

**TORONTO METROPOLITAN UNIVERSITY  
POLICY OF SENATE**

**STUDENT CODE OF NON-ACADEMIC CONDUCT**

Policy Number: 61

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Related Documents: Discrimination and Harassment; Prevention Policy;  
Sexual Violence Policy; Housing & Residence Life  
Community Standards; Experiential Learning

Owner: Vice-Provost, Students

Approver: Senate

Next Policy Review Date: May 4, 2024, or sooner at the request of the Vice-Provost, Students

Implementation Date: Fall 2021

Responsible Office: Office of the Vice-Provost, Students

Contact Office: Student Conduct Office

## 1. PURPOSE

The purpose of the Student Code of Non-Academic Conduct (“Code”) is to establish community standards of non-academic conduct for Toronto Metropolitan University (“the University”). The Code educates the University’s students by providing a non- exhaustive list of the rights, expectations, and responsibilities related to non-academic student conduct. The Code provides a Complaint resolution process that is fair. The Code identifies sanctions that may be assigned which are proportionate to conduct that does not meet community standards; conduct that jeopardizes the proper and orderly functioning of academic and non-academic programs, activities, or operations of the University; conduct that endangers the health, safety, rights, or property of the members of its community, or conduct that adversely affects the property of the University or entities related to the University. The Code provides for and outlines the support available to University community members impacted by conduct that does not meet community standards.

## 2. INTRODUCTION

The University values equity, diversity, honesty, respect, inclusion, and the well-being and dignity of all community members. Students at the University are expected to conduct themselves in a manner that supports the University as a learning, teaching, living, research, and work environment where the rights and responsibilities of all students, staff, and faculty are respected.

The Code is educational:

- It provides guidance regarding the University’s expectations of appropriate student conduct.
- It builds awareness and understanding of the University’s community standards, and it defines what conduct negatively impacts the safety and well-being, rights, and property of others.
- It implements sanctions that are, where appropriate, educative rather than punitive, and that promote understanding of community standards and expectations.

The Code is supportive:

- It recognizes that student conduct that breaches this Code can impact the well-being of the community and it provides for and outlines resources to support and assist community members.
- It recognizes that students who cause harm may require assistance and support while participating in the Complaint resolution process.
- It ensures that the University is committed to responding to breaches of this Code from an anti-oppression and trauma-informed approach to ensure that all community members are treated with empathy, dignity, and care.

- It outlines the Office of Student Care's purpose and scope in coordinating education, prevention, supports, and processes under the Code.

The Code ensures accountability and fairness:

- It provides for a Complaint resolution process that is transparent and fair to all members of the community.
- It provides for a fair and independent investigation and decision-making process.
- Where appropriate, Complaints may be resolved by Alternative Dispute Resolution (ADR) measures.
- Where ADR is not appropriate or where it is unsuccessful, and a breach of community standards has occurred, a sanction proportionate to the breach will be assigned.

### **3. APPLICATION AND SCOPE**

This Code applies to the conduct of students and student groups while:

#### **3.1 On-Campus**

The Code applies to all student conduct that takes place on University premises.

#### **3.2 Off-Campus**

The Code applies to the conduct of students off University premises, when:

- They are a delegated representative of the University or when they claim to represent the University.
- They are in a University course, including, but not limited to, an organized class activity, co-op, and experiential learning opportunities.
- They are participating in a University event, activity, or program.
- The conduct reasonably has had an adverse effect on the safety and well-being of the community or on a complainant's course of learning, teaching, living, research, or work at the University or in exceptional circumstances where there is a sufficient connection to the University.

#### **3.3 Online Conduct**

The Code applies regardless of the medium used for breaches of this Code. The Code applies to online activity connected to the University, whether on or off campus, when the conduct reasonably has an adverse effect on the safety of the community or a complainant's course of learning, teaching, living, research, or work at the University.

### **3.4 The Code and Other University Policies**

The Code is the foundation that governs student behaviour and conduct at the University. There are a number of other academic and non-academic policies that also guide student conduct at the University, including, but not limited to, Policy 60: Academic Integrity; the Residence Community Standards; the Sexual Violence Policy; and the Discrimination and Harassment Prevention Policy. A student may also be an employee of the University, and in this case, employment policies may also apply.

Where the alleged conduct may be a breach of community standards and another University policy, proceedings may be processed under this Code, referred to another University policy, or processed jointly. Regardless of which process is applied, sanctions are deemed to include any sanctions provided for in the Code and in any other applicable policy or policies.

### **3.5 Civil or Criminal Proceedings**

Where there are, or may be, ongoing civil or criminal proceedings arising from the same alleged breach of community standards, the University maintains the jurisdiction to proceed or to defer the Complaint resolution process. Where a Complaint resolution process has been deferred, the University may, depending on the circumstances, still take some action under the Code, including imposing Interim Measures in an effort to mitigate risks and safety concerns.

### **3.6 Meeting Requirements under the Occupational Health and Safety Act**

Under the Ontario *Occupational Health and Safety Act*, all incidents of workplace violence, harassment that could lead to workplace violence, or domestic violence which may continue in the workplace must be reported and managed in accordance with University policies.

## **4. DEFINITIONS**

### **4.1 Advocate**

An individual sanctioned by one of the recognized Toronto Metropolitan student bodies (e.g. the Toronto Metropolitan Students' Union [RSU], Continuing Education Students' Association of Toronto Metropolitan University [CESAR], Toronto Metropolitan Graduate Student's Union [TMGSU]), or any other student group recognized by the University. An advocate may act as a support person or a representative as outlined under this Code.

### **4.2 Alternative Dispute Resolution (ADR)**

The process of resolving disputes outside of an Investigation through agreements between parties. ADR processes may include conciliation, mediation, restitution, and restorative justice.

### **4.3 Amnesty**

Based on harm reduction and good Samaritan principles, the Student Conduct

Office may determine that students will not be subject to investigation or sanctions when they are seeking assistance for themselves and others during or after an incident.

**4.4 Appeal**

The process for requesting a review to formally change an official decision or sanction imposed by a decision maker under this Code.

**4.5 Appellant**

The party who requests an appeal to formally change an official decision or sanction imposed by a decision maker under this Code.

**4.6 Balance of Probabilities**

The evidence shows it is more likely than not the alleged breach of community standards occurred.

**4.7 Breach of Community Standards**

A finding by a decision maker that a respondent's conduct has not met the University's community standards.

**4.8 Business Day**

All weekdays, excluding University closures and statutory holidays as indicated on the University website Statutory Holidays page.

**4.9 Code**

Policy 61: The Student Code of Non-Academic Conduct of the Toronto Metropolitan University Senate.

**4.10 Conciliation**

The voluntary process of addressing disputes with the help of a third party who meets with the parties separately in an attempt to help them resolve their differences, which may include a face-to-face meeting between the parties.

**4.11 Complaint**

A Complaint of an alleged breach of community standards under this Code.

**4.12 Complainant**

The person filing the Complaint of an alleged breach of community standards under this Code.

**4.13 Decision Maker**

The Student Conduct Office; the Executive Director, Student Affairs; or the Vice-Provost, Students (or their designates).

**4.14 Decision-Making**

The process of making an official decision after a Complaint is made under this Code.

