

1.0 ASSOCIATED POLICY

- **Student Non-Academic Misconduct Policy**

2.0 DEFINITIONS

Appeal

An adjudicative hearing to review a decision of Disciplinary Action related to Non-Academic Misconduct.

Appeal Panel

The panel established in section 3.6 of this Procedure.

Associate Dean

The Associate Dean of the Faculty or School in which the Respondent is registered. In the case of students registered in Open Studies, an Associate Registrar appointed by the Registrar will serve as Associate Dean.

Complainant

The Member of the University Community making a Complaint.

Complaint

A report that alleges Non-Academic Misconduct.

Confidence Line

A confidential service through which Complaints may be reported.

Dean

The Dean of the School or Faculty in which the Respondent is registered. In the case of students registered in Open Studies, the Registrar will serve as Dean.

Disciplinary Action

Action taken to address Non-Academic Misconduct in keeping with section 3.5 of this Procedure.

Early Resolution

The resolution of a Complaint without an Investigation.

Interim Measures

Reasonable changes made to certain rules, standards, policy requirements, workplace cultures, and physical environments to ensure the ability of Members of the University Community to study, work, or engage in other activities without negative effects from others.

Investigation

An investigation into an allegation of Non-Academic Misconduct led by the Student Conduct Officer or other individuals.

Member of the University Community

Persons involved in conducting University affairs, including all Students, employees, volunteers, contractors, and members of the Board of Governors.

Non-Academic Misconduct

Unacceptable non-academic student behaviour that undermines the orderly operations of the University or breaches any of the student responsibilities listed in Article 5.1 of the Student Non-Academic Misconduct Policy, including actions that endanger the health, safety, well-being, human rights, or property of others.

Office of Student Conduct, Community Standards and Values

A University Office in Student Affairs whose role includes the coordination of Restorative Resolution for matters involving student discipline.

Respondent

Student named as the alleged wrongdoer in a Complaint submitted under the Student Non-Academic Misconduct Policy.

Restitution

Compensation required of students who engage in the theft, misuse, damage, or destruction of University or Student property. The amount of restitution is dependent on the extent of damage as well as what is determined to be the most appropriate way for students to make amends for the damage they caused. The amount, form, and method of payment for restitution may be decided as one element of Disciplinary Action.

Restorative Resolution

An alternative method to Disciplinary Action that both repairs harm done and rebuilds trust amongst the Respondent, the Complainant and, others affected by the Non-Academic Misconduct.

Student

Any individual registered in any program, Ministry-approved or not, while on University premises, participating in a University activity, or representing the University, on or off campus.

Student Conduct Officer

An Officer whose role includes the investigation of non-academic disciplinary matters and administration of academic misconduct matters involving students.

Panel Hearing

The hearing established in section 3.7 of this Procedure.

University Appeal Tribunal

A tribunal chaired by the Provost and Vice-President, Academic, delegated by the Board of Governors to hear final appeals from Students on disciplinary matters.

Working Day

Any day that is not a Saturday, Sunday, a holiday as defined in the *Interpretation Act*, or a day where the University is closed for business.

3.0 PROCEDURE ELEMENTS

3.1 Reporting Non-Academic Misconduct

- 3.1.1 Any Member of the University Community may make a Complaint after experiencing, witnessing, or otherwise becoming aware of an alleged incident of Non-Academic

Misconduct. Complaints may be reported in person, in writing, by telephone, or through the University's Confidence Line to the following individuals or offices:

3.1.1.1 Security Services (for cases requiring immediate response, outside of normal business hours, or when harm or the threat of harm to others or property damage exists);

3.1.1.2 Student Affairs;

3.1.1.3 Instructors, Chairs, Associate Deans or Deans;

3.1.1.4 Sexual Violence Response Coordinator (for cases involving allegations of sexual violence).

3.1.2 All Complaints must be provided by the parties who have received them within ten (10) Working Days to the Student Conduct Officer, who will determine whether the Complaint can be resolved through Early Resolution or whether an Investigation is required.

3.1.3 On receiving a Complaint, the Student Conduct Officer will coordinate resources such as Wellness and Psychological Services to support those persons affected by the alleged Non-Academic Misconduct, including Complainants, Respondents, and other Members of the University Community.

