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**Code of Student Rights and Responsibilities**

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## SECTION I: INTRODUCTION

### PREAMBLE

1. The University values integrity, inclusiveness and teamwork, and strives to support the personal and collective growth of the McMaster student community. The University is committed to providing educational initiatives and learning opportunities to help students conduct themselves in accordance with the Code.
2. The University recognizes the complexity of student life at a post-secondary institution and understands that students may have differing levels of experience addressing conflict, however, students will be responsible for their interactions with others. Students are expected to conduct themselves responsibly, in accordance with this Code, and to be individually responsible for their actions whether acting on their own or in a group.
3. For the purpose of interpreting this document:
  - a) words in the singular may include the plural and words in the plural may include the singular;
  - b) *Athletics and Recreation* means the Department of Athletics and Recreation;
  - c) *Dean of Students* means the Associate Vice-President (Students and Learning) and Dean of Students;
  - d) *Student Groups* means University Recognized Student Groups;
  - e) *Security Services* means Security and Parking Services; and
  - f) *Student Affairs* means the Student Affairs Office.

### SCOPE

4. All McMaster students have an obligation to familiarize themselves with this Code as it applies to their particular role as a student, student-athlete, Residence Student, Student Leader and/or student group member, in order to ensure that they are aware of their Rights and Responsibilities to the University community.
5. All students are responsible for respecting the rights of others, contributing to an environment that is free of [Sexual Violence](#), and conducting themselves in a manner that contributes positively to the University and the University community.
6. By enrolling at the University students agree to abide by the [Rights, Responsibilities, and Expectations](#) in this Code.
7. Behaviour dealt with under this Code includes any action that violates the Responsibilities of Students or negatively affects any member of the University community, and arises;
  - a) on University premises, or at a University authorized event occurring on or off University premises, or when representing the University;
  - b) at a non-authorized event off University premises and where there is a clear connection to the University community. Incidents without a clear connection (nexus), but where the student(s) in question potentially pose a significant risk to community or workplace safety or where the University has reasonable grounds to be concerned with a risk of future violence, also fall within the scope.
  - c) occurs elsewhere in the course of activities sponsored by the University, or where the conduct is alleged to adversely affect, disrupt or interfere with another person's reasonable participation in University programs or activities;

- a) through electronic media, where there is a clear connection to the University community; and/or
- b) occurs in the context of a relationship between the student and a third party and involves the student's standing, status or academic record at the University.

### Residence Students

8. Residence Students are also required to abide by the additional expectations outlined in [clauses 25-27](#).

### Student-Athletes

9. Student-Athletes are also required to abide by the additional expectations outlined in [clauses 28-29](#).

### Student Leaders and Student Groups

10. Student Leaders, all Student Groups (including their executives, and any member operating in their capacity as a Primary Event Organizer) are also required to abide by the expectations outlined in [clauses 30-31](#).

### Guests

11. A student host is responsible for supervising their guests and ensuring their guests actions are not violations of the behaviour standards outlined in this Code.

## PRIVACY AND CONFIDENTIALITY

12. The University will protect personal information and handle records in accordance with the [Freedom of Information and Protection of Privacy Act](#) and the [Personal Health Information Protection Act](#).
13. The University will limit the disclosure of personal information to those circumstances where it is absolutely necessary in order to address safety concerns or to satisfy a legal reporting requirement. These circumstances include:
  - a) an individual is at risk of harm to self;
  - b) an individual is at risk of harming others;
  - c) there are reasonable grounds to be concerned with risk to the safety of the University and/or broader community;
  - d) disclosure is required by law; and/or
  - e) evidence of an incident or a disclosed incident of Sexual Violence is available in the public realm (e.g. video shared publicly on social media).
14. In such circumstances, the minimum amount of information needed to allow such concerns to be addressed, or meet such requirements, will be disclosed. Such disclosure may include the University contacting a student's parents or other appropriate contacts if there are reasonable grounds to believe that it is necessary to do so.
15. In some circumstances information may be shared between the *Director (Student Support and Case Management Office)*, the *Director of Housing and Conference Services*, the *Director of Athletics and Recreation*, and/or other appropriate staff within their offices, for the purpose of supporting the student (e.g. when behaviour that occurred within Residence may affect the student in their role as a Student-Athlete).

**Confidentiality (Limitations)**

16. Confidentiality refers to the obligation of an individual or organization to safeguard entrusted information. The practice of confidentiality includes obligations to protect information from unauthorized access, use, disclosure, modification, loss or theft.
17. Some offices and [Community Members](#) have additional limitations to confidentiality because of their particular reporting requirements or professional obligations. For example, all regulated health professionals are obligated to report suspected sexual abuse of a patient by a regulated health professional to that professional's governing body if this information is acquired during the course of their practice; and police are required to investigate reports of domestic violence and to lay charges in all cases when there are reasonable grounds to believe an offence has been committed.
18. Procedural limits to confidentiality may also occur if the University is subject to legal proceedings that, in the opinion of the Provost and Vice-President (Academic) or the Vice-President (Administration), (in consultation with the President), require the disclosure of information.
19. The importance of preserving the confidentiality of Complaints and any related proceedings will be explained to all parties as a necessary measure to protect the integrity of the proceedings.

## SECTION II: RIGHTS, RESPONSIBILITIES, AND EXPECTATIONS

### RIGHTS AND RESPONSIBILITIES FOR ALL STUDENTS

20. McMaster University is a student centered community committed to excellence, integrity, inclusiveness and teamwork. Membership in this community implies acceptance of the principle of mutual respect for the rights, responsibilities, dignity, and well-being of others, and a readiness to support an environment conducive to the intellectual and personal growth of all who study, work and live within it. Student rights, and the responsibilities that accompany them, include, but are not limited to:

#### *RIGHTS*

21. All students have the right to:
- protection under the law and this Code;
  - fair procedures and process under this Code;
  - participate unhindered in their academic pursuits which includes the opportunity to participate in respectful dialogue that examines diverse views and ideas;
  - live and work in an environment free from harassment, intimidation, discrimination, assault, and [Sexual Violence](#); and
  - have their personal privacy appropriately respected by other students.

#### *RESPONSIBILITIES*

22. All students are responsible for:
- acting in accordance with the law and this Code;
  - being acquainted with the relevant related policies as they apply to all students as well as to their specific role(s) within the University;;
  - supporting an environment free from harassment, intimidation, discrimination, assault, and [Sexual Violence](#);
  - treating others in a way that does not harm them physically and/or threaten or intimidate them emotionally or mentally;
  - appropriately respecting the personal privacy of other students;
  - consuming legal substances in a safe and responsible manner; and
  - complying with any disciplinary measures assigned under this Code, and respecting the authority of University officials in the course of their duties.
23. For a list of behaviours that may be considered a violation of this code, refer to [Section III: Violations](#).
24. The University recognizes that unusual situations may arise that are not necessarily covered by the above Rights and Responsibilities, but still raise concern for the safety or well-being of students or the University community. In such cases, the Dean of Students (or delegate) reserves the right to use the procedures outlined in this Code to ensure the safety and security of students and the University community as a whole.



**RESIDENCE STUDENTS: ADDITIONAL EXPECTATIONS**

25. Students living in Residence are part of a unique and interconnected community on campus. As such, there are additional, contextual expectations for Residence Students, and their guests.
26. These expectations are identified and agreed upon by every Residence Student in the [Residence Agreement Contract](#) and apply to any behaviour that occurs in Residence and/or at an approved Residence event held either on or off campus and/or which occurs on the internet or through social media.
27. By requesting to live in Residence, students agree to:

***Community Standards***

- a) avoid creating significant nuisances for, or infringe on, a resident's peaceful use of their room/space (e.g. excessive noise, indoor sporting activity, pranks, etc.);
- b) take reasonable steps to prevent a problem situation from occurring or, if it occurs, to prevent it from escalating to a more serious level;
- c) refrain from possessing prohibited items as defined by Housing and Conference Services in the Residence Agreement Contract Appendix A: Prohibited Items and Alcohol Regulations;

***Policy***

- d) abide by University policies, procedures, or protocols (e.g. Residence Agreement/Contract, Guest/Escort protocol, Decorating protocol, etc.);

***Personal and Community Safety***

- e) refrain from actions that compromise fire safety standards (e.g. propping doors, lighting candles, smoking inside, failing to evacuate, tampering with fire safety equipment, causing a false alarm, etc.);
- f) refrain from actions that compromise the safety of an individual(s) (e.g. tampering with building systems, fabricating or building structures, accessing restricted areas, etc.) or are considered unsafe practices by Housing and Conference Services;
- g) refrain from actions that compromise the safety of the Residence community (e.g. loaning keys, fraudulently gaining entry to a building, misusing identification, etc.);

***Substance Use Standards***

- h) abide by Residence Agreement Contract Appendix A: Prohibited Items and Alcohol Regulations and the *Liquor License Act*, including refraining from underage consumption/service, excessive consumption/ public intoxication, open alcohol in a public space, drinking games, or alcohol practises considered unsafe by Housing and Conference Services; and
- i) refrain from the possession, use, sale or being under the influence of illegal drugs (including drug traces, paraphernalia, and smell) and/or use of medication for purposes other than those for which it was prescribed.

