The Bader International Study Centre

Procedure

Queen’s BISC Conduct Procedures

Date created: 01/09/2018
Date revised: 03/12/2018
**PROCEDURE**

<table>
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<tr>
<th>Name:</th>
<th>Queen’s BISC Conduct Procedures</th>
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<tr>
<td>Contact:</td>
<td>Assistant Student Enrolment &amp; Services Manager</td>
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<tr>
<td>Purpose:</td>
<td>Pursuant to the approval of the Queen’s University Student Code of Conduct (“Code”) by the Queen’s University Board of Trustees, this Procedure details the processes for administering the Code. Pursuant to the approval of the Bader International Senior Management Team (SMT) this Procedure details the process for administering the BISC Community Standards (“Standards”).</td>
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**Procedure:**

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<th>Step:</th>
<th>Instructions:</th>
<th>Person(s) Responsible:</th>
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<td></td>
<td><strong>General Provisions</strong></td>
<td>ASEM</td>
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1. Terms in this Procedure have the meaning given to them in the Code or BISC Community Standards, unless they are expressly defined otherwise in this Procedure.

2. The Code, BISC Community Standards, and this Procedure do not preclude any member of the Queen’s community impacted by non-academic misconduct from pursuing criminal or civil action, nor from reporting the case to an applicable professional licensing body, nor does it preclude Campus Security and Emergency Services staff from carrying out their responsibilities.

3. A Case Manager may divert a case from the NAM System, to be addressed under the University’s Student at Risk Policy or other applicable University policies.

4. Cases involving sexual violence will typically be addressed under the Policy on Sexual Violence Involving Queen’s University Students and its applicable procedures.

5. All Communications to students regarding non-academic misconduct will be sent to the student’s Queen’s email address. Attachments will be password protected. Communications may also be sent by registered mail or courier when appropriate.

|       | **Intake and Referral of Non-Academic Misconduct Cases** | ASEM                    |

6. Cases of non-academic misconduct must be reported to the ASEM on an Incident Report form.

7. The ASEM will refer cases to a Case Manager, which will usually be the ASEM, but can also be the Student and Enrolment Services Manager (SESM) or any Queen’s Non-Academic Misconduct (NAM) Unit. The referral decision is final and is not subject to review or appeal.
8. Every NAM Unit receiving a referral from an ASEM shall assign the case to a Case Manager.

9. If the ASEM is unavailable, the ASEM delegate has full authority to make any decision that the ASEM is entitled to make under the Code, the BISC Community Standards, or this Procedure.

**Elements of Procedural Fairness**

10. All non-academic misconduct cases managed by the ASEM, SESM, a NAM Unit, or a Conduct Panel will follow the elements of procedural fairness, namely Respondents have the right to:

   a) Be advised, in writing, or the allegations;

   b) Have a case heard and decided by an unbiased decision-maker;

   c) Formal written notice of any adjudication date;

   d) Disclosure of the evidence and information to be relied upon by the other party in the case;

   e) An advisor, including the assistance of a University Dispute Resolution Advisor or legal counsel;

   f) Present evidence and arguments in response to an allegation of non-academic misconduct;

   g) Be provided with written reasons for the decision(s) made in their case.

**PROCEDURES FOR CATEGORY 2\(^1\) NON-ACADEMIC MISCONDUCT**

11. Alleged Category 2 cases are referred to the ASEM for case management.

12. If a Case Manager becomes aware that a proceeding has commenced outside of the University (e.g. police report, civil process), the Case Manager will advise the Vice Provost and Executive Director or delegate, who will first determine whether it is appropriate to defer the case.

**Interim Measures**

13. According to the Code, the University retains the right to implement interim measures. Interim measures, if any, will be communicated by the Case Manager following initial review of the Incident Report. Interim measures that may impact a

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\(^1\) Procedures for Category 1 Non-Academic Misconduct are outlined in the BISC Community Standards Handbook.
student’s ability to attend classes will be implemented in consultation with the Academic Director or delegate.

