

PROCEDURE



Re: PROCEDURES UNDER THE *QUEEN'S UNIVERSITY STUDENT CODE OF CONDUCT*

Contact Officer

Provost and Vice-Principal (Academic)

EFFECTIVE DATE: February 4, 2021

These Procedures shall have force and effect from the date approved by the Senior Leadership Team (“Effective Date”), and shall replace and supersede all prior versions of the Procedures and shall apply to and define all non-academic misconduct under these Procedures regardless of when such conduct is alleged to have occurred, except in the case of a Complaint for which an investigation, decisions, or appeal has commenced prior to the Effective Date. All such investigations, decisions, or appeals shall be completed in accordance with the prior Procedures (2018) following which these Procedures (202x) shall apply. .

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Purpose

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.

Scope of Procedures

1. The General Provisions below apply to all allegations, complaints and reports (“cases”) of non-academic misconduct received by the Non-Academic Misconduct Intake Office (“NAMIO”), against Students and Student Groups (“Respondent(s)”) alleging a violation(s) of the Code.¹

¹ Except in cases of a Complaint made under the *Policy on Sexual Violence Involving Queen’s University Students*, which contains procedures specific to that policy.

GENERAL PROVISIONS

2. Terms in this Procedure have the meaning given to them in the Code, unless they are expressly defined otherwise in this Procedure.
3. The Code 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 licencing or regulatory body, nor does it preclude Campus Security and Emergency Services staff from carrying out their responsibilities.
4. 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.
5. Cases involving sexual violence will typically be addressed under the [Policy on Sexual Violence Involving Queen's University Students](#) and its applicable procedures.
6. All communications to students regarding non-academic misconduct will be sent to the student's Queen's email address. Attachments will be password protected or sent through a secure case management system. Communications may also be sent by registered mail or courier when appropriate. If sent by regular mail, receipt is deemed to have occurred on the 3rd business day² after the date on the communication.
7. All records of Non-Academic Misconduct are managed in accordance with the Non-Academic Misconduct Records and Retention Schedule and Appendix A.

Intake and Referral of Non-Academic Misconduct Cases

8. Cases of non-academic misconduct must be reported to the NAMIO on an Incident Report form with the exception of those cases that fall within the scope of *Athletics & Recreation Misconduct Policy* and the *Residence Community Standards* as per the Code.
9. NAMIO will refer cases to a Non-Academic Misconduct ("NAM") Unit. The referral decision is final and is not subject to review or appeal.
10. Every NAM Unit receiving a referral from NAMIO shall assign the case to a Case Manager.
11. If the Intake Coordinator within NAMIO is unavailable, a delegate or their supervisor has full authority to make any decision that the Intake Coordinator is entitled to make under the Code or this Procedure.
12. Paragraphs 14-45 of this Procedure apply only to cases referred to the Student Conduct Office.

² "business day" means Monday to Friday, excluding holidays and any other day on which the University is closed such as the holiday shutdown period between Christmas Day and New Year's Day.

Elements of Procedural Fairness

13. All non-academic misconduct cases managed by all NAM Units will follow the elements of procedural fairness, namely Respondents have the right to:
- a) be advised, in writing, of the allegations;
 - b) have a case heard and decided by an unbiased decision-maker;
 - c) be advised of who the decision maker will be;
 - d) disclosure of the evidence and information to be relied upon ;
 - e) an advisor, including legal counsel;
 - f) have an opportunity to fully respond to all allegations;
 - g) be provided with written reasons for the decision(s) made in their case; and
 - h) be informed of any available appeal mechanism.

PROCEDURES FOR CASES REFERRED TO THE STUDENT CONDUCT OFFICE

14. Alleged violations under the Code are generally referred to the Student Conduct Office for case management unless determined otherwise by NAMIO.
15. 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 Assistant Dean, Support Services & Community Engagement, who will first determine whether it is appropriate to defer the NAM case.

Interim Measures

16. In accordance with the Code, the University retains the right to impose interim measures. Any Interim measures determined to be appropriate will be communicated by the Case Manager following initial review of the Incident Report. Interim measures that may limit a student's ability to attend classes will be co-ordinated through the Assistant Dean, Support Services & Community Engagement in consultation with the Provost and Vice-Principal (Academic) or delegate.
17. A Respondent who is subject to interim measures can ask the decision-maker who imposed the measures to reconsider whether they are appropriate, considering the Complainant's and Respondent's interests and the need for a safe campus environment. There is no other right of reconsideration or appeal.

Initial Meeting

18. The Case Manager will notify the Respondent of the alleged violation(s) and will provide

a summary of the Incident Report. The Case Manager may schedule a meeting to receive their response or ask for a written response to the Incident Report.

19. Prior to the initial meeting or having to submit a written response, the Respondent will be advised in writing:
 - a) they have a right to have an advisor present at any meeting or adjudication;
 - b) that any retaliatory conduct towards a Complainant or potential witness is presumptively considered a Category 2 violation of the Code; and
 - c) that if the matter is not resolved informally (i.e. by way of an agreement with the Student Conduct Office) the Case Manager will proceed with a formal investigation and a decision on the matter.