***STUDENT ATHLETES: ADDITIONAL EXPECTATIONS***

28. The University recognizes that Student-Athletes participate in distinctive settings on and off campus, and are part of a unique community within the University. Playing and competing for the University is a privilege, not a right. Therefore there are additional, contextual expectations for Student-Athletes that are identified and agreed upon during their registration process. These expectations apply to any member of an athletic inter-university team, and to their behaviour at any Athletics and Recreation sanctioned event, or a team related function held either on or off campus and/or which occurs on the internet or through social media.
29. Student-Athletes are expected to:
- represent the University and portray themselves, their team, and the University in a positive manner at all times;
  - be an ambassador for the University at all times and avoid engaging in activities likely to cause personal injury, intimidation or harassment;
  - treat everyone with courtesy and respect within the context of their sport;
  - refrain from any form of hazing, which includes, but is not limited to: any action or activity which does not contribute to the positive development of a person; which inflicts or intends to cause physical or mental harms; and which may demean, degrade or disgrace any person, regardless of location, intent or consent of participants.
  - abide by the rules and regulations of their sport, as set out by Ontario University Athletics, the Canadian Interuniversity Sport and the sport governing body;
  - refrain from the use of anabolic steroids or other illegal performance enhancing drugs and techniques (e.g. blood doping), as outlined by the Centre for Ethics in Sport;
  - avoid any negative interaction or conflict with members of opposing teams and/or officials except as they occur in the actual course of competition and which constitute the legitimate expression of the competitive spirit of their teams or team members;
  - refrain from willfully damaging the property of others which includes, but is not limited to, hotel rooms, facilities at other universities, and/or transportation vehicles; and
  - refrain from the consumption or transportation of any alcoholic beverages on team vehicles;

***STUDENT LEADERS AND STUDENT GROUPS: ADDITIONAL EXPECTATIONS***

30. Student Groups have a responsibility to respect the rights of others and to conduct themselves in a responsible manner that contributes positively to the University community while on University premises and/or at events off-campus organized by the group.
31. Student Group executives and/or the primary event organizer may be held responsible for violations of this Code. All Student Leaders and Student Groups are expected to:
- follow risk management procedures as contained in the [Student Event Risk Management Policy](#);
  - follow the expectations outlined in the policy [Recognition of Student Campus Groups](#); and
  - comply with a directive of the Dean of Students, or their designate.

## SECTION III: VIOLATIONS OF THE CODE

32. Violations of this Code include, but are not limited to:

### ***Safety of Oneself and the Community***

- a) Violating the [Sexual Violence Policy](#) by engaging in Sexual Violence (any sexual act or act targeting a person's sexuality, gender identity or gender expression whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without a person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation);
- b) engaging in physical actions which are threatening, physically abusive and/or compromise the safety and security of any individual and/or group;
- c) engaging in verbal or non-verbal behaviour or communication toward any individual or group that may be perceived to be intimidating, degrading, harassing and/or discriminatory, and in a manner that exceeds the bounds of freedom of expression;
- d) failing to comply with fire safety regulations, e.g. setting unauthorized fires, tampering with fire and emergency equipment, failing to exit a building during an alarm, etc.;
- e) possessing, storing, or using a hazardous material, explosive substance or weapon, including any item that can be reasonably perceived to be a weapon by others e.g. replica guns, air soft guns, etc.;

### ***Personal or University Property***

- f) vandalising, stealing, or being in possession of property that is not one's own e.g. intellectual property, digital files, property of the university and personal property, etc.;

### ***Community Standards***

- g) failing to cooperate with Security Services, or a University official who is performing their duties under this Code, e.g. including furnishing false information, etc.;
- h) assisting with or conspiring in any conduct that violates this Code;
- i) trespassing and/or fraudulently gaining, or attempting to gain entry to University property;
- j) engaging in disruptive behaviour in or out of class e.g. making excessive noise at any time of the day, causing a disturbance in class, or interrupting the daily functions of the University;
- k) sharing the private information of any individual without consent;
- l) fraud of any kind, including misusing University issued keys or identification, passwords, meal cards;
- m) publically displaying and/or making pornography material anywhere on University campus;
- n) smoking in non-designated areas according to the [Smoking in the Workplace/Public Areas Program](#);
- o) failing to adhere to their responsibilities and expectations as identified in [Section II: Rights, Responsibilities, and Expectations](#);
- p) breaching any contract under this Code that outlines specific parameters for a student's behaviour (e.g. behavioural contract, probation) and/or failing to complete an educational outcome or sanction on time;

### **Legal and Illegal Substances**

- q) possessing, consuming, trafficking or being under the influence of any illegal substance;
- r) possessing or consuming alcohol when under 19 years of age, or distributing alcohol to those under 19 years of age;
- s) consuming or being intoxicated by any legal controlled substance, in a public space regardless of age.

## SECTION IV: ROLES AND PROCEDURAL GUIDELINES

### ROLES

#### Student Affairs Administrator

33. Student Affairs Administrators are:
- Student Support and Case Management Coordinator for all students;
  - Residence Managers, or delegate, or the Residence Life Coordinator, for Residence Students;
  - Associate Director of Athletics and Recreation, or delegate, or the Athletic Services Coordinator for Student-Athletes.
34. Student Affairs Administrators are responsible for the:
- intake and preliminary assessment of allegations of Code violations
  - investigations and determinations of violation of the Code, when the potential sanctions are within their authority to assign;
  - referral of Disclosures to the Sexual Violence Response Coordinator, and notification/referral to the appropriate Intake Office as per the [Sexual Violence Policy](#).

#### Coordinator

35. The Student Support and Case Management Coordinators (“Coordinators”) have additional responsibilities which include:
- conducting investigations of allegations of Code violations; (Investigators for the Code may also include external investigators or an alternate internal investigator as deemed appropriate by the Student Support and Case Management Office).
  - making a finding of violation for minor violations (that do not include allegations of Sexual Violence);
  - referring cases directly to Adjudication when it is warranted by the severity of the alleged conduct, the potential sanctions, and/or the number of violations in the student’s record;
  - determine whether a violation of the Code has occurred and, when appropriate or where there are extenuating medical circumstances, determine whether corrective action might be taken without proceeding to Adjudication;
  - conducting investigations of complaints of Sexual Violence, when they have been appointed as Investigators under the Sexual Violence Policy.

#### Intake Coordinators (Sexual Violence Policy)

36. Intake Coordinators (Sexual Violence Policy) are located in the following offices:
- [Equity and Inclusion Office](#) (available to all Community Members, students, staff and faculty)
  - [Student Support & Case Management](#) Office (available to students)
  - [Employee/Labour Relations](#) (available to staff and faculty)
  - [Faculty of Health Sciences Professionalism Office](#) (faculty, staff, and students in the Faculty of Health Sciences)

### Sexual Violence Assessment Team

37. The Sexual Violence Assessment Team (“Assessment Team”) is responsible for assessing every [Complaint](#) of Sexual Violence received by the University. The Assessment Team will include: the Intake Coordinator, the [Director, Human Rights & Dispute Resolution](#), and a member of the Violence Risk Assessment Team and, as necessary in the circumstances, may include the [Director, Employee/Labour Relations](#), the [Director, Student Support & Case Management](#), and/or the Faculty of Health Sciences Professionalism Advisor.
38. As necessary, and disclosing identities only on a need-to-know basis in order to appropriately respond to the matter, the [Assessment Team](#) may draw upon representatives of key services and/or departments (e.g. Director of Housing and Conference Services, or Director of the Student Wellness Centre).

### Investigator

39. Investigators appointed under the [Sexual Violence Policy](#) may be internal or external to the University, and are responsible for conducting investigations of complaints of Sexual Violence in compliance with the **Sexual Violence Policy** and this Code. Investigators conducting such investigations will have experience and expertise in the area of Sexual Violence and a trauma-informed, anti-oppressive approach to investigation processes.

## PROCEDURAL GUIDELINES

### Accompaniment/Representation

40. Complainants, and Respondents may be accompanied by a [Support Person](#) or an [Advisor](#) at any stage of any of the procedures outlined in this Policy. Any costs of accompaniment or representation are to be borne by the individual.

### Protection from Reprisal

41. The University prohibits reprisal or threats of reprisal against any [Community Member](#) who, sincerely and in good faith, makes use of this Code or participates in any process held under its jurisdiction. Any individual or body found to be making such reprisals or threats will be subject to sanctions under the appropriate policy as circumstances dictate.

### Cooperation and Self-Incrimination

42. It is possible that individuals questioned as witnesses, informants or bystanders about an alleged incident, by cooperating responsibly with the University’s processes, reveal their own infraction of a University regulation or code (e.g. alcohol use, unsanctioned use of University facilities). In such instances, every effort will be made to support individuals coming forward and, if appropriate and possible, take their cooperation into account if any sanction applies to their conduct.

