

2.09 A Student who assists any of the above listed activities, or other activity deemed to be Non-Academic Misconduct, may be investigated and sanctioned for Non-Academic Misconduct.

Submission of False, Frivolous or Vexatious Allegations

2.10 Any allegation of Non-Academic Misconduct that is found to be trivial, false, frivolous or vexatious may also be investigated and considered Misconduct under this or other university policies.

APPENDIX "B" – STATEMENT OF RIGHTS OF COMPLAINANT AND RESPONDENT

PURPOSE

- 1.00 The purpose of this document is to list the rights that the Complainant and Respondent can expect to have when they engage with this policy, in order to preserve the fairness and impartiality of the process.

COMPLAINANT'S RIGHTS

- 2.00 A Complainant has the following rights:
- (a) to be treated with fairness, dignity, and respect, and given access to support and resources throughout the process;
 - (b) to appeal a decision by the university not to investigate a non-academic misconduct allegation;
 - (c) timely assistance with safety planning;
 - (d) timely information about referrals to available on- and off-campus support services and resources;
 - (e) to have the process explained to them, including the possible outcomes;
 - (f) to have their personal information kept confidential (except when disclosure is required by law or university policy);
 - (g) to present their side of the story, and to respond to other Participants' information;
 - (h) to be accompanied by a support person;
 - (i) to legal representation;
 - (j) if the Complainant is a unionized employee and the investigation or outcome may have employment implications, to representation by their union;
 - (k) to decline to participate in aspects of the investigation;
 - (l) regular updates on the status of the process;
 - (m) opportunities to engage in community accountability processes where appropriate;
 - (n) to written notice of any resolution that affects the Complainant; and
 - (o) to be informed that any information collected may be disclosed in criminal or civil proceedings.

RESPONDENT'S RIGHTS

- 3.00 A Respondent has the following rights:
- (a) to be treated with fairness, dignity, and respect, and given access to support and resources throughout the process;
 - (b) to receive timely notice and information about the allegations against them;
 - (c) to seek independent consultation at any point in the non-academic misconduct process from the university Ombudsperson;
 - (d) to be presumed to have not committed misconduct until a fair investigation is completed;

- (e) to have the process explained to them, including the possible outcomes and consequences;
- (f) to have their personal information kept confidential (except when disclosure is required by law or university policy);
- (g) to present their side of the story, and to respond to other Participants' information;
- (h) to be accompanied by a support person;
- (i) to legal representation;
- (j) if the Respondent is a unionized employee and the investigation or outcome may have employment implications, to representation by their union;
- (k) to decline to participate (however, the process may still proceed in the absence of the Respondent);
- (l) opportunities to engage in community accountability processes where appropriate;
- (m) to notice about the outcome of an investigation and any applicable sanctions;
- (n) to appeal the decision (within the appropriate time frame) and receive notice of the outcome of any appeal; and
- (o) to be informed that any information collected may be disclosed in criminal or civil proceedings.

PROCEDURES FOR THE SUBMISSION OF AND RESPONSE TO AN ALLEGATION OF NON-ACADEMIC MISCONDUCT

Procedural Authority: President
Procedural Officer: Associate Vice-President Student
Affairs

Effective Date: August, 2017
Supersedes: August, 2011

Parent Policy: [Resolution of Non-Academic
Misconduct Allegations](#)

Last Editorial Change:

PURPOSE

- 1.00 The purpose of this document is to set out procedures for the submission, review, investigation and resolution of an allegation of Non-Academic Misconduct.

PROCEDURES

- 2.00 In these procedures, references to the Associate Vice-President Student Affairs or the Executive Director Student Services also includes their designate.
- 3.00 Nothing in these procedures limits the President's authority to suspend a student and to deal summarily with any matter of student discipline.