Informal Resolution

20. A case may be resolved informally at any point during the NAM process when deemed appropriate by the Case Manager. Normally, in order to be resolved informally, the Respondent is required to acknowledge responsibility for the misconduct alleged and agree to any outcomes or sanctions that are deemed appropriate by the Case Manager. The agreement must include a statement about the consequences should the Respondent breach, or fail to fulfill the requirements of, their agreement.
21. The outcome(s), sanction(s) or requirement(s) of an informal resolution in one case do not constitute a precedent for any other case.
22. The NAM case record will include a copy of any informal resolution agreement reached with the Respondent.
23. 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.
24. **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 not fulfilled by the Case Manager who may then:
 - a) impose any action or consequences outlined in the agreement for not fulfilling the agreement;
 - b) agree to amend the agreement (e.g. extend the deadline(s) or;
 - c) refer the case to an alternative university process, university policy or externally (e.g. police) when appropriate.
25. All informal resolution communications are without prejudice. If the matter is ultimately not resolved by way of informal resolution, the Case Manager will proceed with a formal investigation and will render a decision on the matter. For clarity, if the Case Manager finds the Respondent responsible for non-academic misconduct and imposes a sanction(s), all prior communications about informal resolution, including any proposed outcome(s), sanctions(s), or requirement(s) are not admissible at any available appeal

proceeding.

Formal Investigation

26. If the Case Manager determines that no informal resolution is appropriate or possible, then the Case Manager will initiate an investigation to determine if further action is warranted. Normally, the investigation should start within 14 days after receipt of the Incident Report.
27. The Student Conduct Office may engage an external investigator, in consultation with Legal Counsel and Assistant Dean Support Services & Community Engagement, as appropriate.
28. An investigation will include at a minimum:
 - a) interviewing the Complainant(s) after sending a Notice of Investigation (NOI);
 - b) review available information and evidence;
 - c) interviewing relevant witness(es); and,
 - d) interviewing the Respondent(s). The Case Manager must send a Notice of Investigation (NOI) to each Respondent, which shall:
 - provide each Respondent with a summary of the allegation(s) against them;
 - invite the Respondent to meet with the Case Manager and/or provide a written response to the allegations (no sooner than 3 days after a NOI was sent);
 - advise the Respondent of the right to have a Support Person³ and/or Advisor⁴ present at all meetings during the investigation;
 - advise the Respondent that any retaliatory conduct is itself Category 2 Non-Academic Misconduct, subject to sanction;
 - advise the Respondent that if no written response is received or participation in requested meetings, the Case Manager, will have discretion to:

³ A Support Person is an individual whose role is to provide emotional support and assistance to the student in understanding the information being provided with respect to the NAM processes. A Respondent may select a Support Person of their choosing provided that person has not previously been involved in any decision-making relevant to the matter and will not be, nor have the potential to be, a witness in a NAM proceeding. A person who attends a NAM proceeding as a Support Person cannot provide evidence or be a witness. A Support Person does not generally have a speaking role and are not present to advocate, represent, or speak on behalf of, the student. The University Ombudsperson cannot fulfil the role of a Support Person but is available to provide information and/or clarity about any University Policy or procedures, or refer to resources.

⁴ An Advisor is a more formal type of Support Person, such as legal counsel. Students who are facing serious incidents of NAM are encouraged to consider obtaining advice from legal counsel or another legal advisor of their choosing. Even where a student has retained the assistance of an Advisor, those involved in the NAM process (i.e. Case Manager, Investigator, NAM Appeal Panel) retain the right to address the student directly; moreover, the student's Advisor is ordinarily not permitted to answer questions on the student's behalf in a NAM Proceeding.

- proceed with an investigation without the Respondent's participation;
 - draw any reasonable conclusions and make findings of responsibility based on the information that is collected and available; and,
 - will communicate and impose any outcomes or sanctions(s) as based on available information.
29. 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. the Department of Athletics and Recreation, Residence, etc.).
30. The Case Manager should normally complete the investigation within 10 business days after all interviews are completed.
31. 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 could constitute Category 2 Non-Academic Misconduct.
32. **Finding of Category 2 NAM Not Supported:** 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 information supports a finding under another university policy and that the matter is being referred to another NAM unit, department, or process for disposition as appropriate. In cases where the Case Manager has authority to assign sanctions under another policy such as the Residence Community Standards or Athletic & Recreation Non Academic Misconduct Policy they may proceed with any appropriate outcome(s) or sanction(s) following discussion with the applicable unit.

Decision

33. **Notification of Decision:** The Case Manager will notify the Respondent and NAMIO in

- writing of their decision, including their reasons for the decision and any sanctions(s), typically within five (5) business days after the investigation has been concluded.
34. The standard for determining whether a student has violated the Code is on a balance of probabilities (i.e. more likely than not).
 35. Every letter of decision by a Case Manager must include a statement about the Respondent's right to appeal the decision to the NAM Appeal Panel. The decision must also provide information about the deadline for appealing and must reference how an appeal may be filed. For additional information on NAM Appeals see the [Rules of Procedures for the NAM Appeal Panel](#).
 36. Respondents should be directed to the the Office of the University Ombudperson for any questions regarding university policies or procedures and a referral to resources available.