### Burden and Standard of Proof

43. At each stage of decision-making the onus of establishing that there has been a violation of the Code shall be on the University authority. Decisions are made on the balance of probabilities (the evidence shows it is more likely than not the violation of the Code occurred).

### Notice

44. Notices and other written communications under this Code may be delivered in-person, by phone, McMaster email (which may include a download link to the correspondence), or mail (campus, regular, priority, courier,

or registered), and for Residence Students via a letter under the appropriate Residence door. Mail service will be deemed effective on the fifth day after mailing for regular mail, and on the fourth day for campus mail. Documents may be sent to a student's address as recorded in the Registrar's Office, unless the student requests in writing that they be sent to another address.

### **Behaviour Related to a Health Condition**

45. If at any stage of a process under this Code it is determined that the behaviour is related to a health condition, it may be referred to [Section IX: Behaviour Related to a Health Condition](#) for alternate procedures, when appropriate in the circumstances.

### **Reporting**

46. Allegations from members of the University community that a student's behaviour may be a violation of this Code should be reported to the appropriate [Student Affairs Administrator \(see clause 33\)](#) who shall determine whether the alleged behaviour is within the scope of the Code. If the matter is determined to not be within the scope of the Code, the matter may be dismissed and/or referred to another applicable University policy, or appropriate authorities.

### **Options For Disclosing and/or Reporting Allegations of Sexual Violence**

47. Community Members who believe there has been a violation of the [Sexual Violence Policy](#) have a number of options available to them. The services of the [Sexual Violence Response Coordinator](#) as well as other supports and accommodations, are available to them, at any point in time, regardless of how they decide to proceed. Individuals may pursue one or more of these options, which are not mutually exclusive. These options are:
- a) a **Disclosure** is made when an individual informs someone in the University community about an experience of Sexual Violence because they wish to access support, accommodations and/ or information about their options;
  - b) a **Complaint** is made when an individual notifies an Intake Coordinator within the University and seeks the University's response;
  - c) a **Criminal Report** is made when an individual files a report of Sexual Violence with a police service or with McMaster [Security Services](#). Filing a report with McMaster Security Services will result in a report to the [Hamilton Police Service](#); and/or
  - d) **Other Options** external to the University (e.g. through civil litigation or Ontario Human Rights Code provisions).
48. Individuals who file a Complaint, a Criminal Report, or pursue other options as outlined above, may be required to attend/participate in a hearing, either internal to the University, or external through arbitration, or criminal court, etc.

## SECTION V: INVESTIGATIONS AND ADJUDICATION

### PRELIMINARY ASSESSMENT

49. Student Affairs Administrators shall conduct a preliminary assessment to determine whether:
- a) the potential sanctions for the alleged violation are within their authority to assign, and if so, if it is also within their authority to investigate the allegation;
  - b) the number of violations in the student's record warrants referral directly to Adjudication; or
  - c) the matter involves serious allegations of violations of the Code, that require referral to a Coordinator.

#### Complaints of Sexual Violence

50. All complaints of Sexual Violence will be referred to the appropriate Intake Coordinator ([see clause 36 above](#)), who will activate the Sexual Violence Assessment Team as per the *Sexual Violence Policy*.
51. Sexual Violence Complaints will be investigated as per **Section VI: Investigations** of the [Sexual Violence Policy](#). The Adjudication of these Complaints will be processed under this Code when the Respondent is a Student. In some circumstances a decision may be made not to investigate. The decision will be communicated in writing, with reasons, to the parties by the Dean of Students. The Complainant will be informed of their right to make a written appeal of the decision to the Provost and Vice-President (Academic).

#### Contacting the Respondent

52. The Student Affairs Administrator shall contact the Respondent by phone and/or McMaster email to schedule a meeting. The Respondent will be informed of the following:
- a) that an investigation has been initiated, the nature of the allegation, the evidence against them, and the procedures to be followed;
  - b) the time and location of the meeting;
  - a) the parties attending the meeting (when possible);
  - c) that should they fail to attend without contacting the Student Affairs Administrator, the Administrator will proceed to gather information in their absence; and
  - d) if contacted via email, that they must reply **within three (3) business days**.
53. If there is no response from the Respondent **within three (3) business days** of the initial contact then, a meeting will be assigned, and scheduled **at least three (3) business days** after delivery of the notification. The Respondent will be notified by phone, via McMaster email and/or by letter (e.g. delivered under their Residence door; registered mail). These timelines may be expedited, in some cases, when the situation is deemed significant and/or when the Respondent agrees to an expedited timeline.

### INVESTIGATIONS

54. Investigations conducted under this Code will follow the principles of procedural fairness. Respondents have the right to know the case against them, and to produce evidence and witnesses in response to any allegations.
55. The Student Affairs Administrator, Coordinator, and/or Investigator, will impartially collect evidence and interview witnesses in relation to the allegation. In consultation with the appropriate Director (or delegate),



they may adjust the scope and the manner in which the investigation will be conducted in compliance with this Code and the principles of procedural fairness.

56. All [Community Members](#) are expected to meet with the Student Affairs Administrator, Coordinator, and/or Investigator if requested to do so. All those who attend such a meeting are expected to keep confidential the meeting and any information shared to ensure the integrity of the proceedings.
57. A student who was not previously identified as a Respondent but who, during the course of an investigation, is identified as a potential Respondent must be notified and given an opportunity for a meeting to respond to any allegations.
58. During the meeting, the allegation shall be reviewed with the Respondent. The Respondent will be made aware of all relevant information pertaining to the matter that is available at the time of the meeting and will be given the chance to respond to the information presented, provide evidence, and identify any relevant witnesses.
59. Should new information be received from other parties and/or witnesses, the Respondent will be provided another opportunity to meet and respond to the new information.
60. The Student Affairs Administrator may seek to resolve the matter through one-on-one meetings or through a facilitated group dialogue which may include but is not limited to: mediation, restorative processes, and/or intervention on behalf of another.
61. The Student Affairs Administrator may discuss possible sanctions with the Respondent to determine whether the Respondent is interested in accepting the possible sanctions. This may include specific educational sanctions that will help the Respondent, while protecting the safety and integrity of the University community (e.g. behavioural contract, loss of privileges etc.).

### Voluntary Resolution

62. In certain circumstances, a Complainant and Respondent may be willing to attempt a resolution of a Complaint at any time before the completion of an Investigation. Voluntary Resolution is not mandatory and may not be appropriate in all Code related matters. See clause 84-87 Voluntary Resolution.

## INVESTIGATION OUTCOMES

63. Following the investigation, the Student Affairs Administrator shall determine whether there is sufficient evidence to support a finding that the student has been found in violation of the Code, and if so, will determine which option will be most appropriate in the circumstances:
  - a) **Decision by the Student Affairs Administrator:** The Student Affairs Administrator makes a finding and imposes sanctions, in accordance with clause 49 (see [Section VI: Outcomes and Sanctions](#)). The student shall be provided with written notice of the finding and sanctions, and any appeal options they may have ([Appendix A: Appeals](#)); or
  - b) **Referral to Adjudication.**
64. If the Student Affairs Administrator concludes that there is insufficient evidence to proceed, or that there is no violation of the Code, the matter shall be closed. The student will be informed in writing.



## ADJUDICATION

65. If the Student Affairs Administrator refers the matter to Adjudication, the student will be so informed in writing.

### Adjudication Options

66. In some circumstances, for Residence Students or Student-Athletes, the matter may be referred for adjudication before the Director of Athletics and Recreation, or the Director of Housing and Conference Services, when the potential sanctions are within their authority to assign.
67. Adjudication is normally before the Director (Student Support and Case Management Office), or the Dean of Students, as appropriate in the circumstances.
68. Students may request Peer Conduct Board Adjudication. The [Peer Conduct Board](#) will not be used in cases of Sexual Violence, or where it is determined that the behaviour in question has resulted in significant harms to an individual and it would be inappropriate or unfair to those affected by the behaviour for information to be shared beyond the normal participants of an Adjudication Process.

### Adjudication Process

69. Every reasonable effort will be made to arrange an Adjudication date **within seven (7) business days** of the decision being made to proceed to Adjudication.
70. Prior to the adjudication, either verbally or in writing, the Student Affairs Administrator will inform the Respondent that should they be absent from a scheduled Adjudication without first contacting the Student Affairs Administrator to reschedule, and demonstrating reasonable grounds, the matter may proceed in their absence.
71. In the event that the respondent fails to attend an Inquiry Meeting as directed, an Adjudication date will be scheduled **at least three (3) business days** after delivery of the notification of Adjudication. The notification will include the date, the time and location, as well as specifics of the alleged violation.
72. The Respondent shall have the opportunity to bring a support person, and bring witnesses. Respondents shall provide, as soon as possible, the names of any relevant witnesses that have agreed to testify. If new information arises the Respondent will have a chance to speak to it prior to the Adjudication.