- 4.15 Executive Director, Student Affairs**  
Executive Director, Student Affairs, or their designate.
- 4.16 Interim Measures**  
The temporary measures put in place to protect the parties, the Toronto Metropolitan community, and the integrity of the Investigation and decision-making process.
- 4.17 Mediation**  
A voluntary process where a third-party facilitates a mutually agreeable resolution between the parties.
- 4.18 Parties**  
The complainant, the respondent, the University (in some cases). (See Procedures 5 for the meaning of party/parties in an appeal.)
- 4.19 Personal Information**  
The recorded information about an identifiable individual.
- 4.20 Progressive Discipline**  
Increased sanctions assigned with repeated breaches of community standards.
- 4.21 Policy**  
Any policy approved by the Board of Governors and Senate and other written regulations of the University.
- 4.22 Representative**  
An individual who assists either party at an Appeal before the Senate Appeals Committee. A representative may be a paralegal, lawyer, advocate, or any other individual.
- 4.23 Residence Community Standards**  
The Housing & Residence Life Community Standards as posted on the University website.
- 4.24 Respondent**  
Following a Complaint, the student accused of the conduct that is an alleged breach of this Code is referred to as the respondent.
- 4.25 Restitution**  
Compensation by way of a sum of money, material replacement, or services rendered to cover the losses or damages from a breach of this Code.
- 4.26 Restorative Justice**  
An alternative approach to resolving Complaints that focuses on addressing the

harm caused by the breach and holds the respondent accountable for their actions. It involves engaging the complainant, respondent, and community in the resolution of the Complaint. Restorative justice processes take various forms and are always voluntary.

**4.27 Toronto Metropolitan Community**

Students, student groups, faculty, and staff.

**4.28 Toronto Metropolitan University Premises**

Lands, buildings, and grounds either rented or owned or using University-owned or run property, or equipment (including, but not limited to, telephones, computers, and computer networks), or during online courses, meetings, and programs.

**4.29 Student**

Currently enrolled students, students who are eligible for re-enrollment, as well as former students if they were enrolled at the time of the alleged breach.

**4.30 Student Conduct Office**

The Student Conduct Office staff, or their designate.

**4.31 Student Group**

Student organizations including student government, student and course unions, societies, clubs, and groups.

**4.32 Support Person**

An individual who attends meetings with either the complainant or respondent with the Student Conduct Office; Executive Director, Student Affairs; Vice-Provost, Students; or Senate Appeals Committee, solely for personal support, and shall not act as a representative. A support person should not be a witness.

**4.33 Vice-Provost, Students**

The Vice-Provost, Students, or their designate.

**5. VALUES AND PRINCIPLES**

The University is a learning, teaching, living, research, and work community of students, faculty, and staff committed to providing safe and suitable environments that respect the rights, responsibilities, well-being, and dignity of all its members.

**5.1 Foundational Philosophy and Mission**

Students should conduct themselves according to the University's educational mission and policies. The University is not concerned with the conduct of students in their personal lives. However, the University is concerned with conduct that reasonably has had an adverse effect on the safety and well-being of the community or on a complainant's course of learning, teaching, living, research, or work at the University or in exceptional circumstances where there is a sufficient connection to the University.

**5.2 Senate Policy Framework**

The values outlined in the University's Senate Policy Framework are applicable and fundamental to this Code.

**5.3 Toronto Metropolitan University Statement of Student Rights and Responsibilities**

The spirit of the Toronto Metropolitan University Statement of Student Rights and Responsibilities is applicable and fundamental to this Code.

**5.4 Equity, Diversity, and Inclusion**

The University values all community members' fair and equitable treatment by developing policies and procedures that attempt to remove structural barriers to address historical and current disadvantages for equity-deserving groups consistent with the Toronto Metropolitan University Senate Policy Framework.

The University values and respects the diversity of knowledge, world views, and experiences from membership in different groups and the contribution that diversity and inclusion make to the learning, teaching, living, research, and work environment.

**5.5 Freedom of Expression**

The University recognizes students' right to express themselves and engage in respectful debate and discussion. Students have the right to participate in peaceful and lawful assemblies and demonstrations without harassment, disruption, or acts of violence in accordance with the University's Statement on Freedom of Speech.

**5.6 Commitment to Support for People Affected by Conduct that does not Meet Community Standards**

In administering this Code, the University is committed to ensuring that community members impacted by behaviour that does not meet the University's community standards receive the support and assistance they need.

The Student Conduct Office will work within the Office of Student Care to ensure that community members can access support tailored to their individual needs. Community members affected by conduct that does not meet community standards will be informed and supported at every step of any process through the appropriate office.

The Office of Student Care will work with students in determining their support and/or academic consideration needs and assist them in accessing appropriate supports during a Complaint resolution process. Recognizing that each student's needs will be different, the types and forms of support and academic considerations made available will be tailored on a case-by-case basis.

Students affected by student conduct which breaches this Code are not required to participate in a Complaint resolution process to receive support.

Detailed information about on- and off-campus supports for students is provided at Toronto Metropolitan's Office of Student Care's website.

**5.7 Accountability**

The Code is meant to ensure student accountability, whether through Alternative Dispute Resolution or through sanctions assigned following a decision.

**5.8 Alternative Dispute Resolution**

Where appropriate, the University encourages Alternative Dispute Resolution ("ADR") processes to resolve Complaints. ADR refers to processes to resolve disputes outside of the Investigation process through agreements between the parties.

**5.9 Sanctions and Progressive Discipline**

A decision maker assigns sanctions proportionate to the breach of the community standards and in consideration of the full context. The decision maker will consider the principles of progressive discipline that is premised on educating students on what constitutes unacceptable behaviour and increasing sanctions with repeated breaches of community standards.

**5.10 Harm Reduction and Good Samaritan Principles**

The University seeks to promote help-seeking behaviour to encourage students to reach out for assistance for themselves or others as needed. Because students' safety and welfare are a priority, amnesty may be available to students requesting assistance for themselves, students requesting assistance for another person, and students for whom assistance was provided.

**5.11 Accommodation**

All processes and procedures associated with this Code shall be interpreted and applied in accordance with relevant law and University policies and procedures concerning the duty to accommodate, including, without limitations, the Ontario *Human Rights Code*.

**5.12 Procedural Fairness**

The University has a duty to be fair in the application of the processes and procedures at each stage of the Complaint resolution process under the Code. This includes the right to know the allegations, the opportunity to respond to those allegations, the right to a fair and impartial decision maker, and the right to a decision with reasons.

The duty to be fair is context-specific, and the University reserves the right to adjust the process to ensure procedural fairness in accordance with the facts of the individual case with notice to the complainant and the respondent.

### **5.13 Support**

Complainants and respondents in the Complaint resolution process may attend meetings with the Student Conduct Office; Executive Director, Student Affairs; or Vice-Provost, Students with a support person of their choosing. During these meetings, the complainants and respondents are expected to speak on their own behalf. A support person may provide guidance and assistance throughout this process.

The parties involved in a hearing before the Senate Appeals Committee may attend with a support person and/or a representative of their choosing. The parties are entitled to be assisted by a representative during Senate Appeals Committee hearings.