14. A Respondent who is subject to interim measures can seek expedited review of the interim measures by filing a request to the appropriate appeal body, which must be identified in the interim measures letter.

Initial Meeting

15. The Case Manager will notify the Respondent of the alleged violation(s) and provide a summary of the Incident Report. The Case Manager may schedule a meeting to review their response or ask for a written response to the Incident Report.

16. The Respondent will be advised:
   a. They have a right to have an advisor present at any meetings or adjudication;
   b. Any retaliatory conduct towards a Complainant or potential witness is presumptively considered a Category 2 violation of the Code and BISC Community Standards;
   c. If the matter is not resolved informally (i.e. by way of an agreement with the Case Manager), the Case Manager will proceed with a formal investigation and disposition of the case.

Informal Resolution

17. A case may be resolved informally at any point during the NAM process when deemed appropriate by the Case Manager is a Respondent accepts responsibility for non-academic misconduct and agrees to fulfill the outcome(s), sanction(s), or requirement(s) as agreed to with the Case Manager. The agreement must include a statement about the action(s) that may be taken should the Respondent breach, or fail to fulfill the requirements of, their agreement.

18. Communications around informal resolutions, including and proposed outcome(s), sanction(s), or requirement(s), are without prejudice and are not admissible if the matter is referred to adjudication. For clarity, if an informal resolution is discussed but no agreement is reached and the matter proceeds to adjudication, the Adjudicating Body can impose any available sanction(s) outlined in the Code or BISC Community Standards.

19. The outcomes(s), sanction(s), or requirement(s) of an informal resolution in one case not constitute precedent for any other case.

20. The NAM case record must include a copy of any informal resolution agreement reached with the Respondent.

21. Upon the timely completion of the outcome(s), sanction(s), or requirement(s) agreed to in the informal resolution agreement,
the matter will be considered closed and the Case Manager will update the NAM record.

22. **Violation of Informal Resolution Requirements**: If a Respondent fails to meet or satisfy any aspect of the informal resolution agreement, the agreement may be considered negated by the Case Manager, who may then:
   a. Impose any action outlined in the agreement for failure to fulfill the agreement and/or;
   b. Agree to amend the agreement (e.g. extend the deadline(s)) or;
   c. Refer the case to adjudication for a decision on the appropriate sanction for the non-academic misconduct and for breach of the informal resolution agreement.

**Formal Investigation**

23. If the Case Manager determines that no informal resolution is appropriate or possible, then the Case Manager may initiate an investigation to determine if further action is warranted. Normally, the investigation should start within 15 business days after the receipt of the Incident Report.

24. The Case Manager may engage an external investigator, in consultation with Executive Director and Vice Provost, as appropriate.

25. An investigation will typically include:
   a. Interviewing the Complainant(s) after sending a Notice of Investigation (NOI);
   b. Interviewing relevant witness(es); and,
   c. Interviewing the Respondent(s). The Case Manager must send Notice of Investigation (NOI) to each Respondent, which shall:
      i. Provide each Respondent with specifics of the allegation(s) against them;
      ii. Invite the Respondent to meet with the Case Manager and/or provide a written response to the allegation (no sooner than 3 days after NOI was sent);
      iii. Advise the Respondent of the right to have an advisor present at all meetings during the investigation;
      iv. Advise the Respondent that any retaliatory conduct is itself Category 2 Non-Academic Misconduct, subject to sanction;
v. Advise the Respondent that if the Case Manager receives no response to the NOI, the Case Manager will:

1. Proceed with an investigation
2. Draw any reasonable conclusions based on the information that is available; and,
3. Impose sanctions as appropriate based on available information.