Sanctions and Sanctioning

37. Sanctions must be proportionate to the misconduct and/or the harm arising from it.
38. The factors to consider in determining sanction(s) include:
 - a) the impact or harm of the misconduct on:
 - the complainant, if any;
 - the university community; and,
 - 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 Case Manager, by NAMIO, only after they make a finding of responsibility.
39. Sanctions that can be imposed by a Case Manager include those stated in the Code, the Residence Community Standards and/or the Athletics & Recreation Non-Academic Misconduct Policy, as applicable, but for a Requirement to Withdraw section 40 will apply.
40. The Case Manager can not impose a Requirement to Withdraw. A Case Manager will refer a recommendation of Requirement to Withdraw to the Assistant Dean Support Services & Community Engagement.
 - a) The Assistant Dean Support Services & Community Engagement may seek to resolve the matter through informal resolution with the student, or may refer the matter back to the Case Manager with directions about a more appropriate sanction, or may endorse the recommendation for a Requirement to Withdraw by forwarding to the Vice-Provost and Dean of Student Affairs for decision.
 - b) The Vice-Provost and Dean of Student Affairs will make a decision on the recommendation for a Requirement to Withdraw or impose an alternative sanction. The Requirement to Withdraw may be limited to a specified period of time (i.e. suspension) or permanent (i.e. expulsion).

- c) 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](#).
41. If a sanction from the *Residence Community Standards* or the *Athletics & Recreation Non-Academic Misconduct Policy* is imposed after discussion with that office, the senior administrator in the applicable office shall be notified of the outcome or sanction and will be responsible for ensuring the Respondent satisfies the requirements on a timely basis.
 42. Outcomes or Sanctions will not normally be put into effect until the Respondent has exhausted their appeal option(s) or the appeal deadline has expired without an [appeal](#) being filed. NAMIO will advise the Case Manager when the time for filing an appeal has expired.
 43. Interim measures will continue during the appeal period unless the Case Manager's decision indicates otherwise.

[Appeals](#)

44. For more detailed information on Appeals including an Appeal of Immediate Sanction, Expedited Appeal, Appeals of a Decision and NAM Appeal Proceedings please refer to the [Rules of Procedure for the NAM Appeal Panel](#).
45. The *Residence Community Standards* and the *Athletics & Recreation Non-Academic Misconduct Policy* outline appeal procedures for decisions made for lower level violations (e.g. Level 1 & 2 under the Residence Community Standards and Minor Infractions under the Athletics & Recreation NAM Policy).

ADDITIONAL MATTERS

46. **Records and Information Management:** See Appendix A
47. If an individual who's position has a specific role or responsibility under these Procedures, they may assign a delegate, as appropriate, who has full authority to make any decision that the role/position is entitled to make under the Code or these Procedures.

Appendix A: Records and Information Management

1. **Case Record Database:** The Office of Student Affairs will maintain a secure database, containing a Case Record of all incidents of non-academic misconduct⁵, which must include, at a minimum:
 - a) the incident report;
 - b) identification of the NAM Unit that handled the case; and,
 - c) the case report from the NAM Unit Case Manager (See #2 below);
2. **The Case Record:** A case report must be filed by the Case Manager.
 - a) the case record must include:
 - a summary of the allegations;
 - the factual finding(s) and a copy of the written decision;
 - the sanction(s) imposed, if any;
 - the timeframe within which any Sanction(s) must be completed; and
 - 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 record will also confirm that the case has been closed. *There cannot be any reliance on, or reference to, the matter in any subsequent NAM case.*
 - c) in cases where an informal resolution was reached, the case record must also contain a copy 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 record must also include a note 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 sanctions(s) within the stipulated timeframe**, the case report must include a note confirming completion of the sanctions and that the case has been closed.
 - ii. **if the Student has not completed all Sanctions(s) within the stipulated timeframe** the Case Manager will determine if, given more time, the student is likely to complete the sanctions(s). If the Case Manager determines that this is not likely, then the Case Manager will advise NAMIO, noting the sanction(s) the Student failed to complete. NAMIO 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 record must also include a copy of the written appeal decision.
3. **Retention and Destruction:**
 - a) the Student Conduct Office will maintain all Case Records and related in

⁵ This includes all NAM cases, including those arising under the Athletics & Recreation and Residence NAM Systems that are not referred to NAMIO

- accordance with the Record and Retention Schedule. 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. Guidance is available from the University's Chief Privacy Officer.
4. **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 to the Audit and Risk Committee of the Board of Trustees in an anonymized format. An Annual summary of statistics for reported non academic misconduct which has been referred to the NAM system will be posted on the appropriate university webpage.