Submission of an Allegation

- 4.00 Wherever possible, members of the University Community are encouraged to use respectful and direct communication to resolve incidents or disputes informally by way of apology, conciliation (including restorative justice), education, consultation, or mediation.
- 5.00 Where informal processes are conducted, but do not result in a resolution, then the university may revert to a formal process.
- 6.00 Where informal resolution is not possible or appropriate, a University Community member who believes that a Student has committed Non-Academic Misconduct may submit an allegation in writing to the Office of Student Life using the [Non-Academic Misconduct Incident Report Form](#).
- 6.01 Allegations must include:
- (a) a description and relevant information regarding the alleged incident including the time(s), date(s) and location(s) of the incident(s) and potential witnesses; and
 - (b) the Complainant's name and signature.
- 6.02 University Community members may access support from the Office of Student Life for assistance in submitting an allegation.

- 6.03 The university encourages Complainants to submit allegations as soon as possible after the incident occurs.
- 7.00 Visitors or other individuals who are not University Community members may submit allegations by using the [Non-Academic Misconduct Incident Report Form](#) or by contacting Campus Security
- 8.00 Potential incidents of Non-Academic Misconduct may be reviewed or investigated in absence of an allegation.

Preliminary Review of an Allegation

- 9.00 When an allegation of Non-Academic Misconduct is submitted, the Office of Student Life will review the allegation and may decline to proceed with an investigation in cases where the Office of Student Life is of the opinion that:
- (a) the allegation falls within the jurisdiction of another university policy, procedure or regulation and it is more appropriate to proceed under that policy or regulation;
 - (b) the allegation(s) does not constitute a violation of or is outside the scope of the Resolution of Non-Academic Misconduct Allegations policy;
 - (c) an unreasonable amount of time has elapsed since the alleged incident such that it would preclude resolution of the allegation;
 - (d) the allegation has been adequately addressed by another process;
 - (e) the allegation could be more appropriately addressed by conflict coaching, facilitated dialogue, restorative justice or mediation;
 - (f) the allegation is being addressed by another process and it is reasonable to put the allegation in abeyance pending the outcome of such a process; or
 - (g) the allegation is trivial, false, frivolous, or vexatious.
- 9.01 Where the Office of Student Life declines to proceed with investigating an allegation under this policy, the office will notify the Complainant in writing of the decision within ten (10) university business days of receiving the allegation and will include the rationale for the decision not to investigate as well as notice of the Complainant's right to appeal this decision (see 9.02, below).
- 9.02 The Complainant may submit a written appeal of the decision not to investigate an allegation to the Executive Director, Student Services within five (5) university business days of receiving the decision only where:
- (a) relevant information emerges that was not available at the time of the decision; and/or
 - (b) the Complainant reasonably believes the decision not to proceed with an investigation was biased.
- 9.03 The Executive Director, Student Services will review the written appeal and may meet with the Complainant before making a final determination on whether an investigation of the allegation will occur under the Resolution of Non-Academic

Misconduct Allegations policy. The Executive Director, Student Services may make a recommendation as to which office or policy would most appropriately resolve the allegation.

Alternative Dispute Resolution

- 10.00 After receiving and reviewing an allegation of non-academic misconduct, the Office of Student Life may determine that an alternative dispute resolution process is suitable to attempt to resolve an allegation.
- 10.01 An alternative dispute resolution process may include: restorative justice, mediation or facilitated conversation between the parties, conflict coaching, or creation of a community accountability agreement and/or letter of expectation. Where appropriate, sanctions as outlined in section 17.00 may be applied to any Student participant in an alternative dispute resolution process.
- 10.02 To apply an alternative dispute resolution process, the Complainant(s), Respondent(s) and the university must all voluntarily agree to enter into the process. Informed consent is collected from Participants.
- 10.03 Any information that a Participant submits to the Office of Student Life within an alternative dispute resolution process may be used in a formal investigation should the university determine that an incident requires investigation, or if a suitable agreement cannot be reached within the alternative dispute resolution process.
- 10.04 Where an alternative dispute resolution process is conducted, but does not result in a resolution, then the university may revert to a formal investigation process as outlined in section 11.00 to 14.00.