26. As part of an investigation, the Case Manager is entitled to seek assistance from, or consult with, any member of the University community who might have relevant knowledge of the incident and/or the Respondent(s) (including Faculty, administrators, and staff), or who have specific expertise with regard to the substance of the allegation (e.g. Human Rights Office, the Equity Office, the Department of Athletics and Recreation, Residence, etc.)

27. The Case Manager should normally complete the formal investigative process within 10 business days after all interviews are completed.

28. During the investigation, the Case Manager will instruct all persons interviewed that:
   a. The interview/investigation process is confidential and as such, is not to be disclosed to, or discussed with, others (except with an advisor from whom the person is seeking assistance related to the case, or other support person; and,
   b. Failure to abide by this confidentiality requirement will compromise the integrity of the investigative process and constitutes Category 2 Non-Academic Misconduct.

29. **Insufficient Information for Category 2 NAM:** After the investigation is completed, if the Case Manager concludes that the information does not support a finding of Category 2 Non-Academic Misconduct, the Case Manager shall send a written notice to the Respondent(s), the Complainant (as appropriate), and update the NAM record to indicate:
   a. That the information does not support a finding of non-academic misconduct (the Case Manager will close the case); or,
   b. That the information supports a finding of Category 1 Non-Academic Misconduct and any appropriate sanctions; or
   c. That the matter is being referred to another NAM unit for disposition as appropriate.

30. **Sufficient Information for Category 2 NAM – Finding of Responsibility:** After an investigation is completed, if the Case Manager concludes the information supports a finding of Category 2 Non-Academic Misconduct and the Case Manager
Sanctions and Sanctioning

31. Sanctions must be proportionate to the misconduct and/or the harm arising from it.

32. The factors to consider in determining sanction(s) include:
   a. The impact or harm of the misconduct on:
      i. The complainant, if any;
      ii. The University community; and,
      iii. The University.
   b. The presence of mitigating or aggravating factors, including a Respondent’s record of non-academic misconduct (which will be made available to the Appeal Body only after their have decided to uphold a finding of responsibility).

33. Sanctions that can be imposed by a Case Manager or Appeal Body include those stated in the Code and BISC Community Standards, as applicable, but do not include a requirement to withdraw.

34. A Case Manager can recommend to a Student Conduct Panel that a Respondent be required to withdraw from the University. The Student Conduct Panel can hear the case and endorse the recommendation of requirement to withdraw to the Vice Provost and Executive Director. The requirement to withdraw may be limited to a specified period of time (i.e. suspension) or permanent (i.e. expulsion). In the event that a Respondent is required to withdraw, their transcript will bear a notation as outlined in the Policy on Transcript Terminology for Students Withdrawing from Queen’s University.

35. Sanctions will not normally be put into effect until the Respondent has exhausted their appeal option, or the appeal deadline has expired without an appeal being filed. The ASESM will advise the Case Manager when the time for filing an appeal has expired.

36. Interim measures will continue during the appeal period unless the Case Manager’s decision indicates otherwise.

37. Notwithstanding Paragraph 36 and the provisions in the Senate Policy on Student Appeals, Rights and Discipline the address “Effective date of Sanction, Penalty, or Requirement to Withdraw”, if the Case Manager is satisfied that the safety or wellness of member(s) of the University community could be significantly adversely affected, the Case Manager may direct that sanction(s) be effective immediately.
### Appeal of Decision and Non-Immediate Sanction(s)

38. A Respondent can appeal a Case Manager’s finding of responsibility, sanctioning decision, and/or Requirement to Withdraw to the appropriate appellant officer on the following ground(s):

   a. A failure to follow the rules and regulations by the relevant decision-making body;
   b. A breach of procedural fairness;
   c. A violation of University policies;
   d. A decision made that is not found to be reasonable.

