



## **Student Code of Conduct**

(Replacing the Code of Disciplinary Procedures for Students)

Effective May 12, 2014

Revised March 23, 2006, Board of Regents

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### **1. PRINCIPLES**

#### **a) General**

Memorial University is a learning, teaching and working community of students, faculty and staff, committed to providing a safe environment which is respectful of the rights, responsibilities, well-being and dignity of all its members.

The Student Code of Conduct ("Code") reflects the expectation that students will conduct themselves in a manner consistent with generally accepted standards of behaviour. This includes compliance with University regulations and policies, departmental policies, and federal, provincial and municipal laws, as well as codes of ethics that govern students who are members of regulated professions.

The Code outlines behavior which the University considers to be non-academic misconduct offences and the range of remedies and/or penalties which may be imposed. Academic misconduct is governed by the University Calendar and other University policies.

#### **b) Informal Resolution/Mediation**

The University recognizes that many concerns can be resolved informally, without resorting to the formal provisions of this Code. The principles underlying this Code are educational and whenever appropriate the University encourages informal resolution of minor incidents. Informal procedures will include consulting with the parties involved and attempting to mediate a satisfactory resolution. The focus will be on restorative justice. The Code also provides for early intervention regarding behavior that may be of concern, without involving the formal procedures under the Code.

#### **c) Hearing**

A hearing will only be conducted in accordance with section 8 of this Code.

### **2. DEFINITIONS**

a) "Complainant" means a person who raises a concern or complaint under this Code.

- b) “Complaints Coordinator” is a person(s) who is appointed by the University to act in the role as outlined in this Code. The University may decide to appoint a different Complaints Coordinator(s) for the St. John’s Campus, Harlow Campus, Grenfell Campus, and/ or the Marine Institute.
- c) “Head of Campus” means:
  - 1) For the St. John’s Campus and the Harlow Campus – Deputy Provost (Students) and Associate Vice-President (Academic) Undergraduate Studies.
  - 2) For the Grenfell Campus – Associate Vice-President (Academic), Grenfell Campus.
  - 3) For the Marine Institute – Associate Vice-President (Academic and Student Affairs), Marine Institute.
- d) “Respondent” means a student against whom a complaint it made.
- e) “Restorative Justice” means emphasizing the role of victims and community members through active involvement in the misconduct process, holding Students directly accountable to the people and communities harmed by their conduct and providing a range of opportunities for dialogue, negotiation and problem solving whenever possible.
- f) “Sanctioned Activity” means an activity that has been formally approved by the University through a University administrator authorized to do so.
- g) “Student” is defined in this Code to include as follows:
  - 1) Persons enrolled either full-time or part-time in classes, including when on placements that are part of their academic program;
  - 2) Persons who are enrolled in a program but not currently registered in classes;
  - 3) Persons residing in Student Residences, who are not employees and who are not otherwise defined as Students in this section;
  - 4) Persons who withdraw from the University after the alleged conduct, will be considered Students for the purpose of a proceeding under this Code when they re-enrol.
- h) “Student Conduct Officer” is a person(s) who is appointed by the University to act in the role as outlined in this Code.
  - a. For the St. John’s Campus – Director of Student Life;
  - b. For the Harlow Campus – Chief Conduct Officer and Head of School;
  - c. For the Grenfell Campus - Director of Student Services; and
  - d. For the Marine Institute - Director of Student Affairs
- i) “University” means Memorial University of Newfoundland.

### **3. SCOPE**

a) On Campus:

This Code applies to all conduct which takes place on University property, premises and to the use of University telephones, computers, and networks, including email addresses and hosted websites.

b) Off Campus

This Code applies to the conduct of students off campus only:

- 1) When they are on a course or participating in an organized class activity;
- 2) When they are participating in a University Sanctioned Activity;
- 3) When they are acting as delegates, designated representatives of Memorial University or as members of a Memorial group or organization at Sanctioned Activities;
- 4) In circumstances when the potential consequences of the conduct may adversely affect the Complainant's course of learning, teaching or work at the University or where the conduct complained of may damage the reputation of the University. This applies to Sanctioned Activities and events that are not Sanctioned Activities.

c) Other

- 1) This Code applies to conduct via telephone, computer, or other electronic devices (e.g., email, social media, etc.);
- 2) Students are expected to be individually responsible for their actions whether acting individually or in a group.

d) Relationship to Other Proceedings

- 1) In cases in which criminal or civil proceedings have been taken, the University may take action under this Code, including the application of interim measures if there is reasonable basis that any offence under this Code has occurred.