Investigation and Determination

- 11.00 Where an allegation of Non-Academic Misconduct has been made against a Student and it is determined that an investigation will be undertaken, the Respondent will be provided in writing with:
- (a) a notice of the allegation sufficient to allow the Respondent to understand the nature of the allegation (subject to any redactions made in response to health or safety concerns), including the material details of the allegations being made;
 - (b) a summary of pertinent information regarding the alleged Non-Academic Misconduct;
 - (c) a timeline for providing relevant documentation;
 - (d) a proposed interview date and time (including notice of the right to reschedule within reasonable timeframes and under reasonable circumstances);
 - (e) information on Student support services including information on the university Ombudsperson; and
 - (f) access to a copy of the Resolution of Non-Academic Misconduct Allegations policy and other relevant supporting university policies or documents.
- 11.01 The Office of Student Life will make multiple efforts to contact a Student regarding an allegation.

- 12.00 The Office of Student Life, in consultation with the General Counsel, may appoint an investigator who is external to the university. If so, the investigator will carry out the Office of Student Life's responsibilities under sections 13.00 to 13.06, and will prepare a written report according to section 14.00.
- 13.00 As part of the investigation, the Office of Student Life will gather and review relevant information and conduct interviews as appropriate with the Complainant, pertinent university staff, and any witnesses to the alleged incident. The Office of Student Life will forward a summary of the information collected during the investigation to the Respondent.
- 13.01 The Office of Student Life will conduct an interview with the Respondent to review the allegation and the information collected in the investigation.
- 13.02 A Participant may be accompanied by a Support Person at an interview. The Office of Student Life can, upon request, provide a neutral Support Person when a Participant has not identified one. A Support Person does not speak on behalf of a Participant; information must come directly from the Participant (unless the investigator allows otherwise). Where a Support Person has information about, or was involved in, the alleged Non-Academic Misconduct incident, the Support Person will be interviewed separately and prior to the Participant. In the case that the Support Person has an identified conflict of interest related to the incident under investigation, the Office of Student Life may require a Participant to use an alternate Support Person in order to safeguard a fair process.
- 13.03 Where a Participant intends to be represented by legal counsel at an interview, the Participant must provide the Office of Student Life with a minimum of three (3) university business days' notice in advance of the interview. The Office of Student Life may request that university legal counsel be present at an interview to observe or provide advice as required.
- 13.04 Upon completion of the interview with the Respondent, the Office of Student Life will provide the Respondent with a reasonable opportunity to submit an additional response or any relevant documentation related to the allegation.
- 13.05 There is no general right to cross-examination. However, the Respondent will be given an appropriate opportunity to assess and challenge the relevant information, keeping in mind the nature of the allegation, any conflicts in the information, and the importance of ensuring the safety and security of the Complainant and witnesses.
- 13.06 A decision may be made based on available information in a case where the Respondent does not:
- (a) attend a scheduled interview;
 - (b) provide relevant documentation requested during the investigation;
 - (c) submit an additional response or documents pursuant to 13.04; or
 - (d) otherwise cooperate with the investigation.

- 14.00 Upon completing an investigation of an allegation of Non-Academic Misconduct, the Office of Student Life will prepare a written report summarizing:
- (a) the alleged Misconduct;
 - (b) the information available on the alleged incident(s) and other pertinent information;
 - (c) the findings of the investigation including a statement dismissing or confirming the allegation;
 - (d) any sanction(s) to be applied or recommended in accordance with section 15.00 - 18.00 of these procedures.

Sanctions

- 15.00 In cases of confirmed Non-Academic Misconduct, sanctions may be applied independently or in combination as appropriate.
- 16.00 In determining an appropriate sanction as a result of confirmed Non-Academic Misconduct, consideration may be given to factors including:
- (a) the seriousness and impact of the Respondent’s conduct on the University Community, a University Activity or the university’s reputation or property;
 - (b) whether the incident is isolated;
 - (c) whether the incident was inadvertent or deliberate;
 - (d) whether other university policies were violated;
 - (e) related financial costs; and
 - (f) any other mitigating factors.
- 17.00 Where, after completing the investigation, the Office of Student Life has concluded on a balance of probabilities that Non-Academic Misconduct has occurred and a sanction may be appropriate, the Office of Student Life may apply sanctions up to, but not including, suspension. Only the President may suspend a Student (see section 18.00).

Sanction Examples	
Type	Description
Written Warning	A letter from the university that provides details on the violation and a warning to the Student that an additional violation will result in a more severe sanction(s).
Written Apology	Student provides a written apology to a member of the University Community, third party, or other individual(s) affected by the Student’s conduct.
Letter of Expectation	A letter specifying the university’s behavioural expectations of a Student, which may include conditions for continued participation in University Activities or continued access to university property.