39. A Respondent may appeal a decision to an Administrator or the Student Conduct Panel and Appeal Body on the grounds, and using the procedures, outlines in the *Senate Policy on Student Appeals, Rights and Discipline* within 2 weeks after receiving the decision. The appeal must be submitted by completing Notice of Appeal Form found at [https://www.queensu.ca/bisc/current-students/conduct/appeals-process](https://www.queensu.ca/bisc/current-students/conduct/appeals-process) and must contain:

   a. A copy of the decision;
   b. A statement of the grounds for appeal;
   c. The outcome sought; and
   d. All relevant supporting documentation.

40. A Respondent will have their case heard by an Appeal Body or Administrator. If the ASESM served as the case manager, the SESM will serve as the appeal body. If the SESM served as the Case Manager, the Student Conduct Panel and Appeal Body will serve as the appeal body. If the ASESM served as the case manager, and the SESM has a real or perceived conflict of interest relating to the case or Respondent or case, the Student Conduct Panel and Appeal Body will serve as the appeal body.

### Appeal Body or Administrator Procedural Guidelines

41. An Appeal Body or Administrator (hence forth referred to as “Administrator”) is not bound by strict legal procedures. The procedural guidelines outlined below are designed to provide guidance to the parties but do not need to be followed strictly so long as procedural fairness is satisfied.

42. **Parties:** The parties in a proceeding before an Appeal Body are:

   a. The University; and
   b. The Respondent(s).

43. **Notice:** The parties should normally be given 10 business days’ written notice of the appeal proceeding, which must include:

   a. A statement of the time, place, and purpose of the appeal proceeding; and
   b. A statement that is a party does not attend the appeal proceeding, the Appeal Body can proceed in the party’s absence and that the party will not be given any further notice.
44. A written request for an alternate appeal date may be submitted to the Appeal Body, but must satisfy the Appeal Body of the following:
   a. That the reason given for the delay is valid; and
   b. That the delay will not prejudice the other party.
45. The Respondent is encouraged to seek advice or assistance, especially in cases where the alleged misconduct is more severe.
46. The Appeal Body may ask questions directly to parties or witnesses, who are required to respond directly (and not through an advisor or support person). While neither party can be compelled to answer any question(s), the Appeal Body will decide the case using the information before it.
47. All Respondents are entitled to receive a copy of the investigative report.
48. The Appeal Body will receive a copy of the investigative report and may receive oral, documentary, or other information that it deems relevant to the adjudication.
49. Attendance of Witnesses: Each party must provide the Adjudicating Body with a list of witnesses it intends to call, with a copy to the other party, at least 5 business days before the adjudication. Witnesses are only individuals who have first-hand knowledge of the case. The following information must be provided about each intended witness:
   a. Full name;
   b. Status (i.e. faculty, staff, student, or other); and,
   c. A brief summary of the information the witness will give at the adjudication.
50. Witnesses are not expected to be sworn-in or affirmed.
51. The Appeal Body can limit questioning of a witness if it is believed it is irrelevant, abusive, or otherwise inappropriate.
52. Open/Closed Appeal Adjudication: Normally adjudication will be closed to observers. For training purposes observers may be permitted to attend an adjudication meeting by the Appeal Body, however this will be weighed against issues of privacy and confidentiality.
53. It is up to the Appeal Body to decide who is permitted to be present at any stage of the proceeding.
54. Order of Appeal Adjudication:
   a. The University representative and Case Manager will first present the findings of the investigation and call any witness(es) it has;
   b. The Respondent(s) will be given an opportunity to question the witness(es);
   c. The University representative will then be permitted to address any new points that arose from questioning;
### PROCEDURE

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<td>d.</td>
<td>The Respondent(s) will have an opportunity to respond to the investigation report and call their witness(es);</td>
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<td>e.</td>
<td>The University representative will be given an opportunity to question the Respondent(s) and witnesses of the Respondent(s);</td>
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<td>f.</td>
<td>The Respondent(s) will then be permitted to address any new points that arose from questioning;</td>
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<td>g.</td>
<td>Parties make closing statements and summarize their cases. Both the alleged non-academic misconduct and the submissions on appropriate sanctions (in the event the finding of responsibility is upheld) should be addressed in the closing statements.</td>
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<td>55.</td>
<td>The Appeal Body can alter the Order of Proceeding described above in the interests of fairness.</td>
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<td>56.</td>
<td>The Appeal Body retains discretion to extend or abridge time limits as circumstances may require (e.g. during exams, winter closure).</td>
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### Decision

