

PROCEDURE



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

Contact Officer

Provost and Vice-Principal (Academic)

EFFECTIVE DATE: September 1, 2018

[General Provisions](#)
[Procedures for Category 2 NAM](#)
[Interim Measures](#)
[Informal Resolution](#)
[Formal Investigation](#)
[Adjudication Options](#)
[Adjudicating Body Procedural Guidelines](#)
[Decision](#)
[Sanctions and Sanctioning](#)
[Appeals](#)
[Additional Matters](#)
[Appendix A: Student Conduct Panel](#)
[Appendix B: Records & Information Management](#)

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.

Procedures

1. The General Provisions below apply to all allegations, complaints and reports ("cases") of non-academic misconduct received by an Intake Coordinator" in the Central Intake Office, against Students and Student Groups ("Respondent(s)") alleging a violation(s) of the Code.¹

¹ Except in cases of a Report 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 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. 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.

Intake and Referral of Non-Academic Misconduct Cases

7. Cases of non-academic misconduct must be reported to the Intake Coordinator 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.
8. The Intake Coordinator will refer cases to a Non-Academic Misconduct ("NAM") Unit. The referral decision is final and is not subject to review or appeal.
9. Every NAM Unit receiving a referral from an Intake Coordinator shall assign the case to a Case Manager.
10. If the Intake Coordinator is unavailable, an intake Coordinator delegate has full authority to make any decision that the Intake Coordinator is entitled to make under the Code or this Procedure.
11. Paragraphs 13-65 of this Procedure apply only to cases referred to the Student Conduct Office, which are presumptively cases of Category 2 Non-Academic Misconduct.

Elements of Procedural Fairness

12. All non-academic misconduct cases managed by all NAM Units will follow the elements of

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.

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) 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 NON-ACADEMIC MISCONDUCT

13. Alleged Category 2 cases are referred to the Student Conduct Office for case management.
14. 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 Dean of Student Affairs or delegate, who will first determine whether it is appropriate to defer the case.

Interim Measures

15. 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 student's ability to attend classes will be implemented in consultation with the Provost and Vice-Principal (Academic) or delegate.
16. A Respondent who is subject to interim measures can seek an 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

17. 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.
18. The Respondent will be advised:
 - a) they have a right to have an advisor present at any meeting or adjudication;

- b) any retaliatory conduct towards a Complainant or potential witness is presumptively considered a Category 2 violation of the Code;
- c) 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 disposition of the case.

Informal Resolution

19. A case may be resolved informally at any point during the NAM process when deemed appropriate by the Case Manager if 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.
20. Communications around informal resolutions, including any 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.
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 must 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 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

25. 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 receipt

of the Incident Report.

26. The Student Conduct Office may engage an external investigator, in consultation with the Office of the University Secretariat and Legal Counsel, as appropriate.

27. 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:
 - provide each Respondent with the specifics 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 an advisor 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 the Case Manager receives no response to the NOI the Case Manager will:
 - proceed with an investigation;
 - draw any reasonable conclusions based on the information that is available; and,
 - impose sanctions(s) as appropriate based on available information.

28. 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 Human Rights Office, the Equity Office, the Department of Athletics and Recreation, Residence, etc.).

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

30. 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.

31. **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.

32. **Sufficient Information for Category 2 NAM – Referral to Adjudicating Body:** 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 has determined that an informal resolution either is not appropriate or cannot be reached, the matter will be referred for adjudication.

Adjudication Options

33. A Respondent may normally choose to have their case heard by one of two Adjudicating Bodies:

- a) **an Administrator** (default option) - An Administrator is normally the Assistant Dean (Support Services & Community Engagement) or the Vice-Provost and Dean of Student Affairs, as appropriate in the circumstances; or,
- b) **a Student Conduct Panel** - A Student Conduct Panel is normally comprised of two University employees and one student. [See Appendix A for more information on the Student Conduct Panel.](#) The University can engage one or more external panelists to hear cases where the subject matter requires specialized knowledge or expertise.

The option of adjudication by a Student Conduct Panel may not be available, for example in cases where the alleged behaviour has resulted in significant harm, where it would be inappropriate for details of the case to be shared with multiple individuals, or during the exam period or summer term.

Adjudicating Body Procedural Guidelines

34. An Adjudicating Body 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.

35. **Parties:** The parties in a proceeding before an Adjudicating Body are:

- a) the University; and,
- b) the Respondent(s).

36. **Notice:** The parties should normally be given 10 business days' written notice of the adjudication which must include:
 - a) a statement of the time, place and purpose of the adjudication; and
 - b) a statement that if a party does not attend the adjudication, the Adjudicating Body can proceed in the party's absence and that the party will not be given any further notice.
37. A written request for an alternate adjudication date may be submitted to the Adjudicating Body, but must satisfy the Adjudicating 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.
38. A Respondent is encouraged to seek advice or assistance, especially in case where the alleged misconduct is more severe.
39. The Adjudicating 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 Adjudicating Body will decide the case on the information before it.
40. All Respondents are entitled to receive a copy of the investigation report.
41. The Adjudicating Body will receive a copy of the investigation report and may receive oral, documentary or other information that it deems relevant to the adjudication.
42. **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.
43. Witnesses are not expected to be sworn-in or affirmed.
44. The Adjudicating Body can limit questioning of a witness if it is believed it is irrelevant, abusive or otherwise inappropriate.
45. **Open/Closed Adjudication:** Normally adjudication will be closed to observers. For training purposes observers may be permitted to attend an adjudication meeting by the Adjudicating Body, however this will be weighed against issues of privacy and confidentiality.
46. It is up to the Adjudicating Body to decide who is permitted to be present at any stage of the adjudication.
47. **Order of Adjudication:**
 - a) the University representative 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;
 - d) the Respondent(s) will have an opportunity to respond to the investigation report and call their witness(es);
 - e) the University representative will be given an opportunity to question the Respondent(s) and witnesses of the Respondent(s);
 - f) the Respondent(s) will then be permitted to address any new points that arose from questioning;
 - g) parties make closing statements and summarize their cases. Both the alleged non-academic misconduct and the submissions on appropriate sanctions (in the event there is a finding of responsibility) should be addressed in closing statements.
48. The Adjudicating Body can alter the Order of Adjudication described above in the interests of fairness.
49. The Adjudicating Body retains the discretion to extend or abridge time limits as circumstances may require (e.g. during exams, winter closure).