## DECISION AND SUMMARY

### Finding of No Violation of the Code or Sexual Violence Policy

73. The Complainant and Respondent will receive a written decision from the relevant decision-maker, that will include:
- a) the decision that there is No Finding of Violation of the Code or [Sexual Violence Policy](#);
  - b) reasons for the decision; and
  - c) a summary outlining the findings.

### Finding of Violation of the Code (unrelated to the Sexual Violence Policy)

74. The decision-maker shall consider any mitigating and/or contextual factors in determining/implementing appropriate sanctions and remedies. The Respondent, and any Complainant, will receive a written decision from the relevant decision-maker, that will include:
- a) the decision that there is a Finding of Violation of the Code;

- b) reasons for the decision;
- c) a summary outlining the findings;
- d) the **Respondent** will be informed of all sanctions imposed;
- e) a **Complainant** will receive information about any sanctions/remedies taken by the University, within the constraints of relevant legislation. In all cases, information about any sanctions/remedies that have a direct impact on the Complainant will be provided to them.

#### **Finding of Violation of the Sexual Violence Policy**

75. The Complainant and Respondent will receive a written decision from the relevant decision-maker, that will include:
- a) the decision that there is a Finding of Violation of the [Sexual Violence Policy](#);
  - b) reasons for the decision;
  - c) a summary outlining the findings;
  - d) the **Respondent** will receive confirmation of any Interim Measures that will remain in place until sanctions are imposed;
  - e) the **Complainant** will receive information about any Interim Measures that have a direct impact on the Complainant, such as a no-contact order, that will remain in place until sanctions are imposed.

#### ***Impact Statement***

- f) the Complainant will be provided the opportunity to submit a written **impact statement** to the decision maker, **within five business days of receipt of the written decision**, to be considered in determining the appropriate sanction(s).
76. The decision-maker shall consider the Complainant's impact statement, and any mitigating and/or contextual factors in determining/implementing appropriate sanctions and remedies, and the reasons shall be clearly articulated in writing to the Respondent and the Complainant as follows:
- a) the **Respondent** will be informed of all sanctions imposed;
  - b) the **Complainant** will receive information about any sanctions/remedies taken by the University, within the constraints of relevant legislation. In all cases, information about any sanctions/remedies that have a direct impact on the Complainant will be provided to them.
77. Where required by a professional licensing body, the results of the investigation may also be communicated to that professional licensing body.

## SECTION VI: OUTCOMES, SANCTIONS AND REMEDIES

### OUTCOMES

#### Voluntary Resolution (No Finding)

78. In certain circumstances, a Complainant and Respondent may be willing to attempt a resolution of a Complaint at any time before the completion of an Investigation. Voluntary Resolution is not mandatory and may not be appropriate in all Code related matters. The following conditions will apply when considering Voluntary Resolution as a viable option:
- a) there has been **no admission of guilt and no findings have been made** in the matter;
  - b) the Complainant and the Respondent both agree with:
    - i. attempting to reach a resolution;
    - ii. the method of achieving resolution;
    - iii. the terms of the final resolution; and
    - iv. accepting that the agreed upon resolution is not a finding of guilt or breach of the Code;
  - c) a meeting between the Complainant and the Respondent will not be required; and
  - d) a Voluntary Resolution may be facilitated by the appropriate Student Affairs Office.

### SANCTIONS

79. Sanctions may be used independently or in combination for any single offence and shall be proportional to the severity of the offence. In the event that previous findings exist, the severity of sanctions may be greater.
80. Sanctions include, but are not limited to:
- a) **oral warning:** an oral warning is notification given to a student;
  - b) **written warning:** a notice given to a student indicating the date, time, and nature of the violation. Such behaviour must stop and repeat offences may result in more severe sanctions;
  - c) **educational sanctions:** completion of specific educational or developmental activities as deemed appropriate. These may include, but are not limited to, service to the University or greater community, participation in educational seminars, written assignments, and written or oral apologies;
  - d) **restitution:** requirement that restitution to be made to another individual or the University for any loss or damage to personal or University property;
  - e) **behavioural contract:** a set of behavioural expectations, terms and conditions that is developed with the student and signed by the student and the appropriate Administrator/Adjudicator. With their signature, the student agrees to the expectations being placed upon them and acknowledges that any breach of this contract constitutes an offence and may result in more serious sanctions, including suspension or expulsion from the University;
  - f) **no contact order:** the student is required to have no direct or indirect contact (including but not limited to in-person, phone, email, text, social media, through a third party, etc.) with a specific individual or group as outlined in a behavioural contract;

- g) **behavioural bond:** the student is required to provide a sum of money up to a maximum of \$500.00 for a specific period of time [maximum one (1) academic year] and sign and abide by a contract. If, at the end of that time, the student has not breached the contract, the money will be returned. If they do breach the contract, any money collected will be used by Student Affairs for educational purposes and more severe sanctions may be imposed;
- h) **finest up to \$500.00:** fines may be applied for the following purposes:
- i. violations related to fire and fire safety, including smoking in non-designated areas according to the [Smoking in the Workplace/Public Areas Program](#);
  - ii. some examples of fines for first time violations include:
    - \$50.00 - Late Move out of Residence (per day)
    - \$60.00 - Setting off Fire Alarms/Failure to exit the building during a fire alarm
    - \$100.00 - Tampering with Fire Safety equipment
- i) **loss of privileges:** loss of specified privileges for a designated time period. The lost privileges may include, but are not limited to, parking privileges, unrestricted access to the library, access to athletic facilities, and extra-curricular activities;
- j) **persona non grata (PNG):** *persona non grata* is the designation given to an individual who is denied the privilege of entering specific parts of the University. If PNG individuals are found or seen in the area they are denied, then they will be subject to a charge by Security Services under the *Trespass to Property Act*;
- k) **suspension (academic):** loss of all academic privileges at the University for a specified period of time and/or until imposed conditions are met. The student is eligible to return after this time but may be required to fulfill specified non-academic conditions upon return. The suspension is noted on the student's transcript ([see Appendix D](#) for further details); and
- l) **expulsion:** loss of all academic privileges at the University for an indefinite period. The expulsion is noted on the student's transcript ([see Appendix D](#) for further details).

### Athletics Specific

81. In addition to the above sanctions, the following sanctions are only applicable to Student Athletes.
- a) **athletic financial awards:** financial awards offered through Athletics and Recreation may be rescinded for a period of time or permanently;
  - b) **community service (competitive teams):** community service by the individual or team;
  - c) **removal of funding (competitive teams):** removal of funding from the team;
  - d) **suspension (competitive teams):** suspension of the individual or team for one or more competitions or an entire season.

### Residence Specific

82. In addition to the above sanctions, the following sanctions are only applicable to students living in Residence:
- a) **guest restrictions:** restriction of a student's right to host guests in Residence for a specified period of time.
  - b) **Residence notice:** notification that any kind of further offence will result in a formal process and may result in eviction. The notice may include a loss of privileges (e.g. access to space, attendance at Residence programs, etc.). This status is in place for the balance of the academic year in which it is assigned.
  - c) **Residence probation:** a formal notice informing the student that any kind of further offence will result in eviction. The Adjudicator normally writes the letter citing the reason(s), the terms, and the length of time it will be in place. The length and terms of the probation will be determined based on the circumstances.
  - d) **room transfer:** a student may be transferred to another hall when their behaviour is disruptive to their hall but does not warrant eviction from the Residence system. A room transfer under these circumstances is normally accompanied by a declaration that the Student is *persona non grata* in their original Residence and an automatic probationary status for the remainder of the academic year.
  - e) **denial of readmission:** denial of readmission to Residence or participation in the lotteries to return to Residence are outcomes levied in serious cases at the discretion of the Director, Housing and Conference Services. This will be communicated in writing to the Student, indicating the reason(s) and the period of time for which it will be in effect.
  - f) **eviction:** a student who is evicted from Residence must leave Residence within a time period determined by Housing and Conference Services. The time period will be commensurate with the seriousness of the offence, normally 24 hours, and reflect Housing and Conference Services' assessment of the risk to persons and property within the hall if the student were to remain. Students evicted from Residence will not be eligible for re-admission to Residence. Eviction from Residence is always accompanied by a declaration that the student is *persona non grata* (PNG) in all University Residences. Eviction does not affect nor will it appear on the student's academic record. The student will receive a letter outlining the reason(s) for the eviction as well as any terms and conditions related to their removal from Residence. A copy of this letter will be forwarded to Security Services.