Education/Training or Project	Student completes a specified education/training program (such as alcohol/substance awareness training or an anger management course), or completes an assignment (such as a research or reflection paper).
Referral	Student is referred to appropriate community resources, such as alcohol/substance assessment.
Community Service	Student completes a designated number of hours of volunteer service within the university or in the broader community.
Suspension or Denial of Specified University Privileges	Suspension or denial of specified university privileges for a defined period of time.
Residence Relocation	Requiring a Student to vacate their current university residence and relocate to other on-campus housing.
Eviction from Residence	Loss of the privilege of living in any university housing or visiting the Residence complex at any time. Eviction may be permanent, or a Student may be permitted to re-apply to live in Residence after a specified period of time and/or after specific conditions have been met.
Restitution	<p>Payment of a specified amount to the university or to an affected member of the University Community, group or third-party if monetary loss has occurred as a result of the misconduct.</p> <p>Where a Student is unable to provide financial restitution; the Student may be required to participate in an educational workshop, complete a written assignment, or provide a service to the University Community.</p>
Restricted Access	Restriction of the Student's access to university property or segments of university property or to a University Activity for a specified period of time.
Time-Limited Suspension	Loss of academic or other university privileges, which may include a restriction on entering all or segments of university property, for a specified period of time.
Permanent Suspension	Permanent loss of academic or other university privileges, which may include a restriction on entering all or segments of university property.

17.01 As part of any sanction other than suspension, a Respondent may be required to report to the Office of Student Life or other university Unit for compliance or follow-up purposes.

17.02 The Office of Student Life may place an administrative hold on a Respondent's registration account if needed to ensure compliance with sanctions.

Suspension of a Student

18.00 Where, after completing the investigation, the Office of Student Life confirms on a balance of probabilities that Non-Academic Misconduct has occurred and an appropriate sanction may include suspension, the Office of Student Life will forward the report created under section 14.00 of these procedures to the Associate Vice-President Student Affairs for review.

18.01 The Associate Vice-President Student Affairs will review the report and determine if further investigation or consultation is necessary and will make a recommendation to the President as appropriate.

18.02 Decisions on suspension will be determined by the President.

18.03 The Respondent will be given an opportunity to review the investigator's findings and make submissions to the President on the appropriate sanction.

18.04 Suspensions (permanent or time-limited) will be documented on a Student's transcript for the duration of the suspension.

19.00 When a suspension is imposed under this policy, the President (or designate) will inform:

- (a) Campus Security;
- (b) the Associate Vice-President Student Affairs;
- (c) the Office of the Registrar;
- (d) the Dean of the Respondent's faculty;
- (e) the General Counsel; and
- (f) the Senate Committee on Appeals.

Communication with the Respondent

20.00 Upon conclusion of the investigation and determination of any sanction(s), the university will provide the written decision and reasons to the Respondent as soon as reasonably possible, and information about the Respondent's right to appeal the decision.

21.00 A Respondent will be given the opportunity to have the decision and its implications explained to them in person.

Communication with Complainant

22.00 The university will notify the Complainant of the outcome of the decision, and will inform the Complainant about any sanctions that have been imposed if doing so is necessary for

health or safety reasons or because a sanction affects the Complainant. Complainants do not have a general right to know whether the university has disciplined the Respondent, or which sanctions are imposed. This is the Respondent's personal information, according to FIPPA, and only the Respondent may decide to release it.

NON-ACADEMIC MISCONDUCT APPEAL PROCEDURES

Procedural Authority: President
Procedural Officer: Associate Vice-President
Student Affairs

Effective Date: August, 2017

Supersedes: August, 2011

Parent Policy: [Resolution of Non-Academic
Misconduct Allegations](#)

Last Editorial Change:

PURPOSE

- 1.00 The purpose of these procedures is to set out the process for a Respondent's appeal of a decision made under a Non-Academic Misconduct proceeding.