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<td>57.</td>
<td>The standard for determining whether a student has violated the Code is on a balance of probabilities (i.e. more likely than not).</td>
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<td>58.</td>
<td>If an Appeal Body is more than one person, a decision will be based on the majority of its members.</td>
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<td>59.</td>
<td>Every decision of an Appeal Body must include a statement about the finality of the decision.</td>
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<td>60.</td>
<td>Notification of Decision: The Appeal Body will notify the parties and the ASEM in writing of its decision, including reasons for the decision and sanction(s), within ten (10) business days of the appeal date.</td>
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### Appeals – Special Cases

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<td>61.</td>
<td>Appeals of Immediate Sanction(s): A Respondent who is subject to immediate sanction(s) under Paragraph 38 can appeal by writing to <a href="mailto:standards@bisc.queensu.ac.uk">standards@bisc.queensu.ac.uk</a>, prior to the deadline for appealing the decision, requesting an expedited hearing to appeal the immediate imposition of the sanction(s).</td>
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### ADDITIONAL MATTERS

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<td>62.</td>
<td>Additional Procedures: If a procedural matter arises before or during adjudication but is not specifically addressed in this Procedure, the Adjudicating Body can determine an appropriate procedure.</td>
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<td>63.</td>
<td>Records and Information Management: See Appendix B</td>
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Appendix A: Student Conduct Panel and Appeal Body

1. The Vice Provost and Executive Director or delegate will appoint 1 member of the current BISC student body, 1 faculty member, and 1 staff person to serve on the Student Conduct Panel and Appeal Body.

2. The Vice Provost and Executive Director or delegate reserves the right to remove individuals from the panel for any cause that would bring the credibility or the fair administration of the adjudicative process into question.

3. Appointments to the Student Conduct Panel and Appeal Body will take into consideration availability of individuals, subject matter expertise, experience, and need to avoid bias or conflict of interest.

4. The Student Conduct Panel and Appeal Body will appoint a Chair. The Chair must be someone with experience on a university decision making body and/or who has experience in student conduct matters. The Chair shall be responsible for deliberations, procedural related matters and decisions, and ensuring that a decision is made in a timely fashion.

5. Student Conduct Panel and Appeal Body members must not receive unilateral communications from a party and must not communicate unilaterally with a party.

6. Members will receive training in non-academic misconduct issues from the ASESIM and other University resources as appropriate.

7. Upon receipt of the case materials, a Student Conduct and Appeals Body Member who feels they have a conflict of interest must advise the ASESIM immediately, and the ASESIM will communicate to the Vice Provost and Executive Director or delegate the need to appoint an alternative Panel Member for the specific case.

8. A Respondent who believes a Student Conduct Panel and Appeals Body member has a conflict of interest must advise the ASESIM not less than 5 business days prior to the adjudication date. The ASESIM will refer the matter to the Vice Provost and Executive Director, or delegate, for a decision.
Appendix B: Records and Information management

1. **Case Record Database**: The Student Services Office will maintain a secure database, containing a Case Record of all incidents of non-academic misconduct, which must include, at a minimum:
   a. The incident report
   b. Identification of the NAM Unit or Administrator that handled the case; and
   c. The case report from the NAM Unit Case Manager (See #2 below):