**Roles, Sanctions, and Appeal Rights specific to Residence Students**

83. The following chart illustrates the specific roles, sanctions, and appeal rights applicable to Residence Students.

Roles	Sanctions	Appeals
Community Advisors (i.e. Student Affairs Staff)	<ul style="list-style-type: none"> <li>• Oral Warning</li> <li>• Written Warning</li> <li>• Educational Outcome</li> </ul>	Sanctions appealable to the Residence Manager, who has final decision.
Residence Managers (i.e. Student Affairs Administrators)	<ul style="list-style-type: none"> <li>• Oral Warning</li> <li>• Written Warning</li> <li>• Educational Outcome</li> <li>• Restitution</li> <li>• Fine up to \$500.00</li> <li>• Behavioural Contract</li> <li>• Guest Restrictions*</li> <li>• No Contact*</li> <li>• Residence Notice*</li> <li>• Room Transfer*</li> </ul> <p>* As approved by the Residence Life Coordinator</p>	Violation and Sanctions appealable to the Student Affairs Adjudicator, who has final decision.
Director (Student Support and Case Management Office)	<p>All Sanctions listed above, and;</p> <ul style="list-style-type: none"> <li>• Probation</li> <li>• Persona Non Grata (PNG)</li> <li>• Eviction*</li> <li>• *Denial of Readmission*</li> </ul> <p>*As approved by the Director, Housing and Conference Services</p>	<p>Violations/sanctions appealable to Director, Housing and Conference Services, who has final decision.</p> <p>Appeals of Eviction or Denial of Readmission will be heard by the Dean of Students.</p>
Director, Housing and Conference Services	All Sanctions listed above	<p>Appeals of Eviction or Denial of Readmission will be heard by the Dean of Students.</p> <p>Appeals of PNG status reconsideration from residence(s) can be submitted after one year from time of issue.</p>

**REMEDIES**

84. Remedies may be applied in addition to sanctions or may be a process by which appropriate sanctions are applied.
85. Remedies may include but are not limited to:
- a) mandatory referral to counselling;
  - b) training or coaching; and/or
  - c) [Restorative Justice](#) processes.

**FAILURE TO COMPLY**

86. Failure or refusal to:
- a) comply with the terms of a Voluntary Resolution (No Finding);
  - b) comply with the terms of a Resolution Agreement (with a Finding),
  - c) comply with the outcomes of Restorative Justice,
  - d) participate in or complete outcomes and or sanctions;
- may result in an initiation of the Code procedures to determine sanctions for non-compliance.

## SECTION VII: PROCEDURAL GUIDELINES FOR ADJUDICATION

87. The following procedural guidelines are designed to assist in the Respondent in preparing and presenting their case and to ensure that they are fully aware of the evidence and are given a fair opportunity to be heard during the process.

### Parties

88. Parties to an Adjudication shall include the Student Affairs Administrator presenting the allegation and the Respondent against whom the allegation has been made.

### Notice

89. The Respondent shall be given reasonable written notice of the Adjudication hearing in accordance with clause 44 of the Code ([Notice](#)).

### Closed Hearings

90. Hearings shall be held *in camera* (closed) unless one or both of the parties requests that the hearing, or some part of the hearing, should be held in public. In the event of such a request, representations shall be heard from all parties on whether matters of an intimate financial or personal nature are to be raised, whether there is an issue of public safety involved, the desirability of holding an open hearing and other relevant circumstances.

### Scheduling

91. An attempt shall be made to schedule the Adjudication hearing at a time and place convenient for all parties. However, if a party, who has been notified of an Adjudication date, is absent without contacting Student Affairs or without providing a satisfactory explanation, the Adjudication hearing may proceed in their absence.

### Similar Questions of Fact/Policy

92. If two or more proceedings before the Peer Conduct Board (PCB) or the Adjudicator involve the same or similar questions of fact or policy, the PCB or the Adjudicator may:
- combine the proceedings or any part of them, or
  - hear the proceedings at the same time, or
  - hear the proceedings one immediately after the other.

### Advisor

93. The Respondent shall have the right to have an Advisor or Support Person present at the adjudication hearing. Such individual may consult with the Respondent, but shall not be allowed to speak at the Adjudication hearing.

### Evidence

94. The Respondent is entitled to receive, prior to the adjudication meeting, detailed information regarding the allegation against them.
95. Parties have the right to present evidence, including written statements, in support of their case, prior to and at the hearing, and to see any written evidence presented at the hearing.



96. The decision-maker may admit as evidence any oral testimony and any document, written statement or other thing, relevant to the subject matter of the proceeding.
97. The decision-maker may require the production of written or documentary evidence by the parties or by other sources.
98. The decision-maker must not hear evidence or receive representations regarding the substance of the case outside of the hearing.

### **Witnesses**

99. Parties have the right to call, question and cross-examine witnesses. Parties are responsible for producing their own witnesses and paying for any costs associated with their appearance.
100. Parties may submit witness statements as evidence. In the event that a party wishes to cross-examine a witness on their statement, the adjudication may be adjourned to permit the witness to appear. Alternatively, the Parties may consent to contacting the witness by telephone; provided that all Parties and decision-maker can hear one another throughout the cross-examination of the witness.
101. The decision-maker may limit testimony and the questioning of witnesses to those matters it considers relevant to the disposition of the case.
102. The witnesses will stay in the adjudication meeting only while they are testifying and responding to questions.

### **University Representative**

103. For the purposes of the Adjudication Hearing, the person responsible for presenting the case shall be referred to as the University Representative. The University Representative may include the Student Affairs Administrators, the Student Support and Case Management Coordinators, and Investigators.

### **Order of Adjudication Hearing**

104. The order of the Adjudication hearing shall be as follows:
  - a) The University Representative shall present the findings of their investigation and shall call any witnesses. The Respondent and the decision-maker shall be permitted to question each witness at the end of their testimony. The University Representative shall be permitted to clarify any new points arising from such questioning.
  - b) The Respondent shall present their evidence and shall call any witnesses. The University Representative and the decision-maker shall be permitted to question each witness at the end of their testimony. The Respondent shall be permitted to clarify any new points arising from such questioning.
  - c) The University Representative may respond to any evidence presented by the Respondent in (b) above.
  - d) The parties will be permitted an opportunity to summarize their respective cases. The summary should address both the substance of the alleged violation and the appropriate sanction in the event that the allegation is determined to be valid.
  - e) The decision-maker may alter the order described above in the interests of fairness to any or all parties.

### Adjournment

105. The decision-maker may grant an adjournment at any time during the adjudication hearing to ensure a fair hearing.

### Peer Conduct Board Voting Procedures

106. The Panel shall attempt to work on a consensus basis, failing which a majority vote will govern.
107. If the Panel has determined that a violation of the Code has occurred, before making a final decision on sanctions, the Panel shall consult with the Adjudicator regarding whether the Panel's proposed sanctions are consistent with the sanctions imposed in similar cases.

### Appropriate Procedures

108. Where any procedural matter is not dealt with specifically in this Code, the decision-maker may, after hearing submissions from the parties and considering the principles of fairness, establish an appropriate procedure.
109. Any procedural requirement contained in this Code may be waived with the consent of the decision-maker, and all the Parties to the Hearing so long as basic procedural fairness is maintained.

### Decision

110. The decision-maker shall notify the Respondent, in writing, of their decision, with reasons, and any appeal rights. Notification shall normally occur **within ten (10) business days** of the hearing.
111. The decision-maker may decide to:
- a) direct the case to Appendix F where a Respondent has established that they have medical circumstances that may have contributed to the behaviour;
  - b) following the Adjudication, the Adjudicator may:
    - i. dismiss the case, or
    - ii. make a finding of misconduct and impose a sanction(s) contained in [Section VI: Outcomes, Sanctions and Remedies](#).
  - c) The decision of the Dean of Students is final unless the decision imposes a sanction of suspension, expulsion or involuntary withdrawal. or involuntary withdrawal.
112. A decision takes effect immediately and filing an appeal will not stay the implementation of any sanction imposed.
113. It is the responsibility of the Adjudicator to ensure the implementation of the sanction.
114. A Respondent who has been evicted must leave Residence before they are permitted to commence an appeal. If the appeal is successful, the Respondent will be considered for re-admission to Residence in the first available space deemed appropriate for that Respondent by the Director of Housing and Conference Services.
115. If the Respondent wishes to appeal the finding and/or sanction they may follow the Appeal procedures outlined in [Appendix A: Appeals](#).