3.1.4 A Complaint made to the University is not the same as reporting the incident to another agency, such as the police. A Complainant may also choose to file a concurrent report with another agency. If criminal charges are filed, the University will cooperate with law enforcement as appropriate.

3.2 Early Resolution

3.2.1 The Student Conduct Officer will determine the seriousness of the Complaint and whether it can be resolved through discussion with the Respondent. If the Complaint is resolved in a meeting between the Respondent and the Student Conduct Officer and no further action is required, a record of the discussion will be placed in the student's confidential file in the Office of the Associate Vice-President, Students and Teaching.

3.3 Investigating Complaints

3.3.1 Upon receiving a Complaint, the Student Conduct Officer will oversee an Investigation into the Complaint, unless the Complaint:

3.3.1.1 is deemed to be resolvable through Early Resolution;

3.3.1.2 is required to be investigated under a University policy or procedure which addresses the specific conduct (e.g. the Responding to Sexual Violence Procedure);

3.3.1.3 is made in bad faith or is intentionally misleading;

3.3.1.4 is frivolous or vexatious;

3.3.1.5 does not provide sufficient information to permit an Investigation.

- 3.3.2 The Student Conduct Officer will follow all appropriate University guidelines relating to completing the Investigation.
- 3.3.3 The University may impose Interim Measures to support fair and timely Investigations, and/or to ensure security for Members of the University Community. These may include restriction of access or removal from an event or class, as deemed appropriate and reasonable by the Student Conduct Officer.
- 3.3.4 After investigating the Complaint, the Student Conduct Offer will provide a written report to the Associate Vice-President, Students and Teaching.
- 3.3.5 The Respondent will be given an opportunity to meet with the Student Conduct Officer to be made aware of the findings of the Investigation and to provide any additional information. In advance of the meeting, the Respondent will be given information regarding supports such as the Student Association of MacEwan University (SAMU) Student Advocacy Office.

3.4 Restorative Resolution

- 3.4.1 After reviewing a report of an Investigation into Non-academic Misconduct, either from the Student Conduct Officer or arising through another University policy or procedure, the Associate Vice-President, Students and Teaching will determine whether Restorative Resolution might be an appropriate method for resolving the Complaint.
- 3.4.2 The following conditions must be met before Restorative Resolution can proceed:
 - 3.4.2.1 both the party (or parties) harmed and the Respondent must voluntarily agree to the approach; and
 - 3.4.2.2 the Associate Vice-President, Students and Teaching must be satisfied that proceeding will not risk further harm to the Complainant or other Members of the University Community.
- 3.4.3 If Restorative Resolution is unsuccessful, whether through the failure to reach an agreement or non-compliance with the terms of an agreement, Disciplinary Action may be imposed.
- 3.4.4 A record of the agreement reached through the Restorative Resolution process, including conditions and follow-up measures, will be retained in the Office of the Associate Vice-President, Students and Teaching for a period of ten (10) years after the last action taken on the file.

3.5 Disciplinary Action

- 3.5.1 If a case is not referred for Restorative Resolution, the Associate Vice-President, Students and Teaching will render a decision regarding Disciplinary Action. When making this decision, the Associate Vice-President, Students and Teaching will consider the Respondent's disciplinary history and the seriousness of the Non-Academic Misconduct, as well as the Respondent's academic record, including any violations of the Academic Integrity policy, as background for the determination. The degree of Disciplinary Action should be

commensurate with the seriousness of the Misconduct. Repeated acts of Misconduct will entail increasingly severe penalties.

3.5.2 Disciplinary Action may include, but is not limited to:

- A written warning;
- A written reprimand;
- A discretionary sanction, such as being required to issue formal apologies or make Restitution;
- Forfeiture of fees;
- Loss of, and/or requirement to repay, scholarship or other awards;
- A signed agreement of behavioural expectations;
- Loss of privileges such as the right to participate in certain programs or activities, and/or restriction of access to University property;
- Imposition of disciplinary probation, with terms and conditions on continued student status;
- Termination of any internship, practicum, clinical placement, or research project, without any refund of fees;
- Suspension from attending courses, programs, or activities pending Investigation of the alleged violation;
- Requirement to Withdraw from a course, program, activity, or the University temporarily or permanently;
- Exclusion from University campuses, lands, buildings, and/or on-line systems;
- Notation on official University transcript, as specified in the Grading Policy.