2. **The Case Report**: A case report must be filed by the Case Manager.
   a. The case report must include:
      i. A summary of the allegations;
      ii. The factual finding(s) and a copy of the written decision;
      iii. The sanction(s) imposed, if any;
      iv. The timeframe within which any Sanction(s) must be completed; and
      v. A final report, if applicable (See d and e.i below).
   b. In cases where there was no finding of non-academic misconduct, the case report will also confirm that the case has been closed. There cannot be reliance on, or reference to, the matter in any subsequent NAM case.
   c. In cases where an informal resolution was reached, and the Student has met all of the requirements of the informal resolution agreement.
   d. In cases where an informal resolution is reached, and the Student has met all of the requirements of the informal resolution, the case report must also include a final report, confirming the completion of the requirements and that the case has been closed.
   e. In cases where a finding of non-academic misconduct has been made and no appeal of the decision has been filed within the required timeframe, then:
      i. **If the student completes all sanction(s) within the stipulated timeframe**, the case report must also include a final report confirming completing of the sanctions and that the case has been closed.
      ii. **If the student has not completed all Sanction(s) within the stipulated timeframe**, the Case Manager will determine if, given more time, the student is likely to complete the sanction(s). If the Case Manager determines that this is not likely,
then the Case Manager will advise the ASESM, noting the sanction(s) the Student failed to complete. The ASESM will refer the matter as a Category 2 case of Non-Academic Misconduct.

f. In cases where a finding of non-academic misconduct has been made and appealed, the case report must also include a copy of the written appeal decision.

3. **Retention and Destruction:**
   a. The Queen’s University (Canada) Student Conduct Office will maintain all Case Records and related documentation for a minimum of 7 years following the date of decision in the case. Specific Case Records may be retained for a longer period.
   b. All Case Records and related documentation must be maintained, and destroyed, in compliance with the Ontario Freedom of Information and Protection of Privacy Act and United Kingdom of Great Britain and Northern Ireland Freedom of Information Act 2000 (c.36). Guidance is available from the University’s Chief Privacy Officer.

**Annual Statistics:** Annual statistics on the NAM System, including a summary of the reported misconduct, the findings and any sanction(s), will be reported annually by the Queen’s University (Canada) Student Conduct Office to the Audit and Risk Committee of the Board of Trustees in an anonymized format. Annual statistics of reported misconduct will be posted on the appropriate University webpage.
## Definitions:

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<th>Term</th>
<th>Meaning</th>
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<tr>
<td>Case(s)</td>
<td>An instance of a particular documented situation involving individuals, entities, &amp; times.</td>
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<td>Case Manager</td>
<td>Individual responsible for ensuring individuals, entities, &amp; times outlined in cases are managed in accordance with the below policy.</td>
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<td>Complainant(s)</td>
<td>The individual who alleges Non-Academic Misconduct to have taken place.</td>
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<td>Respondent(s)</td>
<td>Any individual(s) named by the Complainant as responsible for Non-Academic Misconduct.</td>
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<tr>
<td>Witness(s)</td>
<td>Any individual(s) who may have direct or personal knowledge out the circumstances documented as part of a case.</td>
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<td>University</td>
<td>Queen’s University Canada &amp; the Bader International Study Centre.</td>
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<td>Adjudication</td>
<td>A process to find a formal judgement on a disputed matter.</td>
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<tr>
<td>Saction(s)</td>
<td>A penalty or required directive as a result of a finding of responsibility.</td>
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<tr>
<td>Non-Academic Misconduct</td>
<td>Any misconduct outlined in the Queen’s Student Code of Conduct or BISC Community Standards or as outside of Academic Misconduct.</td>
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### Date Approved: 03/02/2018

### Approval Authority: Student Enrolment & Services Manager

### Commencement Date: 01/04/2019

### Amendment Dates: .

### Date for Next Review: 14/05/2020

### Related Documents: Queen’s Student Code of Conduct, BISC Community Standards, Students at Risk/Fitness to Study Policy and Procedures, Policy on Transcript Terminology for Students Withdrawing from Queen’s University, Student Appeals, Rights and Discipline