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**SECTION VIII: INTERIM MEASURES**

116. In exceptional circumstances, e.g. where the health and safety of the student or members of the University community are compromised or at risk, the Provost or delegate may implement Interim Measures, in writing, including altering or suspending the right of a student to be present on campus or to attend classes for an interim period before the case is resolved.
117. The alleged violation that led to the interim suspension shall be investigated and heard in accordance with the procedures contained within this Code. An assessment to determine a student's readiness to return to studies may be required in some cases. **Within seventy-two (72) hours** following the imposition of an interim suspension, the student shall be informed in writing of the reasons for the suspension. The student shall also be afforded the opportunity to respond to the allegations being made against them. Following that opportunity to respond, the Provost or designate will then reassess the decision to suspend, and either revoke or continue it.
118. For **Student-Athletes**, the Director of Athletics and Recreation may enact interim measures, in writing; this could include but is not limited to suspension from games, practices, athletics facilities or athletic related events and/or functions.
119. For a **Student Group** event or activity, the Dean of Students may implement interim measures, in writing, including suspending the operations, and/or any planned events or functions, of a group until the situation is resolved.
120. For **Residence Students** the Director of Housing and Conference Services(or delegate) may enact any combination of the following measures, in writing;
- assign a Persona Non Grata (PNG) status, Guest Restrictions or a No Contact contract;
  - negotiate a Letter of Understanding with the Student, that outlines a plan for access to Residence while the process is ongoing;
  - transfer the Student to another Residence building. The Student will be deemed to be PNG from their original Residence building and any other Residence buildings as identified by the Director of Housing and Conference Services until after the case has been heard. Every effort will be made to have the case adjudicated as expeditiously as possible;
  - provide alternate accommodation off campus; or
  - issue a suspension from Residence, citing a specific timeline and plan for the student to leave and return to Residence.
121. In circumstances where there is a risk of harm to the student and/or community and the behaviour is believed to be linked to a Health Condition, or the student is not able to participate fully in the process, the Dean of Student's may implement an interim leave of absence on compassionate grounds, until the student is able to demonstrate that they are able to fully engage in the process. If there are safety concerns, the onus will be on the student to provide assurance (e.g. medical assessment and/or documentation provided by a regulated health professional) to confirm they are ready to participate in the academic and social life of the University.

**Interim Measures for Complaints of Sexual Violence**

122. At any stage in this Code it may be necessary to take interim measures in order to safeguard the environment of Complainants, and/or Respondents. Interim measures shall not be construed as evidence of either guilt or a finding of violation of this Code, or as an affirmation of innocence/finding of non-violation of this Code.
123. The Sexual Violence Assessment Team will consider and coordinate appropriate interim measures as they relate to all parties involved in the matter.
124. The Sexual Violence Assessment Team will review any Interim Measures on an ongoing basis throughout the process to ensure they remain necessary and appropriate in the circumstances.
125. Interim measures may include, but are not limited to, the rearrangement of academic/employment responsibilities or oversight, the rearrangement of residence location (where possible), adjustments in University activities (e.g. attendance at guest lectures, social events), implementation of a No Contact Order, or implementation of a Persona Non Grata designation.
126. During such period, the person can continue to access relevant University support services.

## SECTION IX: BEHAVIOUR RELATED TO A HEALTH CONDITION

127. An alternative process is appropriate when there is reason to believe that the behavior may be related to a health condition. These procedures do not preclude the University from responding to and addressing the student's behaviour; but rather, outline an alternate approach with distinct procedures to support the student as well as to further understand how the health condition may have contributed to the behaviour. The intention of this approach is to enhance the understanding of the contributing factors that may have caused the behavior and to ensure access to supports and treatment, with the hope of reducing the likelihood of further behavior. In cases where it is determined that the behaviour is in violation of the Code and is directly related to a health condition, alternate outcomes/sanctions outlined in [Section VI: Outcomes and Sanctions](#) may be utilized as part of the resolution in recognition of the mitigating factors.
128. Where a Student Affairs Administrator who has referred a situation to this section has identified that there may be reason to believe that a student's behaviour is related to a Health Condition (including a physical or mental disability, as defined by the Ontario Human Rights Code), the Student Affairs Administrator will review the option to proceed under this section with the student.
129. The student will be given an opportunity to review and respond to a document outlining the concerns raised, including the options available to proceed under this Code.
130. This section applies to the following:
- behaviour prohibited under this Code;
  - behaviour prohibited under any other University code of behaviour where the Dean of Students determines that the student's behaviour should be considered under this process;
  - behaviour giving rise to a reasonable apprehension of a risk of harm to the student himself/herself or others; and
  - behaviour that suggests a student is unable to function in a University setting, even with accommodation(s), if required, and/or the University's reasonable assistance.

### Information Gathering Meeting

131. In non-imminent matters, Student Affairs reserves the right to meet with the student, if a meeting has not taken place already, in order to provide an overview of the Inquiry process and to inform the student of the behaviour that has been reported to be a violation of the Code.
132. If a meeting is not feasible, other forms of communication with the student will be utilized to ensure that the student has an opportunity to respond to the allegations, and to understand the procedures and explore the options available to the student.

### Determination to Enact Procedures for a Student with a Health Condition

133. Based on the information available the Dean of Students (or delegate) shall review the information that has been gathered and determine if there are reasonable grounds to believe that the behavior is likely related to a health condition.
134. If the Dean of Students (or delegate) determines that it is reasonable to believe that the behaviour is likely related to a health condition, the situation will be considered, if the following conditions are met:

- a) it is determined there is no imminent risk posed by the student being on campus, or that the risk has been mitigated with interim measures;
  - b) the student is deemed by the Dean of Students (or delegate) to be fit to adequately participate in these procedures; and
  - c) the student agrees to the matter proceeding under this section of the Code.
135. If the Dean of Students (or delegate) determines that there are no reasonable grounds to believe that the behaviour is related to a Health Condition, the case will be redirected back to the appropriate process. This determination does not preclude the student from raising their health condition as a consideration in the determination of any subsequent outcome/sanction.

### **Response to a Student with a Health Condition as it Pertains to the Code**

136. When enacting these procedures, the following will be considered:
- a) where a student's behaviour is determined to be primarily related to a health condition, the University will make every reasonable effort to enable the student to continue their studies;
  - b) for students with a disability (as outlined by the Ontario Human Rights Code), the University shall ensure that the student is appropriately accommodated; and
  - c) in determining an appropriate response to a student's behavior, the Dean of Students may review any previous, relevant, decisions under this Code or any other behavioural Code.

### **Review Meeting**

137. If it is determined that it is appropriate to proceed under this section, a review meeting will be scheduled. The Review Meeting will include the student and may include; healthcare professionals or other experts as deemed appropriate. The student may bring a support person. If the student does not bring a support person, the University may appoint a support person if it determines that the student is in need of assistance.
138. The purpose of the Review Meeting is to review all relevant information and consider whether there are reasonable grounds to believe that the behavior in question is primarily related to a disability under the Human Rights Code and/or whether a health condition may be a mitigating factor related to the situation/behaviour. Consultations with appropriate professionals, supporting documentation and/or additional information provided by the student may further assist in this determination.
139. In addition, the review meeting may be used to:
- a) more fully understand the contributing factors that caused the behaviour;
  - b) create a plan to support the student with the intent of making every reasonable effort to enable the student to continue their studies; and/or
  - c) ensure that necessary steps have been taken to appropriately accommodate the student through the process.
140. The student does not have to provide supporting medical documentation. However, the student may be requested to submit, in confidence, additional relevant documentation (e.g. a letter from the student's health provider establishing that the behavior is related to a health condition). The absence of sufficient supporting documentation may affect the Dean of Students' ability to conclude that the behaviour in question is primarily related to a health condition.

141. If there are sufficient grounds to believe that the behaviour may be related to a health condition, the Dean of Students (or delegate) may, at their discretion, consult with appropriate professionals and/or offices (e.g. Student Accessibility Services). The purpose of such consultations will be to identify whether it is reasonable to conclude that the health condition is contributing to the behaviour, including a determination of the health condition as a mitigating factor or a primary cause of the behavior.
142. In responding to the student's behaviour the Dean of Students will consider the following:
- a) the effect of the behaviour on the campus community;
  - b) any previous and/or concurrent violations of the Code;
  - c) the possibility of allowing the student to continue their studies; and
  - d) any accommodations or supports that could be put in place to assist the student, e.g. a behavior contract, wellness agreement, a mental health assessment by a regulated health professional, restriction to parts of campus, no-contact agreements, reduced course load, modified privileges, or, a voluntary or involuntary leave on compassionate grounds.

#### **Involuntary or Voluntary Withdrawal**

143. Voluntary or involuntary leave withdrawal occurs when a student agrees or is required to temporarily discontinue studies at the University for either a specified time and/or until imposed conditions are met.
144. Once the withdrawal period has expired and/or the conditions have been met, the student is not required to re-apply for admission unless the Faculty can establish, to the satisfaction of the Dean of Students, that it is reasonable to do so as a result of the lapse of time. The withdrawal will not be noted on their transcript.
145. Students who return after a withdrawal may be required to fulfill other specified academic and non-academic conditions. One such condition may require the student to provide corroborating evidence that the health condition has sufficiently improved or is being managed.
146. If the student wishes to appeal the finding and/or sanction they may follow the Appeal procedures outlined in [Appendix A: Appeals](#).