## **6. COMMUNITY STANDARDS FOR NON-ACADEMIC STUDENT CONDUCT**

All students at the University are expected to conduct themselves in a manner that supports the University as a learning, teaching, living, research, and work environment where the rights and responsibilities of all students, staff, and faculty are respected. Students may also be responsible for the conduct of their guests.

The Toronto Metropolitan University Statement of Student Rights and Responsibilities outlines that students are expected to strive to make the community safe and uphold an environment defined by mutual respect, equity, civility, dignity, and inclusivity.

More information about the Toronto Metropolitan University Statement of Student Rights and Responsibilities is found on the Senate website.

The Code works in accordance with the Sexual Violence, Residence Community Standards, and the Discrimination and Harassment Prevention Policies to combat sexual violence, harassment, and discrimination of all forms. The University is committed to fostering diversity and inclusion where all community members feel welcomed, valued, seen and heard. The policies must work in coordination to promote a culture of consent and to confront all barriers to equity, diversity, and inclusion such as racism, anti-Black racism, anti-Indigeneity, anti-Asian racism, Islamophobia, anti-Semitism, xenophobia, gender-based violence, gender inequity, sexism, homophobia, transphobia, colonialism, ableism, and ageism.

Students are to comply with all municipal, provincial, and federal laws and any professional standards related to their course of study.

A non-exhaustive list of conduct that does not meet the University's community standards includes:

### **6.1 Violence, and/or Threats of Violence, to a Person's Physical or Mental Well-being, such as:**

Assault; intimate partner violence; hazing; or behaviour that results in or has a high likelihood of resulting in physical injury.

**6.2 Harassment, such as:**

Unwelcome remarks, words, actions or contact; verbal abuse; non-verbal abuse; unwelcome gestures; distributing malicious or untrue information about community members - unwanted physical or verbal behaviour that is known or should be known to be unwelcome, humiliating, threatening, or demeaning. This includes conduct that arises from, or is motivated, in whole or in part, by bias, prejudice or stereotypes of a community member or groups' personal characteristics as defined in the Discrimination and Harassment Prevention Policy. The conduct may include a serious one-time or ongoing/repeated incident.

**6.3 Disrupting or Interfering with University Operations, such as:** Disrupting or interfering with a class, examination, event, or operation; causing a dangerous situation; setting off a false fire alarm; or providing false identification or documentation.

**6.4 Conduct that Breaches the Law, such as:**

Possessing and/ or distributing weapons, including replicas of weapons; theft; misappropriation, or unauthorized possession of personal property; producing, distributing, or selling drugs or alcohol not permitted by law; breaking into University premises; or unauthorized use of keys or access to space on campus.

**6.5 Damage to University and Community Members' Property, such as:**

Damaging; vandalizing; or destroying the property of the University or community members.

**6.6 Conduct that Breaches University Policies and Procedures, such as:**

Failure to comply with University policies and procedures, including but not limited to the Sexual Violence Policy, Discrimination and Harassment Prevention Policy, Acceptable Use of Information Technology, Smoking and Vaping Policy, and other Health and Safety directives, policies, and procedures. Breaches of decisions and directives issued under University policies and procedures, including but not limited to the Sexual Violence Policy and the Discrimination and Harassment Prevention Policy.

**6.7 Abuse of the Code or other University Policies, such as:**

Bringing an unfounded Complaint with a malicious or vexatious intent; breaching the confidentiality expectations; failing to comply with the reasonable requests of a University representative; retaliating against any participant in the Code process; failing to comply with the remedies and sanctions outlined in the Code.

**7. CONFIDENTIALITY AND PRIVACY**

The University expects all members of the Toronto Metropolitan community involved in the Complaint resolution process to keep confidential, outside the people supporting them, any personal

information they learn in this process, to ensure the integrity of the Investigation and decision-making process.

The University protects personal information and handles records in accordance with its policies, procedures, applicable provincial and federal privacy legislation, regulations (including associated orders, directives, decisions, and rulings by the applicable Privacy Commissioner) relating to privacy, personal information, and personal health information. Without limitation, this includes the *Freedom of Information and Protection of Privacy Act*.

The University collects, uses, and discloses personal information in accordance with the *Freedom of Information and Protection of Privacy Act* and other applicable provincial and federal privacy legislation and regulations as noted above.

## **8. COMPLAINT RESOLUTION PROCESSES**

The Student Conduct Office receives Complaints of breaches of community standards and determines the process to be followed in order to resolve the Complaint.

### **8.1 Alternative Dispute Resolutions (ADR)**

The Student Conduct Office will consider whether ADR processes, including conciliation, mediation, restitution, and restorative justice are appropriate to resolve the Complaint.

### **8.2 Investigations**

The Student Conduct Office will investigate Complaints under this Code. Following the Investigation, a decision maker will decide whether a breach of community standards has occurred or not.

### **8.3 Decision-Making**

The Student Conduct Office may:

- Make a finding as to whether there has been a breach of the community standards and assign appropriate sanctions if a breach has occurred.  
OR
- Where the Student Conduct Officer believes that if a breach of community standards is found to have occurred, a more severe sanction than they are authorized to assign under Section 10.1 is warranted, present the Investigation to the Executive Director, Student Affairs or the Vice-Provost, Students to make a finding as to whether there has been a breach of the community standards and assign the appropriate sanctions if a breach has occurred.

### **8.4 Standard of Proof**

At each stage of decision-making, the onus of establishing that a breach of community standards has occurred shall be on the University. The standard of

proof will be on a balance of probabilities.

## **9. INTERIM MEASURES**

Interim Measures may be imposed by a decision maker once the University becomes aware of an alleged breach of the community standards considering the alleged conduct and the relevant context, to protect the parties, the University community, and the integrity of the Investigation and decision-making process. Interim Measures are without prejudice to the ultimate outcome of the Investigation.

### **9.1 Appeal of Extension of Suspension**

Interim Measures which include an extension of suspension may be appealed under Section 11.

## **10. SANCTIONS**

Sanctions are assigned by a decision maker following a decision that there has been a breach of community standards. Sanctions can range from a requirement to attend an educational program, up to and including expulsion.

### **10.1 Sanctions that may be Assigned by the Student Conduct Office**

The Student Conduct Office has the discretion to assign the following sanctions:

#### **10.1.1 Written reprimand**

A written notice to the respondent that they have breached the Code and a warning that any further breach of the Code could result in greater sanctions.

#### **10.1.2 Behavioural Expectations**

A notice in writing to the respondent outlining their responsibility to engage in particular conduct and/or refrain from specific actions.

#### **10.1.3 Educational Activity**

A requirement that the respondent completes a facilitated learning activity intended to address concerns raised by the conduct process that promotes growth, reflection, and development.

#### **10.1.4 Professional Assessment and Support**

A requirement that the respondent seeks risk assessment and/or disciplinary counselling, and mental health treatment from the Centre for Student Development and Counselling or other appropriate professional and complete recommendations of the professional.

#### **10.1.5 Community or University Service**

An activity that allows the respondent to reflect on and learn from their behaviour and its impact.

### **10.1.6 Restitution**

Compensation by way of a sum of money, material replacement, or services rendered to cover the losses or damages up to and including \$500.00.