3.5.3 The decision will be communicated in writing to the Respondent by the Associate Vice-President, Students and Teaching, with a copy to the Dean and, in the case of suspension, Requirement to Withdraw or transcript notation, to the Registrar. Security Services will be notified in the case of exclusion from University property.

3.5.4 The decision of the Associate Vice-President, Students and Teaching may be appealed only as provided in this procedure.

3.5.5 Students who have received the penalty of Required to Withdraw and who have not successfully appealed the penalty must reapply for admission to the University according to specific program admission requirements, as specified under the Admissions Policy.

3.6 Appeal of Disciplinary Action

3.6.1 A Respondent who is the subject of Disciplinary Action arising from a finding of Non-Academic Misconduct can appeal the imposition and/or the severity of the Disciplinary Action through an Appeal Hearing. The application for an Appeal must be received by the Office of the Provost within ten (10) Working Days of the date of letter from the Associate Vice-President, Students and Teaching communicating the Disciplinary Action.

- 3.6.2 Within fifteen (15) Working Days of receipt of the Appeal notice, the Chair of the Appeal Panel shall call a meeting of the Appeal Hearing.
- 3.6.3 Prior to the Appeal Hearing, the Office of the Provost will take the following steps:
 - 3.6.3.1 provide a disclosure package to the Respondent, which will include, at a minimum, copies of the letter communicating the Disciplinary Action and the report of the Student Conduct Officer;
 - 3.6.3.2 advise the Dean and the Appeal Panel members of the need for the Appeal Hearing;
 - 3.6.3.3 set a day and time for the Appeal Hearing; and
 - 3.6.3.4 advise the Respondent of the identity of the panel members and the day and time of the Appeal Hearing.
- 3.6.4 The Appeal Hearing is conducted by an Appeal Panel consisting of:
 - 3.6.4.1 the Dean (Chair);
 - 3.6.4.2 a full-time program student appointed by SAMU;
 - 3.6.4.3 a member of the instructional faculty appointed by the General Faculties Council.
- 3.6.5 During the Appeal Hearing:
 - 3.6.5.1 the Respondent and the Associate Vice-President, Students and Teaching will normally be in attendance;
 - 3.6.5.2 The Associate Vice-President, Students and Teaching shall present all evidence with regard to the alleged Non-Academic Misconduct and outline the rationale for the Disciplinary Action.
 - 3.6.5.3 The Associate Vice-President, Students and Teaching has the onus to establish that the Respondent has committed Non-Academic Misconduct.
 - 3.6.5.4 The Respondent shall be given an opportunity to fully answer the alleged Misconduct, and to make submissions regarding the Disciplinary Action that has been imposed.
 - 3.6.5.5 The Respondent may be accompanied by a support person, who will consult, but will not normally speak on behalf of the Respondent.
 - 3.6.5.6 Decisions of the Appeal Panel shall be determined by a majority vote of the Appeal Panel and shall be made on the balance of probabilities.
- 3.6.6 The Appeal Panel may make a determination on either the finding of Non-academic Misconduct, or the appropriateness of the Disciplinary Action taken, or both.

- 3.6.7 Within ten (10) Working Days of the Appeal Hearing date, the decision of the Appeal Hearing will be communicated in writing to the Respondent by the Dean, with a copy to the Associate Vice-President, Students and Teaching, to be retained in the Student's file in keeping with article 3.8.1 This decision letter will indicate whether the finding of Non-Academic Misconduct will be upheld, and whether the Disciplinary Action will be upheld, revised, or overturned.