## APPENDIX A: APPEALS

1. The decision from a lower level stays in effect unless and until it is overturned on an appeal by the Respondent. This means that submitting an appeal will not prevent the decision/sanctions being appealed from being carried out.
2. Appeals for findings of violations of the Code that relate to the [Sexual Violence Policy](#) shall be adjudicated as per clauses 11 and 12 below.
3. Appeals by a Respondent are to be filed in letter format and are to be submitted to Student Affairs **within 15 business days of receipt** of the decision. The appeal must contain:
  - a) a copy of the decision;
  - b) a full statement of the grounds for the appeal;
  - c) the outcome sought; and
  - d) any relevant supporting documentation.
4. Grounds for an appeal may include but are not limited to:
  - a) the evidence did not warrant the finding;
  - b) the procedures in this Code were not properly followed;
  - c) new evidence was found which could not reasonably have been presented earlier; and/or
  - d) the sanction was not appropriate for the behaviour which occurred.
5. Parties to the appeal shall include the **Appellant** who shall be the student against whom a finding has been made (i.e. the Respondent during the Adjudication process), and the **Respondent** who shall be the University authority whose decision is being appealed.
6. Appeals shall be heard as follows:
  - a) decisions of the Student Affairs Administrator may be appealed to the appropriate Adjudicator:
    - i. Student Support and Case Management Coordinator decision appealed to the Director (Support and Case Management Office);
    - ii. Information on **Residence specific appeals** can be found in [clause 85 \(Roles, Sanctions, and Appeal Rights specific to Residence Students\)](#);
    - iii. Associate Director of Athletics and Recreation appealed to the Director of Athletics and Recreation;
  - b) decisions of the Adjudicator may be appealed to the Dean of Students.
7. The Appeal Adjudicator/Dean of Students may, after reviewing the case:
  - a) uphold the findings and/or sanctions;
  - b) reverse the finding and/or sanctions; or
  - c) modify the sanctions.



8. The Appeal Adjudicator/Dean of Students will normally provide written confirmation to the Appellant of the receipt of the appeal **within 2 business days**.
9. The Adjudicator will normally have **15 business days** to conduct their investigation, which may include meeting with the parties, and shall then inform the Appellant in writing of their decision with reasons and any further right to appeal.
10. Decisions of the Dean of Students that impose a sanction of suspension, expulsion or involuntary withdrawal (for violations that do not involve Sexual Violence) may be appealed to the Senate Board for Student Appeals **within three weeks of receipt of the decision**. Refer to the [Student Appeal Procedures](#).

#### **Appeals for Findings of Violations of the Sexual Violence Policy**

11. In matters where the sanctions do not include suspension, expulsion, or withdrawal (voluntary or involuntary), the Respondent (the student against whom a finding has been made (i.e. the Respondent during the Adjudication process) may appeal the decision and/or the sanction(s) to the Associate Vice-President (Students and Learning) & Dean of Students.
12. In matters where the sanctions include a suspension, expulsion, or withdrawal (voluntary or involuntary), the Respondent (the student against whom a finding has been made (i.e. the Respondent during the Adjudication process) may appeal the decision made by the Associate Vice-President (Students and Learning) & Dean of Students to the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence **within three weeks of receipt of the decision**. (See Hearing Procedures for the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence).

## APPENDIX B: AUTHORITY, JURISDICTION, AND CIVIL AUTHORITIES

### *AUTHORITY AND JURISDICTION*

1. The Senate of McMaster University has set out in this Code, the expectations for acceptable conduct of students and the procedure for dealing with conduct that does not meet these expectations. Senate has delegated to the Dean of Students the authority to administer this Code and impose sanctions, including suspension or expulsion. The Dean of Students may delegate certain responsibilities to the Director of Housing and Conference Services, the Director of Athletics and Recreation, or other Student Affairs Staff. Whenever appropriate, sanctions will be assigned with an emphasis on education and restorative practices; however, in certain circumstances, punitive sanctions may be assigned. The application of the Code may intersect with the application of other University policies or procedures regarding the same matter. Examples of other such policies or procedures are listed in [Appendix F: Related Policies and Legislation](#).

### *INVOLVEMENT OF CIVIL AUTHORITIES*

2. The existence of this Code does not preclude any individual from proceeding under applicable laws against another individual, nor does it preclude Security Services from carrying out its responsibilities. Proceedings under this Code may be carried out prior to, simultaneously with, or following other off-campus proceedings, including civil or criminal proceedings, at the discretion of the Dean of Students.
3. In cases where the Dean of Students, and/or delegate, determines that processing an allegation under this Code might prejudice another internal or external process they may suspend these proceedings indefinitely or pause the investigation pending the outcome of these non-Code proceedings. Interim measures may be used at any point to ensure the safety of all students and the University community. See [Section VIII: Interim Measures](#).

## APPENDIX C: PEER CONDUCT BOARD

### *PEER CONDUCT BOARD MEMBERSHIP*

1. The Peer Conduct Board is made up of undergraduate and graduate students in good academic standing. Members are normally selected annually by a selection process to be determined each year by the *Director (Student Support and Case Management Office)*. The process shall include advertising the positions in appropriate student publications.
2. Each Peer Conduct Board member shall be appointed for a renewable one-year term. Members shall receive appropriate training to discharge their responsibilities.

### *PEER CONDUCT BOARD PANEL SELECTION*

3. The Hearing of a case referred to the Peer Conduct Board shall be before a panel of a minimum of three members (the Panel). The Panel shall choose one member as the Chair (the Chair), who shall be responsible for the conduct of the deliberation portion of the hearing and for ensuring that a decision is made in a timely fashion.
4. In cases where the Respondent is an undergraduate student, every reasonable effort will be made for the Peer Conduct Board hearing, to consist of at least two undergraduate students.
5. In cases where the Respondent is a graduate student, every reasonable effort will be made for the Peer Conduct Board hearing, to consist of at least two graduate students.
6. No one shall serve on a Panel who has any direct interest or prior involvement in the case under consideration. Both the Respondent and the Panel member who feels there is a conflict are expected to express this to the Director, Student Support & Case Management, prior to the beginning of the hearing.

## APPENDIX D: RECORDS, TRANSCRIPTS, REGISTRATION, AND NOTATIONS

### RECORDS

1. Student Affairs shall maintain a confidential record of any finding of violation and related sanctions. These records include the documents and notes of the Administrator, Adjudicator and Dean of Students. The record shall be retained for five years after last use. The records involving transcript notations for suspensions and expulsions shall be retained permanently, or until the student's petition to delete the transcript notation has been granted by Senate (the record shall be destroyed when the transcript notation is deleted). At the Dean of Student's discretion, and after written notice to the student, a record may be retained longer than five years. Such notice shall cite the reasons for this decision and the extended retention date.
2. The purpose of this record, which shall be kept separate from any other of the student's records, is to determine whether there has been a previous offence, before a sanction is levied. Records may be taken into consideration should a student seek a position of responsibility within Student Affairs only. Students will be asked to consent to a records check when applying for a position (e.g. when a student applies to be a Community Advisor, Welcome Week Representative etc.).
3. In the event that the case is dismissed or overturned on appeal, all records of the proceeding shall be removed from the student's file.

Decisions of the Adjudicator and the Dean of Students, including a commentary on the type of misconduct occurring in a particular year and the sanctions applied, shall be reported in anonymized form, annually to Senate. No individuals will be identified in such a report. The University does not release confidential records regarding violations of the Code.

4. All records of Voluntary Resolution agreements for matters involving Sexual Violence will be retained by the Equity and Inclusion Office in compliance with the Office's records retention schedule. The record is not a finding of Sexual Violence and shall not be reported as a violation of the [Sexual Violence Policy](#) or this Code.
5. Data gathering and record keeping for matters involving Sexual Violence will adhere to the requirements set out in the *Sexual Violence Policy*.

### RESIDENCE SPECIFIC RECORDS

6. Housing and Conference Services shall maintain a record of each finding against a resident until the end of the current academic year. When probation, eviction, persona non grata (PNG), or denial of readmission outcomes are issued, these records will be retained by Student Affairs for a period of five years from the end of the academic year in which the decision was made.
7. Residence specific findings against the Student does not result in a notation on the Student's academic transcript. All residence records may be taken into consideration in the event that a Student seeks a position of responsibility with Housing and Conference Services.

### STUDENT'S STATUS - TRANSCRIPTS, REGISTRATION, AND NOTATIONS

8. While under investigation for an alleged violation of the Code a student may be permitted to withdraw formally from the University. However, this will not prevent the continuation of the process under this Code.
9. When an allegation of a Code violation is made against a student, and until the case has been resolved, the student will not be issued transcripts directly but, at the student's request, transcripts will be sent to

institutions or potential employers. If the student is subsequently found in violation of the Code and the conviction results in a transcript notation, the recipients of any transcripts will be so informed by the Registrar.

10. In the case of suspension the notation will read: "Suspended for Student Code of Conduct Violation by the Senate for \_\_\_ months (Date)." A student may petition Senate to remove the transcript notation after the minimum time specified by the Dean of Students or Senate Board for Student Appeals, as the case may be, when the suspension was imposed has elapsed.
11. In the case of expulsion the notation will read: "Expelled by the Senate for Student Code of Conduct Violation." If the Senate at some later date reinstates the student, this will be followed by the notation: "Reinstated by the Senate (Date)." Such a notation may be removed from a student's transcript on petition to Senate, but not before five (5) years after the penalty commences.

## APPENDIX E: GLOSSARY OF TERMS

**Accommodations** under the Sexual Violence Response Protocol are adjustments to individuals' academic, workplace, or residence arrangements following a Disclosure of Sexual Violence, made to support them and/or enhance their safety.