### **10.1.7 Restrictions on Services and Premises**

A limit on or loss of access to particular areas, buildings, services, resources, or activities of the University.

### **10.1.8 Restrictions on Communication**

An order to refrain from direct or indirect communication with another individual or group.

### **10.1.9 Recommendations**

A decision maker may make non-binding recommendations for specific actions or suggest resources to promote the learning, well-being, and success of the respondent. For example, the decision maker may refer or recommend academic resources, student services and support programs, participation in ADR processes or courses, mental health support, or preparation of an apology or statement of regret to a harmed party as appropriate.

## **10.2 Sanctions that may be Assigned by the Executive Director, Student Affairs**

In addition to the sanctions that can be assigned by the Student Conduct Office, the Executive Director, Student Affairs has the discretion to assign one or more of the following sanctions:

### **10.2.1 Restitution**

Compensation by way of a sum of money, material replacement, or services rendered to cover the losses or damages, up to and including the full cost of the losses or damages.

### **10.2.2 De-enrollment**

Withdrawal from a current course.

### **10.2.3 Limitations to Future Enrollment**

Restriction from enrolling in a specific future course.

### **10.2.4 Non-Academic Disciplinary Suspension (NDS)**

Suspension for up to two (2) years. Students shall be prohibited from enrolling in any course at the University during the specified period and from enrolling in certificate programs or courses as determined by the Executive Director, Student Affairs.

### **10.3 Sanctions that may be Assigned by the Vice-Provost, Students**

In addition to the sanctions that can be assigned by the Student Conduct Office and the Executive Director, Student Affairs, the Vice-Provost, Students has the discretion to assign the following sanctions:

#### **10.3.1 Non-Academic Disciplinary Withdrawal (NDW)**

Withdrawal from the University for at least two (2) years.

#### **10.3.2 Expulsion**

Permanent removal of a student from the University.

## **11. APPEALS**

A decision maker cannot hear an appeal of their own decision.

### **11.1 Interim Measures and Sanctions during the Appeal Process**

All Interim Measures and sanctions remain in place during the appeal process. Should the University receive an allegation of non-compliance with Interim Measures and sanctions during the Complaint resolution process, the University may investigate this allegation and include the non-compliance allegation into the Appeal hearing to determine appropriate sanctions.

### **11.2 Appeal of Interim Measures which Include an Extension of Suspension**

The respondent may appeal an extension of a suspension imposed as an Interim Measure by the Executive Director, Student Affairs under Section 9. If a suspension is extended, the respondent may appeal to the Senate Appeals Committee that shall hear and decide the matter within ten (10) business days unless the student agrees to extend the period of time. See Procedures 5.1.

### **11.3 Appeal of Findings and/or Sanctions from Decisions of Student Conduct Office**

The respondent may appeal the findings and/or sanctions assigned by the Student Conduct Office within ten (10) business days of the decision letter being issued. See Procedures 5.3.

### **11.4 Appeal of Findings and/or Sanctions from Decisions of Executive Director, Student Affairs or Vice-Provost, Students where the Assigned Sanctions do not include Restitution over \$500, De-enrollment, Limitations to Future Enrollment, NDS, NDW, or Expulsion**

The respondent may appeal the findings and/or sanctions assigned within ten (10) business days of the decision letter being issued. See Procedures 5.4.

### **11.5 Appeal of Decisions and/or Sanctions of Decisions by the Executive-Director, Student Affairs or Vice-Provost, Students wherethe Assigned Sanctions includes Restitution over \$500, De- enrollment, Limitations to Future Enrollment, NDS, NDW, or Expulsion**

The complainant or respondent may appeal the findings and/or sanctions

assigned by the Executive Director, Student Affairs or the Vice-Provost, Students within ten (10) business days of the decision letter being issued. See Procedures 5.5.

## **12. CORRESPONDENCE AND NOTICE**

The University will provide the complainant and the respondent with regular updates. Consistent with Senate Policy 157, all formal notification and delivery of documents under the Code and the Procedures will be by email to a torontomu.ca email account.

## **13. RECORDS**

A record of the case files and final decisions made under this Code will be kept according to the University's record management policy.

## **14. DISTRIBUTION AND COMMUNICATION OF POLICY**

All Senate policies are posted on the Senate website.

## **15. TIMELINES UNDER THIS CODE AND RELATED PROCEDURES**

Any timeline under this Code or related Procedures may be extended by a Decision Maker with notice to the parties.

## **16. PROCEDURES UNDER THIS CODE**

Procedural updates shall be the responsibility of the Office of the Vice-Provost, Students.

Should the Office of the Vice-Provost Student consider procedural changes that are significant, the Student Conduct Office will convene a committee to provide recommendations for this purpose. The committee will include representatives from faculty and RSU, CESAR, RSGU, or any other student group sanctioned by the University.

## **17. ROLES AND RESPONSIBILITIES**

### **17.1 Students**

- Be aware of the University's community standards and expectations.
- Monitor student email account, including during exam periods and holidays.
- To participate in a Complaint, Investigation, and decision-making process that is procedurally fair.

### **17.2 All Members of the Toronto Metropolitan Community**

- Build a community that values equity, diversity, inclusion, honesty, respect and the well-being and dignity of all community members.
- Keep personal information of others and student conduct outcomes confidential.

- Report to Community Safety and Security if an incident is witnessed that compromises the safety of the community.

### **17.3 Staff**

- Follow appropriate procedures contained in the Code to address conduct that may be a breach of community standards.

### **17.4 Senate**

- Toronto Metropolitan University's Senate holds academic authority and is responsible for maintaining, communicating, and implementing this Code.
- Toronto Metropolitan University Senate Appeals Committee hears appeals of Interim Measures which include an extension of a suspension and decisions and/or sanctions assigned by the Executive-Director, Student Affairs or Vice-Provost, Students where the assigned sanctions include restitution over \$500, de-enrollment, limitations to future enrollment, NDS, NDW, or expulsion.

### **17.5 Senate Appeals Committee (SAC) Panel**

- The panel established by the Secretary of Senate, responsible for reviewing appeal submissions and upon evaluating the evidence provided, makes a decision on the appeal. Senate Appeals Committee decisions are final and not appealable.

### **17.6 Vice-Provost, Students**

- Oversees the operation of Student Affairs.
- Ensures that the appropriate supports and services are put in place in the many units reporting to the Office of Vice-Provost, Students.
- Works in close partnership with the Executive Director, Student Affairs and Director, Student Housing and Community Care to interpret and apply this Code.

### **17.7 Executive Director, Student Affairs**

- Oversees the operation of Student Housing and Community Care.
- Ensures that the appropriate supports and services are put in place in the many units reporting to the Office of Vice-Provost, Students.
- Works in close partnership with the Vice-Provost, Students and Director, Student Housing and Community Care to interpret and apply this Code.

### **17.8 Director, Student Housing and Community Care, Student Affairs**

- Oversees the operation of the Office of Student Care.
- Works in close partnership with the Vice-Provost, Students and Executive Director, Student Affairs to interpret and apply this Code.
- May assign a designate for the decision maker for operational reasons or where there is a conflict of interest.