Decision

50. The decision of an Adjudicating Body, if not unanimous, will be based on the decision of the majority of its members.
51. The standard for determining whether a student has violated the Code is on a balance of probabilities (i.e. more likely than not).
52. Every decision of an Adjudicating Body must include a statement about the Respondent's right to appeal its decision to the appropriate appeal body. The decision must also provide information about the deadline for appealing and must reference the Office of the University Ombudsman as a resource.
53. **Notification of Decision:** The Adjudicating Body will notify the parties and the Intake Coordinator in writing of its decision, including its reasons for the decision and any sanctions(s), within ten (10) business days of the adjudication date.

Sanctions and Sanctioning

54. Sanctions must be proportionate to the misconduct and/or the harm arising from it.
55. 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 Adjudicating Body only after they make a finding of responsibility.
56. Sanctions that can be imposed by an Adjudicating Body include those stated in the Code, the Residence Student Conduct process ("Residence Community Standards") and/or the Athletics & Recreation Non-Academic Misconduct Judicial Process (Misconduct Policy), as applicable, but do not include a requirement to withdraw.
57. An Adjudicating Body can recommend to the Provost that a Respondent be required to withdraw from the University. The Provost can endorse the recommendation and require the Respondent to withdraw. 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*.
58. If a sanction from the *Residence Community Standards* or the *Athletics & Recreation Misconduct Policy* is imposed after consultation with that office, the senior administrator in the applicable office shall be notified of the sanction and will be responsible for ensuring the Student satisfies the sanction on a timely basis.
59. 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. The Intake Coordinator will advise the Case Manager when the time for filing an appeal has expired.
60. Interim measures will continue during the appeal period unless the Adjudicating Body's decision indicates otherwise.
61. Notwithstanding Paragraph 59 and the provisions in the Senate Policy on *Student Appeals, Rights and Discipline* that address "Effective date of Sanction, Penalty or Requirement to Withdraw", if the Adjudicating Body is satisfied that the safety or wellness of member(s) of the University community could be significantly adversely affected, the Adjudicating Body may direct that sanction(s) be effective immediately.

Appeals

62. **Appeal of Immediate Sanction(s):** A Respondent who is subject to immediate sanction(s) under Paragraph 61 can appeal to the Chair of the USAB by writing to the Office of the Ombudsman, prior to the deadline for appealing the decision, requesting an expedited hearing to appeal the immediate imposition of the sanction(s).
63. **Appeal of Decision and Non-Immediate Sanction(s):**
A Respondent before a Adjudicating Body may appeal a decision to USAB on the grounds, and using the procedures, outlined in the *Senate Policy on Student Appeals, Rights and Discipline* within 2 weeks after receiving the decision. The appeal must be submitted by completing Form 26(a) (Notice of Appeal) 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.

64. The *Residence Community Standards* and the *Athletics and Recreation Non-Academic Misconduct Judicial Process* outline appeal procedures for decisions made under those respective policies.

ADDITIONAL MATTERS

65. **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.

66. **Records and Information Management:** [See Appendix B](#)

Appendix A: Student Conduct Panel

1. The Assistant Dean (Support Services and Community Engagement) will compile a roster of individuals who are eligible to serve on a Student Conduct Panel. The process will include advertising the positions through various mediums at the university.
2. The Assistant Dean (Support Services and Community Engagement) reserves the right to remove individuals from the roster for any cause that would bring the credibility or the fair administration of the adjudicative process into question.
3. Appointments to a Student Conduct Panel from the roster will take into consideration availability of individuals, subject matter expertise, experience, and need to avoid bias or conflict of interest.
4. Each Student Conduct Panel 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 the deliberations, procedural related matters and decisions, and ensuring that a decision is made in a timely fashion.
5. Student Conduct Panel 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 conduct issues from the Student Conduct Office and other University resources as appropriate.
7. Upon receipt of the case materials a Student Conduct Panel Member who feels they have a conflict of interest must advise the Intake Coordinator immediately and an alternate Panel Member will be appointed.
8. A Respondent who believes a Student Conduct Panel member has a conflict of interest must advise the Intake Coordinator not less than 5 business days prior to the adjudication date. The Intake Coordinator will refer the matter to the Vice-Provost and Dean of Student Affairs, or delegate, for a decision.

Appendix B: 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 misconduct³, 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 Report:** A case report must be filed by the Case Manager.
 - a) the case report 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 report 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 report 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 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 sanctions(s) within the stipulated timeframe**, the case report must also include a final report 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 the Intake Coordinator, noting the sanction(s) the Student failed to complete. The Intake Coordinator 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:**

³ This includes all NAM cases, including those arising under the Athletics & Recreation and Residence NAM Systems that are not referred to the NAM Intake Office

- a) the Student Conduct Office will maintain all Case Records and related documentation for a minimum period 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. 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 by the 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.