### **Advisor**

A person of the individual's choice who acts in an advisory role during the investigation and adjudication process (e.g. friend, family member, legal counsel). The Advisor may be present during investigation interviews and adjudication hearings. At the adjudication hearing the Advisor may consult with the student, but shall not be allowed to speak. The Advisor may represent the individual at an appeal Hearing before a Tribunal of the Senate Board for Student Appeals, or the Board-Senate Hearing Panel for Discrimination, Harassment, and Sexual Violence.

**Balance of Probabilities** is the test to be met to show, by the weight of the evidence presented, that all of the facts necessary to make a finding of violation of the Code have a greater likelihood of being true than not.

**Community Members** includes but is not limited to, students (graduate, undergraduate, and continuing education), staff, faculty, postdoctoral fellows, adjunct professors, visiting professors, sessional faculty, teaching assistants, clinical faculty, medical residents, volunteers, visitors, and institutional administrators and officials representing McMaster University.

**Complainant** is an individual identifying a violation of the Code for the University's response.

**Complaint of Sexual Violence** is made when a Complainant notifies an Intake Coordinator within the University and seeks the University's response.

**Consent** is defined as approval, given freely, willingly, and knowingly by each participant to sexual activity. It must be given through ongoing communication by words and / or actions. It occurs continuously and moment to moment. Consent cannot be assumed. Consent cannot be given if a person's ability to resist or consent is impaired. Consent may be compromised where individuals are in a position of power, trust and/or authority over the person whose consent is required.

- should never be assumed or implied
- is not silence or the absence of "no"
- cannot be given if the person is impaired by alcohol or drugs, or unconscious
- can never be obtained through threats or coercion
- can be withdrawn at any time
- cannot be given if the perpetrator abuses a position of trust, power or authority
- cannot be given by anyone other than the person participating in the sexual activity

Any type of sexual activity without consent is Sexual Violence. (Source: the Government of Ontario - [Let's stop sexual harassment and violence website](#)). The [Sexual Violence Policy](#) prohibits all forms of Sexual Violence.

**Director of Housing and Conference Services** is responsible for addressing violations of the specific expectations of Residence Students.

**Director of Athletics and Recreation** is responsible for addressing violations of the specific expectations of Student-Athletes.

**Event (Authorized)** Authorized events are University scheduled or University approved activities, occurring on or off University premises, e.g. public lectures, performances, placements (co-op or clinical), athletic events, work or study-related conferences/training sessions, etc. These events can include work or study-related travel. Events that are approved under the Student Event Risk Management Policy, or Field Trips and Electives Policy are also authorized events.

**Event (Non-authorized)** Non-authorized events are events that are not scheduled or approved by the University and may occur on or off University premises e.g. group trips that have not been approved under the Student Event Risk Management Policy, drinking games in residence, house parties, etc.

**Guest** means a person who is visiting a student on campus.

**Interim Measures** are steps that are taken where the health and safety of the student or members of the University community are compromised or at risk, and/or in order to safeguard the environments of individuals disclosing Sexual Violence and of individuals whose conduct is being questioned. Interim measures shall not be construed as evidence of either guilt or a finding of violation of the Code, or as an affirmation of innocence or finding that no violation of the Code has occurred.

**No Contact Order** includes restrictions on: registration for specific classes, other academic or non-academic activities, or attendance at specific meetings or events; direct or indirect contact (including but not limited to in person, by phone, email, text, social media, through a third party etc.) with a specific individual or group of individuals.

**Persona Non Grata (PNG)** is a designation, which is given to an individual who is denied the privilege of entering designated portion(s) of the University's buildings or grounds. If PNG individuals are found or seen in the area they are denied, they will be subject to a charge by [Security Services](#) under the Trespass to Property Act.

**Peer Conduct Board Hearing** means the adjudication process carried out by the Peer Conduct Board.

**Primary Event Organizer** means the individual who is leading the planning and implementation of an Event under the Student Event Risk Management Policy.

**Respondent** is the individual about whom allegations have been made. For the purpose of Appendix A: Appeals, the Respondent is the University authority whose decision is being appealed.

### **Restorative Justice**

Restorative Justice is an outcome following the determination of finding and focuses on restoring the losses suffered by Complainants, holding Respondents accountable for the harm they have caused, and building peace within communities. This process can be facilitated by the Equity and Inclusion Office.

**Sexual assault** is any non-consensual sexual activity, including but not limited to touching, grabbing, kissing, fondling, and oral, anal, or vaginal penetration.

**Sexual and/or Gender-Based Harassment** includes, but is not limited to:

- a) any reward/promise of reward, whether explicit or implicit, for complying with a sexual solicitation or advance; demands for dates or sexual favours; or propositions of physical intimacy;
- b) any reprisal or threat of reprisal, whether explicit or implicit, for refusing to comply with any sexual solicitation or advance;

- c) any form of sexual exploitation, or conduct that takes non-consensual sexual advantage of someone;
- d) unwelcome gender-related comments about a person's physical characteristics, mannerisms, gender identity or expression; and e) gender-related verbal abuse, threats or taunting.

**Sexual Violence** means any sexual act or act targeting a person's sexuality, gender identity or gender expression whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without a person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

**Student** means any individual recorded by the University Registrar as enrolled in an educational course of study recognised by the Senate and for whom the University maintains education records.

**Student Affairs Administrator** means an individual appointed by the Dean of Students with authority to hear allegations of misconduct under the Code. Student Affairs Administrators include, but are not limited to: Student Conduct Officer, Residence Managers, the Residence Life Coordinator, the Associate Director of Athletics and Recreation, and the Athletic Services Coordinator.

**Student Affairs Adjudicator** are those in the position to adjudicate Administrative Formal Resolution Meetings and facilitate Peer Conduct Board Formal Resolution Meetings. They may also hear appeals of decisions made by Student Affairs Administrators. In most cases, this will be the Manager of Student Conduct and Community Standards.

**Student Affairs Staff** are those responsible for reporting violations, and collecting information at the time the situation takes place. This includes, but is not limited to, Community Advisors, Inter-University Athletic Coaches, etc.

**Student-Athlete** is defined as a student who has been selected to be a member of a varsity team or extramural competitive program. Students who belong to extramural competitive programs which do not have a selection process will be considered to be Student-Athletes once they have registered for the program.

**Student Host** means a person who has a Guest on campus.

**Student Leader** is defined as an executive member of a University Recognized Student Group or any member of such a group operating in their capacity as a Primary Event Organizer.

**Support Person** is a person of the individual's choice who acts in a supportive role but is not an active participant in the process (e.g. friend, Elder, parent, religious advisor).

**University Premises** means buildings and lands owned, leased, operated, controlled or supervised by the University and includes places or facilities used for the provision of the University's courses, programs or services or for University approved or sponsored events or activities.

**University Recognized Student Group** includes organizations and student groups that have been recognized under the *McMaster University Policy on the Recognition of Student Groups*.

**Voluntary Resolution** are steps that are taken (e.g. arrangement of academic, work or living environment / conditions) to which both the Complainant and Respondent have agreed to.



## APPENDIX F: RELATED POLICIES AND LEGISLATION

This Code is to be read in conjunction with the following policies, statements, and collective agreements. Normally the policies listed below act independently of one another. However, they may intersect with the application of other University policies or procedures regarding the same matter. Any question of the application of this Code or related policies shall be determined by the Associate Vice-President (Students and Learning) and Dean of Students, in consultation with the administrator of the other policy or policies. The University reserves the right to amend or add to the University's policies and statements from time to time (this is not a comprehensive list):

- [Academic Accommodation of Students with Disabilities](#)
- [Academic Accommodation for Religious, Indigenous and Spiritual Observances](#)
- [Academic Freedom, Statement on](#)
- [Academic Integrity Policy](#)
- [Alcohol Policy, University](#)
- [Conflict of Interest Guidelines: Undergraduate Studies and Graduate Studies](#)
- [Discrimination, Harassment and Sexual Harassment: Prevention and Response, Policy](#)
- [Employee/Labour Relations – Collective Agreements](#) (students acting in their role as Teaching Assistants are acting as University employees and should refer to their collective agreement.)
- [First Year Student Guiding Principles](#)
- [Fraternities, Sororities and Honour Societies, Policy on](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Group Conflict and Senate Mediation Procedures](#)
- [Ontario Human Rights Code](#)
- [Personal Health Information Protection Act](#)
- [Professional Behaviour Code for Graduate Learners, Health Sciences](#)
- [Professional Behaviour Code for Undergraduate Learners, Health Sciences](#)
- [Recognition of Student Campus Groups](#)
- [Sexual Violence Policy](#)
- [Statement on Building an Inclusive Community with a Shared Purpose](#)
- [Statement and Guidelines on Inclusive Communications](#)
- [Student Event Risk Management Policy](#)
- [University Technology Services \(UTS\) – Policies and Procedures](#)
- [Violence in the Workplace, Policy on](#)
- [Welcome Week Regulations](#)