### **17.9 Office of Student Care, Student Affairs**

- Provide advice and consultation regarding student conduct and students in crisis.
- Ensure all community members, including students who have been harmed or who have caused harm, are treated with care, empathy, and dignity and are provided with the services and support they require.
- Manager, Student Care, supervises the Student Conduct Office and co-chairs the Student Case Management team. Manager may assign a designate for the Student Conduct Office for operational reasons or where there is a conflict of interest.
- Ensure supports and services are in place to support students who are impacted by unacceptable conduct.
- Ensure all staff are trained in safety, risk management, behavioural intervention, emergency procedures, using trauma-informed practices, and student learning and development principles.
- Maintain information on Toronto Metropolitan's Student Care Office's website about on- and off-campus supports for students.

### **17.10 Student Conduct Office, Student Affairs**

- Administer this Code and its Procedures.
- Provide advice and consultation regarding student behaviour, Complaints, and Investigations under this Code.
- Manage education and training about this Code, the Complaint and Investigation process, including inquiries, consultations, alternative dispute resolution, and enforcement of outcomes and sanctions related to non-academic student conduct.
- Work in coordination with Human Rights Services to manage Complaints and Investigations for incidents with intersectional jurisdiction under the Student Code of Non-Academic Conduct, the Discrimination and Harassment Prevention Policy and/or the Sexual Violence Policy.

### **17.11 Community Safety and Security**

- Provide appropriate services and supports such as documenting incidents, safety planning, assisting complainants who chose to report to police, referral of community members to the Office of Student Care, assisting the Student Conduct Office with Investigations, and enforcement of outcomes and sanctions where appropriate.
- Provide advice and guidance regarding behavioural intervention, risk assessment and management, crisis response, and emergency procedures and response.

### **17.12 Human Rights Services**

- Work in coordination with the Student Conduct Office to manage Complaints and Investigations for incidents with intersectional jurisdiction under the Student Code of Non-Academic Conduct, the Sexual Violence Policy, and the Discrimination and Harassment Prevention Policy.

### **17.13 Consent Comes First**

- Provide support and services for community members who have been impacted by gender-based violence.
- Develop and implement with on- and off-campus partners the awareness, prevention, education, and training strategy regarding gender-based violence.
- Work with Student Affairs in the development and delivery of training opportunities available for students and appropriate student staff.

### **17.14 Student Case Management Team**

- Provide support and advice regarding complex student cases, including promoting early intervention strategies and ongoing case management.
- Meet weekly or as needed to assess and address unacceptable student conduct, self-harm, and risk of harm to others.
- Consists of a multi-disciplinary group of staff from across the University who provide expertise on addressing a wide range of concerning student behaviour in order to coordinate the University response to address student well-being and community safety.
- Provides guidance and recommendations for responding to emergency situations.

## **18. RELATED POLICIES**

Discrimination and Harassment Prevention Policy; Sexual Violence Policy; Housing & Residence Life Community Standards; Experiential Learning.

## **POLICY 61 PROCEDURES**

### **1. MAKING A COMPLAINT**

#### **1.1 Filing a Complaint**

Any current student, faculty, or staff member may file a Complaint. The University does not accept anonymous Complaints.

A Complaint form is found at the Student Care Office website. The Complaint may also take the form of a report from Toronto Metropolitan Security or a Toronto Metropolitan Residence Incident Report.

The Student Conduct Office may advise Toronto Metropolitan Community Safety and Security about reported conduct. The Student Conduct Office may also convene a Student Case Management Team meeting to assess the campus safety concerns and determine the best course of action to address safety concerns.

In some cases, the University may be the complainant.

#### **1.2 Required Information in a Complaint**

Complaints are to be submitted to the Student Conduct Office and should include:

- the complainant's name and contact information
- a description of the alleged breach of community standards, including location and time
- any witnesses and provide their contact information
- supporting documentation

#### **1.3 The Time Limit for Filing a Complaint**

A Complaint must be filed within thirty (30) business days of the alleged breach of community standards. This period for filing a Complaint may be extended at the discretion of the Student Conduct Office.

### **2. COMPLAINT RESOLUTION PROCESS**

#### **2.1 Student Conduct Office Review**

The Student Conduct Office will review the Complaint and consider the following:

##### **2.1.1 Determine Jurisdiction to Proceed under this Code**

The Student Conduct Office will assess whether the alleged conduct falls under the jurisdiction of the Code. If not, they will notify the person making the Complaint and close the file.

In cases where the Complaint may be covered by a different conduct policy and not the Code, the Student Conduct Office may consult and refer the Complaint to the University office that deals with such

Complaints and advise the complainant of the referral.

### **2.1.2 Determine Whether to Proceed where there are Civil or Criminal Proceedings**

If the conduct which gave rise to a Complaint is also the subject of a criminal or civil proceeding, the Student Conduct Office may put the Complaint process under this policy on hold until it deems it is appropriate to proceed. In appropriate circumstances, the University may impose Interim Measures even when the Complaint resolution process is put on hold.

### **2.1.3 Potential Breach of Multiple Policies**

Where there is a potential breach of the Code and another University Policy, the Student Conduct Office may work with the appropriate office to coordinate or designate the Investigation of the Complaint which could include a joint Investigation.

The Student Conduct Office will identify the appropriate decision maker.

### **2.1.4 Residence Community Standards Procedures**

Where the alleged conduct could be a breach of the Residence Community Standards the Complaint will generally be handled by Housing and Residence Life (“HRL”) staff. However, in some cases, HRL may refer the Complaint to the Student Conduct Office.

### **2.1.5 Amnesty**

The Student Conduct Office will consider whether students ought to be granted amnesty.

The University will consider the student’s decision to request assistance, and in most cases, view the act of seeking assistance as good judgment. If it is determined that amnesty applies to a situation, the students involved will not be subject to Investigation and sanctions, however, the Student Conduct Office may make a referral to appropriate supports or engage ADR.

Amnesty may not be available for students who have repeatedly violated non-academic student conduct policies or in more serious situations involving violence, threats, property damage, etc.

### **2.1.6 Interim Measures, ADR, or Investigation**

The Student Conduct Office has the discretion to impose or recommend Interim Measures, to attempt ADR processes, or to proceed with an Investigation.

## **2.2 Interim Measures**

The Student Conduct Office may meet with the student and others to gather information prior to imposing Interim Measures. Consequences for breaching

Interim Measures will be clearly communicated to the respondent at the time they are applied.

### **2.2.1 Interim Measures Imposed by the Student Conduct Office**

The Student Conduct Office may impose a confidentiality and no-contact order between the complainant and the respondent to protect the integrity of the process and to separate the parties. This may include organizing alternate housing or educational arrangements.

### **2.2.2 Actions taken by Instructors**

Where an incident occurs in a class or during an examination, the instructor may ask the student to leave, may take a break or end the class or examination as a way to address the matter. If a student is asked to leave, it should be reported to the Chair, Course Director, or Program Director. Community Safety and Security may be contacted to document the incident, if there are ongoing student conduct or safety concerns.

### **2.2.3 Community Safety and Security Measures**

Nothing in the Code affects the University's ability to respond to and address health and safety concerns, including, without limitation, its exercise of discretion under the *Trespass to Property Act* to control who enters and engages in activities on University premises.