### **4. REFERRALS**

In cases where a Complainant is unsure of whether or not there has been a breach of this Code, but has a concern about a Student, a referral may be made to the Student Conduct Officer who may then decide to seek advice or refer the Student to University support units which may include Student Health Services, the Wellness and Counseling Centre, the Sexual Harassment Office, the Internationalization Office, etc. to develop a

strategy or plan to ensure the continued health and safety of the Student and members of the University community. The Student Conduct Officer will only involve those persons who are necessary and required to provide assistance to the Student and will not use this referral to solicit evidence for the purposes of finding an offence under the Code. This approach is not punitive in nature, but is a method of early intervention of potential behavioural or other issues.

## 5. OFFENCES

The following shall constitute offences under this Code for which a sanction may result:

a) Offences against persons, which include:

- 1) Physical, or verbal assault and/or harassment or the threat thereof;
- 2) Sexual harassment and/or sexual assault or the threat thereof; [any concerns or complaints that meet the definition of sexual harassment or sexual assault as outlined in the Sexual Harassment Policy will normally be dealt with in accordance with the University Wide Procedures for Sexual Harassment Concerns and Complaints. The Sexual Harassment Advisor may refer a complaint of sexual harassment to the Student Conduct Officer];
- 3) Creating a condition that unnecessarily endangers the health or safety of other persons;
- 4) Uttering threats;
- 5) Bullying, intimidating or harassing another person;
- 6) Any conduct that can be reasonably considered hazing or frothing activities. Students shall not organize or engage in any act that endangers, or could reasonably be seen to endanger the mental or physical health or safety of a Student, for the purpose of initiation, admission into, affiliation with, or for continued membership in a group or organization.
- 7) While a university environment is one where freedom of speech is highly valued, students must adhere to provisions of the Human Rights Act, 2010 and discrimination is prohibited on the following grounds: race, colour, nationality, ethnic origin, social origin, creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion. Comments or action based on an individual's association or relationship whether actual or presumed, with an individual or class of individuals identified above is also prohibited.

b) Offences involving property, which include:

- 1) Unauthorized entry or presence on any premises of the University;
- 2) Taking, destroying or damaging property that is not their own;
- 3) Defacing any part of the University premises;
- 4) Knowingly possessing stolen property;
- 5) Creating a condition that endangers or threatens destruction of the property of the University or of any of the members of the University community.

- c) Offences involving alcohol, which include:
- 1) Underage drinking;
  - 2) Being drunk and disorderly;
  - 3) Providing alcohol to minors;
  - 4) Illegal selling or distribution of alcohol;
  - 5) Breach of the University Alcohol Policy.
- d) Offences involving drugs, which include:
- 1) Possessing illegal drugs or drug paraphernalia, whether it be for personal use or intent to traffic;
  - 2) Distribution or trafficking in prescription drugs.
- e) Offences involving disruption, which include:
- 1) Counseling, conspiring with or aiding a person in the commission of an offence defined in this Code;
  - 2) Being charged with contravening the provisions of the Criminal Code or any federal, provincial or municipal legislation for which an offence is created;
  - 3) Refusing to comply with a sanction or sanctions imposed under the provisions of this Code, or interfering with a process under this Code;
  - 4) Acting, threatening or otherwise causing a disturbance that obstructs any activity organized by the University or by any of its faculties, schools, departments or divisions, clubs, societies or resource centres, or the rights of a member of the University community to carry on their legitimate activities, to speak to or associate with others.

Students and members of the University community enjoy the freedom to pursue their intellectual and personal interests without interference. The objectives of the University are the pursuit of learning through scholarship, teaching and research within a spirit of free enquiry and expression. The University recognizes academic freedom and the right to free speech, creative expression and peaceful protest, acknowledging that the common good of society depends upon the search for knowledge and its free expression.

The following are not considered “disruption” in accordance with this section:

- Peaceful assemblies, demonstrations, picketing or other activity outside a class or meeting that does not substantially interfere with the communication inside, or impede access to the meeting or class.
- Silent or symbolic protest.

However, noise that obstructs the conduct of a meeting or class, or forcibly blocking access to an activity constitutes “disruption” under this Code.

f) Other offences include:

- 1) Unauthorized use of any facility, equipment or service of the University;
- 2) Bringing false or malicious charges or complaints against any member of the University community;
- 3) Retaliation against persons for laying a complaint or providing statements under this Code;
- 4) Fraudulent activity;
- 5) Possession and use of weapons other than that outlined in the Weapons Policy;
- 6) Illegal gambling.