3.7 University Appeals Tribunal

- 3.7.1 The decision of the Appeal Panel may be appealed to the University Appeals Tribunal only where:
- 3.7.1.1 there is a procedural error at the Appeal Hearing stage; or
 - 3.7.1.2 the decision of the Appeal Hearing was made in a manner that could be argued to be biased, unfair, or unreasonable; or,
 - 3.7.1.3 new evidence is available.
- 3.7.2 The application for an Appeal to the University Appeal Tribunal must be received by the Office of the Provost within ten (10) Working Days of the date of letter from the Dean communicating the decision of the Appeal Hearing.
- 3.7.3 Prior to the University Appeal Tribunal, the Office of the Provost will take the following steps:
- 3.7.3.1 provide a disclosure package to the Respondent, which will include, at a minimum, the letter from the Dean communicating the decision of the Appeal Hearing, as well as copies of the materials provided to the Appeal Hearing;
 - 3.7.3.2 advise the members of the University Appeal Tribunal of the need for the Appeal Hearing;
 - 3.7.3.2 set a day and time for the University Appeal Tribunal Hearing;
 - 3.7.3.3 advise the Respondent of the identity of the Appeal Panel members and the day and time of the University Appeal Tribunal Hearing.
- 3.7.4 The University Appeal Tribunal comprises the following members:
- 3.7.4.1 The Provost and Vice-President, Academic, who will act as chair; and
 - 3.7.4.2 no fewer than three (3) Public Members of the Board, plus one (1) Student Board member and one (1) Academic Staff Member, upon recommendation by the Board Chair.
- 3.7.5 Within fifteen (15) Working Days of receipt of the Appeal notice, the Chair of the University Appeal Tribunal shall call a meeting of the University Appeal Tribunal.

3.7.6 During the University Appeals Tribunal Hearing:

3.7.6.1 the only evidence accepted by the University Appeal Tribunal will be the evidence that was presented to the Appeal Panel, and any evidence related to the Appeal Panel's procedure;

3.7.6.2 the Respondent will normally be in attendance;

3.7.6.3 The Chair of the University Appeal Tribunal may call the Associate Vice-President, Students and Teaching as a witness.

3.7.6.4 The onus is on the Respondent to articulate the procedural error or to demonstrate that the decision of the Appeal Hearing was made in a manner that was biased, unfair, or unreasonable.

3.7.6.5 The Respondent may be accompanied by a support person, who will consult, but will not normally speak on behalf of the Respondent.

3.7.6.6 Decisions of the University Appeal Tribunal shall be determined by a majority vote of the Appeal Panel and shall be made on the balance of probabilities.

3.7.7 The University Appeal Tribunal will give deference to decisions of the Appeal Panel as those decisions relate to the appropriateness of Disciplinary Action. Only Disciplinary Action that is patently unreasonable will be modified, substituted, or overturned.

3.7.8 Within ten (10) Working Days of the date of the University Appeal Tribunal Hearing, the decision of the Tribunal will be communicated in writing to the Respondent by the Provost, with a copy to the Associate Vice-President, Students and Teaching, to be retained in the Student's file in keeping with article 3.8.1. This decision letter will indicate whether the finding of Non-Academic Misconduct will be upheld, and whether the Disciplinary Action will be upheld, revised or overturned. The decision of the University Appeal Tribunal is final.

3.8 **Records Management**

3.8.1 The Office of the Vice-President, Teaching and Students will retain a record of all Non-Academic Misconduct Investigation materials for a period of ten (10) years after the last action taken on the file.

4.0 RELATED POLICIES, PROCEDURES, FORMS AND OTHER DOCUMENTS

- Student Non-Academic Misconduct Policy
- Admissions Policy
- Grading Policy
- Student Academic Integrity Policy and Student Academic Misconduct Procedure
- Student Rights and Responsibilities

- Sexual Violence Policy and Procedure
- Harassment and Violence Policy, and Responding to Harassment and Violence Procedure
- Records Management Policy

5.0 ACCOUNTABILITY

Responsible Office

Associate Vice-President, Students and Teaching

6.0 HISTORY

Relevant Dates

Approved: **19.12.19**

Effective: **19.12.19**

Next Review: **24.12**

Modification History

19.12.19: New procedure. Recommended by General Faculties Council (motion: GFC-07-10-28-2019) and approved by Board motion 04-12-19-2019/20.

12.05.20: Minor revision to remove reference to the abolished Student Ombudsperson position. Approved by Policy Sponsor on May 12, 2020.