In circumstances where a current student is restricted from certain areas of campus or has been barred from campus, Community Safety and Security will immediately refer the matter to the Student Conduct Office, who will immediately notify the student that they have become aware of the restriction or bar.

The Executive Director, Student Affairs will, within two (2) business days, decide whether to revoke the restriction or bar from campus and decide whether to impose Interim Measures.

### **2.2.4 Interim Measures imposed by the Executive Director, Student Affairs**

The Student Conduct Office may recommend to the Executive Director, Student Affairs a range of restrictions, up to and including campus restrictions and full suspension, for up to ten (10) business days if they receive information that leads them to believe that a student's continued presence on campus poses a risk of harm to the community, the safety of others is endangered, damage to University property is likely to occur, or the continued presence of the student would be disruptive to the legitimate operations of the University.

Where the Executive Director, Student Affairs imposes restrictions or a full suspension as Interim Measures, the student will be provided with a

summary of the facts and the reasons for the decision, as well as specific conditions for the student to return to campus if applicable.

After the ten (10) business days, the Executive Director, Student Affairs may impose an additional thirty (30) business days of restrictions from campus or extend a suspension if there is reason to believe that the student would be disruptive to the legitimate operations of the University.

A student may appeal the decision to extend a suspension to the Senate Appeals Committee (see Procedures 5.1).

### **2.2.5 Notifying University Offices**

Appropriate staff and offices at the University will be notified of the Interim Measures where necessary for the purpose of coordination, implementation, or otherwise in accordance with the *Freedom of Information and Protection of Privacy Act* and the University's policies and procedures pertaining to privacy.

## **2.3 Alternate Dispute Resolution (ADR)**

The Student Conduct Office will consider if ADR processes, which may include conciliation, mediation, restitution, and restorative justice, at any stage in the Complaint resolution process, are appropriate in the circumstances. If so, the Student Conduct Office will speak to both parties to seek their consent to proceed.

ADR processes are voluntary, and the parties must consent to their participation. Anything said in ADR cannot then be used against a party should the matter return to the Investigation and decision-making process.

While many elements may affect whether ADR is appropriate in the circumstances, the matter will normally proceed by Investigation and decision-making if:

- Either party does not respond to a notice for an ADR resolution meeting.
- A resolution is not reached.
- A resolution is reached, but the respondent does not comply with the resolution within the specified time period.
- A resolution is reached, the respondent completes the remedy but continues to engage in similar conduct which breaches the Code, which becomes known to the Student Conduct Office by way of either an on-going unresolved Complaint or a new Complaint.

If the complainant and respondent are able to reach a resolution, a written record of the resolution will be prepared by the Student Conduct Office to be signed by both parties. The Student Conduct Office will keep a copy of the signed agreement, and a copy will be provided to the complainant and the respondent

and the file will be closed.

### **2.3.1 Notifying University Offices**

The decision will be provided to appropriate staff and offices at the University where necessary for the purpose of coordination, implementation, or otherwise in accordance with the *Freedom of Information and Protection of Privacy Act* and the University's policies and procedures pertaining to privacy.

## **2.4 Investigations**

An Investigation is a careful collection and examination of evidence to determine facts. Both parties will have an opportunity to know and respond to the evidence in the Investigation. An Investigation will be completed in thirty (30) business days.

The Student Conduct Office will conduct the investigation. Investigations include the following steps:

### **2.4.1 Meet with the Complainant**

The Student Conduct Office will schedule a meeting with the complainant and provide at least five (5) business days' notice of the meeting. At that meeting, the Student Conduct Office will ensure they understand the Complaint and explain the process to the complainant; inform them of the confidentiality expectations; identify any witnesses; identify and collect any documentary, electronic, video, or other evidence, and consider the appropriate resolution path.

A complainant is entitled to support and assistance from a support person of their choosing. The complainant is entitled to have a support person attend the meeting with the Student Conduct Office. During meetings with the Student Conduct Office, a complainant is expected to speak on their own behalf.

If the complainant does not respond to a request for a meeting or refuses to meet with the Student Conduct Office, the case may be closed.

### **2.4.2 Notice to the Respondent**

The Student Conduct Office will provide a written Notice of Complaint to the respondent with at least five (5) business days' notice before a meeting.

The Notice of Complaint will provide:

- A description of the Complaint and notice that, if proven, may result in a finding and sanctions under the Code.
- The identity of the person making the Complaint, unless the Student Conduct Office decides not to do so due to safety concerns.

- A request for the respondent to meet with the Student Conduct Office to discuss the Complaint, the process, confidentiality expectations under the Code, and the potential outcomes.
- A statement outlining that the respondent is entitled to support and assistance from a support person of their own choosing. The respondent is entitled to have the support person attend the meeting with the Student Conduct Office. During meetings with the Student Conduct Office, the respondent is expected to speak on their own behalf.
- The Student Conduct Office contact information.

#### **2.4.3 Meet with the Respondent**

The Student Conduct Office will inform the respondent of the process; emphasize the confidentiality expectations; explain the allegations; hear the respondent's version of events; identify any witnesses; collect and identify any documentary, electronic, video, or other evidence; and consider the appropriate resolution path.

If the respondent does not meet with the Student Conduct Office at the scheduled meeting or does not contact the Student Conduct Office to reschedule the meeting, the Student Conduct Office may complete the Investigation and decision-making without any input from the respondent.

#### **2.4.4 Meet with Witnesses**

The Student Conduct Office will consider the witnesses identified by the complainant and respondent and interview any witnesses they deem relevant. The Student Conduct Office will contact witnesses and provide them with a date to be interviewed.

#### **2.4.5 Further Meeting with Complainant or Respondent, as necessary**

The Student Conduct Office may choose to meet with the complainant and respondent again should they determine that the party has a right to reply to evidence they have heard.

### **3. DECISIONS**

Where the Complaint has not been resolved by ADR processes, the appropriate decision maker, considering the findings of the Investigation, will make a decision as to whether there has been a breach of the community standards and assign appropriate sanctions if a breach occurred.

#### **3.1 Sanctions and Progressive Discipline**

A decision maker assigns sanctions proportionate to the breach of the community standards and in consideration of the full context of the matter and the principles of progressive discipline.

### **3.2 Standard of Proof**

The onus of establishing a breach of the Code shall be on the University. The standard of proof for determining that a breach of the community standards of the Code has occurred will be based on a balance of probabilities. This means that it is more likely than not that a breach has occurred.

### **3.3 Decisions made by the Student Conduct Office**

Within ten (10) business days of the completion of the Investigation, a decision will be made and a decision letter will be issued to the complainant and respondent. The parties will be sent separate confidential versions of the decision letter.

### **3.4 Decisions made by the Executive Director, Student Affairs or the Vice-Provost, Students**

Where the Student Conduct Officer believes that if a breach of community standards is found to have occurred, a more severe sanction than they are authorized to assign under Section 10.1 is warranted, the Student Conduct Officer, within ten (10) days of the completion of the Investigation, will present the Investigation and all relevant evidence and submissions received from the parties to the Executive Director, Student Affairs or the Vice-Provost, Students to make a finding as to whether there has been a breach of the community standards and assign the appropriate sanctions if a breach has occurred.