PROCEDURES

- 2.00 In these procedures, references to the Associate Vice-President Student Affairs also includes their designate.
- 3.00 Where a decision has been made against a Respondent under a Non-Academic Misconduct proceeding, the Respondent may appeal the decision within ten (10) university business days of receiving notice of the decision and reasons (or within two months if the Respondent has been suspended), providing that there are sufficient grounds for appeal. An extension of time to submit an appeal may be granted in reasonable circumstances as determined by the Associate Vice-President Student Affairs or the Senate committee, as appropriate.
- 4.00 An appeal of the President's decision to suspend a Student from the university is made to the Senate. The appeal will be heard by a Senate committee.
- 5.00 Appeals of all other sanctions are made to the Associate Vice-President Student Affairs, who will decide the appeal.
- 6.00 An appeal under these procedures is a pure appeal only, not a re-hearing. The appeal body will review the information that was available to the decision maker.
- 7.00 Any sanctions will remain in force until the appeal has been decided.

Grounds for Appeal

- 8.00 A Respondent may not appeal a decision based solely on disagreement with the sanction imposed.
- 9.00 Sufficient grounds for appeal to the Associate Vice-President Student Affairs include one or more of the following:
- (a) relevant information emerges that was not available at the time of the original decision;

- (b) the Respondent believes the investigation or decision was biased;
- (c) the processes or procedures set out in the Resolution of Non-Academic Student Misconduct Allegations policy were not followed which may have substantially affected the outcome; or
- (d) the severity of the sanction imposed reasonably exceeds the nature of the misconduct.

10.00 Sufficient grounds for appeal to the Senate will be in accordance with the designated Senate committee's terms of reference.

Procedures for Appealing a Sanction

11.00 A Student who wishes to appeal a sanction to the Associate Vice-President Student Affairs must file a written statement of appeal that includes:

- (a) a statement of the grounds for appeal (see section 9.00);
- (b) a statement of facts relevant to the grounds for appeal;
- (c) a statement of the remedy or relief sought;
- (d) copies of relevant documents that support the Student's appeal; and
- (e) the names and statements from any witnesses relevant to the appeal.

12.00 The Associate Vice-President Student Affairs will review the written statement of appeal and all other material submitted, and will determine if there are sufficient grounds to proceed with the appeal.

13.00 The Associate Vice-President Student Affairs will normally decide an appeal on the basis of written materials only. However, the Associate Vice-President Student Affairs may exercise their discretion to convene a meeting with the Student and a representative from the Office of Student Life, if either requests it.

13.01 If the Associate Vice-President Student Affairs decides to convene a meeting, they will provide the Student with at least five (5) university business days' notice of the time of the meeting. The Student may request that the meeting be rescheduled within reasonable timeframes and under reasonable circumstances.

13.02 The Student may be accompanied by a Support Person. Where the Student intends to be represented by legal counsel, the Student must provide the Associate Vice-President Student Affairs with a minimum of three (3) university business days notice in advance of the meeting. The Associate Vice-President Student Affairs may request that university legal counsel be present to observe or provide advice as required.

13.03 The Associate Vice-President Student Affairs may request that other individuals attend the meeting as required.

14.00 The Associate Vice-President Student Affairs will review relevant information, seek advice as necessary, and decide an appeal within fifteen (15) university business days after receiving all written submissions or the date of a meeting convened under section 13.00, whichever is later.

- 15.00 The Associate Vice-President Student Affairs may, after reviewing the relevant information:
- (a) uphold the original decision and/or sanction(s);
 - (b) reverse the decision;
 - (c) reverse or modify the sanction(s); or
 - (d) determine that a procedural error occurred and refer the matter back to the Office of Student Life for re-investigation.

- 16.00 The Associate Vice-President Student Affairs' decision will be final and will be communicated to the Student in writing within five (5) university business days of the decision being made.

Procedures for Appealing a Sanction to the Senate

- 17.00 A Student's appeal of a sanction to the Senate will be heard by the Senate Committee on Appeals or another Senate committee as designated by the Senate.
- 18.00 A Student who wishes to appeal a suspension must file a written statement of appeal to the designated Senate committee. Appeals will be submitted and heard in accordance with the Senate committee's terms of reference.
- 19.00 The determination by the Senate is final.