The Executive Director, Student Affairs or the Vice-Provost, Students may conduct additional inquiries as they deem necessary. This may include meeting with the complainant, respondent, and witnesses or requesting additional evidence before making a decision. The decision maker shall provide the complainant and respondent with an opportunity to know and respond to any additional relevant information obtained during their inquiries.

The Executive Director, Student Affairs or the Vice-Provost, Students may consult as necessary before assigning sanctions; for example, they may consult with the Vice-Provost, Graduate Studies when considering de-enrollment, suspension, or expulsion of a graduate student.

Within ten (10) business days of the conclusion of any additional inquiries and consultation, the decision will be made and a decision letter will be issued. The parties will receive separate confidential versions of the decision letter.

### **3.5 The Decision Letter**

The decision letter will include:

- A summary of the allegations.
- The information provided by the complainant, respondent, and any witnesses.

- The findings, which will include a determination of whether or not a breach of the Code occurred, and the reasons for the finding.
- Sanctions, if assigned, and duration of the sanctions.
- Rights of appeal and information about how to appeal the decision.

### **3.6 Notifying University Offices**

The decision letter will be provided to appropriate staff and offices at the University where necessary for the purpose of coordination, implementation, or otherwise in accordance with the *Freedom of Information and Protection of Privacy Act* and the University's policies and procedures pertaining to privacy.

## **4. SANCTIONS**

### **4.1 Assigning Sanctions**

When assigning sanctions, the decision maker will consider full context and may consult with relevant staff and University offices. Considerations may include, but are not limited to, the severity of the breach, the harm caused, whether the action forms part of a pattern of behaviour, whether the respondent has shown remorse, whether the respondent has sought support for underlying conditions that led to the breach, the recommendations of the parties, agreement on recommendations by the parties, and the principles of progressive discipline.

Sanctions are in effect once a decision letter assigning sanctions is issued to the respondent. The duration of the sanctions will be clearly communicated to the respondent. All sanctions remain in place during the Appeal process.

### **4.2 Implementing Sanctions**

In implementing sanctions, the Student Conduct Office will attempt to work with the respondent to find reasonable solutions, to the extent possible, so as to not impede the student's academic progress.

### **4.3 Non-Academic Disciplinary Suspension (NDS)**

An NDS will be noted on the student's transcript until the student graduates or for eight (8) years, whichever comes first. For continuing education students, the NDS notation shall remain for two (2) years. Students who subsequently graduate from another post-secondary institution may petition the Registrar's Office to remove the notation.

No courses may be taken at the University, including at The G. Raymond Chang School of Continuing Education during the period of NDS. Courses taken elsewhere during the suspension period will not be credited towards GPA calculations, Academic Standing, or graduation requirements within the student's program.

If the NDS is assigned during the semester, students may be permitted to complete some or all of the other courses they are enrolled in, and the suspension will become effective at the end of the semester.

A student assigned an NDS may not be admitted to any program or certificate until the specified period of suspension has been served and any specified conditions have been met.

When an NDS is assigned to a graduate student, the Vice-Provost, Graduate Studies (or designate) will be notified for the purposes of coordination.

#### **4.4 Non-Academic Disciplinary Withdrawal (NDW)**

An NDW shall be permanently noted on a student's academic record and an official transcript. When an NDW is assigned to a graduate student, the Vice-Provost, Graduate Studies (or designate) will be notified for the purposes of coordination.

A student assigned an NDW may not apply to the same program but may apply to any other program after serving the specified period of withdrawal and after meeting specific conditions established by the Vice-Provost, Students.

No course may be taken at the University, including at The G. Raymond Chang School of Continuing Education, during the NDW. Courses taken elsewhere during this period will not be credited towards GPA calculations, Academic Standing, or graduation requirements within any program at the University.

For continuing education students, NDW will result in the student being prohibited from enrolling in any courses at the University during the specified period and from enrolling in certificate programs or courses as determined by the Vice-Provost, Students.

#### **4.5 Expulsion**

An expulsion shall be permanently noted on a student's academic record and on an official transcript.

#### **4.6 Supports**

For complainants, the Office of Student Care will work with the Student Conduct Office to ensure appropriate supports are in place to support complainants impacted by the implementation of assigned sanctions.

In circumstances where a respondent indicates their intention to return to studies after completion of their assigned sanctions, the Student Conduct Office will work with the respondent to develop a plan for their return to studies including connecting to campus and community resources and supports.

#### **4.7 Compliance with Sanctions**

Respondents are required to complete and comply with their assigned sanctions.

The University may become aware of allegations of non-compliance. Depending on the circumstances, the allegation of non-compliance may form a new Complaint. Students who are found to have breached assigned sanctions may be subject to further sanctions in accordance with principles of progressive discipline.

If the respondent fails to complete the assigned sanctions, the Student Conduct Office may place an administrative hold on the student's account until the sanctions are completed.

## **5. APPEALS**

The complainant or respondent have the right to appeal as described below.

### **5.1 Appeal of Interim Measures which Include an Extension of a Suspension**

Where the Executive Director, Student Affairs has extended Interim Measures which include a full suspension, the respondent may appeal those Interim Measures to the Senate Appeals Committee. The Appeal forms are found on the Senate website.

Grounds for appeal are limited to the following:

- That the Executive Director had no power under the Code to reach the decision made.
- That there was a fundamental procedural error that was seriously prejudicial to the appellant.
- That the appellant has new evidence to present that could not reasonably have been presented earlier.

A Hearing Panel of the Senate Appeals Committee shall be convened by the Secretary of Senate.

The Hearing Panel will hear, decide the appeal and issue the decision letter within ten (10) business days, unless the respondent agrees to extend the timeframe. The Senate Appeals Committee may confirm or amend the Interim Measures.

The Appeal decision will be issued to the respondent and the initial decision-maker.

There are no further appeals from the Appeal decision of the Senate Appeals Committee.

### **5.2 Appeal of Findings and/or Sanctions**

When filing an appeal of a finding and/or sanctions the appellant should explain the reasons for their appeal, for example:

- The finding was not consistent with the evidence.
- Evidence submitted was not considered by the decision maker.
- The sanction was not appropriate or reasonable in the circumstances.
- The process was not procedurally fair.
- There is new evidence that could not have reasonably been presented earlier that could reasonably affect the decision.

The onus is on the appellant to establish that the decision was not reasonable.

### **5.3 Appeal of Findings and/or Sanctions from Decisions of Student Conduct Office**

The respondent may appeal the findings/and or decisions of the Student Conduct Office to the Executive Director, Student Affairs within ten (10) business days from the date of issue of the decision letter.

The Student Conduct Office may file a response to the Appeal within ten (10) business days. The respondent may file a reply to the response within five (5) business days.

Appeals are generally based on the written reasons and responses received. The Executive Director, Student Affairs may choose to meet with the parties to gather more information.

Within ten (10) business days of receiving all submissions, and meeting with the parties if required, the Executive Director, Student Affairs will decide the appeal and may confirm or amend the findings or sanctions, and issue the Appeal decision letter.

The Appeal decision letter will be issued to the respondent and the initial decision maker.

There is no further appeal from the decision of the Executive Director, Student Affairs.

### **5.4 Appeal of Findings and/or Sanctions from Decisions of Executive Director, Student Affairs or Vice-Provost, Students where the Assigned Sanctions do not include Restitution over \$500, De- enrollment, Limitations to Future Enrollment, NDS, NDW, or Expulsion**

Within ten (10) business days from the date of issue of the decision letter, the respondent may appeal all or part of the decision and/or sanctions assigned by the Executive Director, Student Affairs or the Vice-Provost, Students where the sanctions assigned do not include restitution over \$500, de-enrollment, limitations to future enrollment, NDS, NDW, or expulsion (i.e. sanctions under Policy Section 10.1 that could have been assigned by Student Conduct Office). The appeal will be to:

- Vice-Provost, Students where the decision was made by the Executive Director, Student Affairs
- Designate of Vice-Provost, Students where the decision was made by the Vice-Provost, Students

The initial decision maker may file a response to the Appeal within ten (10) business days. The respondent may file a reply to the response within five (5) business days.

Appeals are generally based on the written reasons and responses received. The decision maker may choose to meet with the parties to gather more information.

Within ten (10) business days of receiving all submissions, and meeting with the parties if required, the decision maker will decide the appeal and may confirm or amend the findings or sanctions in the decision, and issue the Appeal decision Letter.

The Appeal decision will be issued to the respondent and the initial decision-maker.

There is no further appeal for decisions under this section.

## **5.5 Appeal of Decisions and/or Sanctions of Decisions by the Executive Director, Student Affairs or Vice-Provost, Students where the Assigned Sanctions include Restitution over \$500, De-enrollment, Limitations to Future Enrollment, NDS, NDW, or Expulsion**

Within ten (10) business days from the date of issue of the decision letter, the respondent or complainant may appeal to the Senate Appeals Committee all or part of a decision and/or the sanctions assigned where the sanctions include restitution over \$500, de-enrollment, limitations to future enrollment, NDS, NDW, or expulsion. The appeal form is found on the Senate website.

There may be three parties in an appeal before the Senate Appeal Committee, the complainant, the respondent and the initial decision maker. In an appeal, the “appellant” is the party who started the appeal process and the other participants are referred to as the “other parties” or “parties”.

### **5.5.1 Notice of Appeal, SAC**

Once an Appeal has been filed, the Secretary of the Senate shall provide the parties with a Notice of the Appeal and a copy of the Appeal package submission. The Notice of Appeal will provide information about the Appeal process including:

- The right to make a written submission for consideration within ten (10) business days.
- The right to request witnesses at the hearing. The parties should explain why the witness is relevant. The parties will be given ten (10) business days to request witnesses at the hearing that they wish to be considered.
- The right to request new information or supporting documentation for consideration. The parties must indicate why the information or documentation was not provided earlier. Parties will be given ten (10) business days to provide this information.
- The right to a representative.
- The right to have a support person attend.
- The next steps in the appeal process.
- Information on how to request an adjournment or postponement of the hearing or timelines.

Within ten (10) business days of receipt of all submissions for the Appeal, the Secretary of Senate will issue a Notice of Hearing to all parties.

#### **5.5.2 Notice of Hearing, SAC**

The Notice of Hearing will inform the parties:

- Of the date, the time and place of the hearing and provide at least ten (10) business days' notice. A hearing may be scheduled with fewer than ten (10) business days' notice with the written agreement of all the parties.
- That should one of the parties fail to attend, the hearing may proceed in their absence.
- Of the composition of the Hearing Panel and who the Chair is.
- Of the right of the Hearing Panel to control its process, including determining relevant witnesses and order of proceedings.
- Of the expectations of confidentiality.
- That the hearing is closed, except to the parties and their representatives and support persons.

#### **5.5.3 Appeal Package, SAC**

The Hearing Panel and the parties will be provided with the decision letter, the Appeal form, all submissions received from the parties, and the evidence received at least five (5) business days before the hearing.

### **6. AT THE HEARING, SAC**

The Hearing Panel has the discretion to control the hearing process, including the order in which it hears appeal submissions, whether they wish to hear oral evidence and who is a relevant witness.

If any of the parties do not attend the hearing, the hearing may proceed.

At the outset of the hearing, the Chair of the Hearing Panel will welcome the parties and outline the process of the Hearing to the parties, including:

- The expectations of confidentiality.
- The expectation of respectful behaviour.
- The prohibition of recording the hearing.
- The role of representatives and support persons and witnesses.
- Remind the parties that all requests to speak and ask questions must go through the Chair.

### **6.1 Order of Presentation**

In most cases, the order of presentation will be as follows:

- The initial decision maker, or their designate, will make an opening statement, and present their findings and decision, based on the evidence that they heard. The initial decision maker may also present new information or witnesses.
- The appellant will have an opportunity to make an opening statement and oral arguments as to why the decision in whole, or in part, is not reasonable, and present any new information or witnesses to support their argument.
- The other party will have an opportunity to provide an opening statement and to respond to the arguments raised by the appellant, or make their own oral arguments if they believe the decision, in whole, or in part, is not reasonable, and present any new information or witnesses to support their argument.
- The Hearing Panel will have the opportunity to question all the parties or their witnesses.
- Each party will have an opportunity to question the other parties or their witnesses by directing their questions to the Chair.

### **6.2 Hearing Panel Composition**

The Hearing Panel shall be three (3) panel members, at least one of whom must be a student. It may be possible to proceed with only two panel members if the parties agree.

### **6.3 Closed Hearings**

Hearings are confidential and will be closed. Only the parties, their support persons and their representatives may attend the hearing. The Hearing Panel will decide on requests to allow other participants to attend the hearing.

### **6.4 Witnesses**

The Hearing Panel has the discretion to decide who is a relevant witness. A relevant witness has information about the alleged incident and does not provide

character evidence. As the hearing is closed, witnesses will be called into the hearing room only for their evidence.

**6.5 Right to Question**

The parties may direct questions to the other parties and witnesses through the Chair who has the discretion to determine if it is an appropriate question.

**6.6 Hearings are not Recorded**

The Hearing Panel and each party may take notes for their personal use.

The University does not record the Hearing and does not permit the parties to record the Hearing. The Appeal decision letter will serve as the official record of the Hearing.

**7. HEARING PANEL DECISIONS, SAC**

The Hearing Panel will decide if the decision was fair and reasonable. The Hearing Panel may confirm or amend all or part of the findings and assigned sanctions. The Hearing Panel will provide reasons in the Appeal decision.

The Hearing Panel decision will be by a majority vote. The Chair of the Hearing Panel will cast a vote in the case of a tie. All members of the Hearing Panel must be present for the entire Hearing in order to participate in the deliberation or decision. It may be possible to proceed with only two panel members if the parties agree.

The Secretary of Senate will provide the Appeal decision letter to all the parties within ten (10) business days of the completion of the Hearing.

There is no further appeal from the Appeal decision of the Senate Appeals Committee.

**8. NOTIFYING UNIVERSITY OFFICES**

Appeal Decisions will be provided to appropriate staff and offices at the University where necessary for the purpose of coordination, implementation, or otherwise in accordance with the *Freedom of Information and Protection of Privacy Act* and the University's policies and procedures pertaining to privacy.