## 6. PROCEDURES

a) Complaints:

- 1) A complaint may be made against any Student or group of students, who is/are believed to have committed an offence under this Code. The complaint shall be made within one year after the alleged offence occurred. The complaint shall be in writing and forwarded to the Student Conduct Officer;
- 2) Under certain circumstances, such as situations involving a potential risk of harm to any person, proceedings under this Code may be initiated by the Student Conduct Officer without a written complaint;
- 3) The Student Conduct Officer may decide upon reviewing the complaint that the complaint does not address conduct that is covered by this Code. In that case, the Student Conduct Officer will notify the person making the complaint and then close the file.
- 4) The Respondent may have representation at any stage in the process.

b) Interim Measures

The Student Conduct Officer may impose interim measures where the alleged behaviour of a Student may be considered to constitute a danger to persons or property or to be hindering a member of the University from enjoying rights or pursuing activities within the University. Where an interim measure will affect a Student's continued stay in a University residence, the Student Conduct Officer will consult with the Director of Student Residences (St. John's) or the Manager of Student Housing (Grenfell) before the imposition of such interim measure. These measures will be put in place, if required, pending a finding of a violation of this Code, and may be repealed, upheld, or expanded after a finding has been made. Such measure should balance the safety of the Complainant with the requirement of fairness to both the Complainant and the Respondent.

Interim Measures are not determinative of whether or not there has been a breach of this Code.

Interim measures can include the following:

a) Removal from Residence:

If the interim measures are to include temporary removal of a student from residence, this will be done only in consultation with the Director of Student Residences (St. John's campus), or the Manager of Student Housing (Grenfell Campus), as appropriate, or their designate.

b) Temporary limitation of access to all or part of the Campus:

The Student Conduct Officer can impose a temporary limitation of access to all or part of the campus, where in their discretion such a temporary limitation to access is required for the safety of the Students or the University.

Provision of Reasons:

Within two (2) business days following the imposition of any interim measure, the Student shall be informed in writing of the reasons for the interim measure. The Student shall be given the opportunity to respond to the imposition of the interim measure, in writing, to the Head of Campus. Following the response of the Student, the Head of Campus will reassess the interim measures imposed and either revoke or affirm the measure.

c) Informal resolution:

- 1) Whenever appropriate, informal resolution and/or mediation shall be used to resolve issues of individual behaviour. In such circumstances, the Student Conduct Officer will refer the matter to the Complaints Coordinator;
- 2) The Complaints Coordinator shall contact the Respondent and the Complainant and attempt to resolve the complaint to the satisfaction of the parties concerned;
- 3) In reaching a mutually agreeable resolution of the complaint, one or more of the sanctions listed in section 8 of the Code may be imposed;
- 4) The Complaints Coordinator may also involve other University units or offices as agreed to by the members of the University community involved.

d) Informal resolution unsuccessful:

- 1) If informal resolution is unsuccessful or inappropriate in the circumstances, the Complaints Coordinator shall prepare a report on the nature of the matter. The Complainant and the Respondent will be given one week to review the report and comment;
- 2) The Student Conduct Officer will then review the report, along with any response provided by the Complainant and Respondent, and will review the surrounding circumstances, which may or may not include interviewing the Complainant, Respondent, or other persons who may have relevant information.

e) Decision of the Student Conduct Officer:

- 1) If the Student Conduct Officer decides that the Student has not violated the Code, the Student Conduct Officer shall provide their written decision to the Complainant and the Respondent and the file will be closed, and any interim measure that may have been imposed will then be repealed;
- 2) If the Student Conduct Officer decides that the Student has violated the Code, the Student Conduct Officer shall provide their written decision to the Complainant and the Respondent, and if the Student Conduct Officer decides that a sanction is appropriate, then:
  - (i) They may impose a sanction as listed in sections 7 (a) to (g). The Respondent may appeal such a sanction pursuant to Clause 9 of this Code.
  - (ii) The Student Conduct Officer may recommend a sanction listed in sections 7 (h) and (i) to the Head of Campus (suspension or expulsion). In the case of such recommendation, the matter will proceed to a hearing in accordance with section 8 below.
- 3) The Respondent shall be given the opportunity to respond to a decision which finds that the Respondent has violated this Code. The response shall be in writing to the Head of Campus, within 7 days of the Student Conduct Officer's decision. Following the response of the Student, the Head of Campus will either uphold or revoke the decision of the Student Conduct Officer regarding violation of the Code. If the Head of Campus revokes the decision, any sanction imposed by the Student Conduct Officer will also be repealed.

## 7. SANCTIONS/ RESOLUTIONS

Wherever possible, the principles of Restorative Justice should be used in determining the approach to resolving a particular situation. Sanctions may be used independently or in combination for any single offence. Repeated and/or multiple violations may increase the severity of sanctions applied.

a) Restorative Justice:

The Respondent may be required to complete specific 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, restitution and/or written or verbal apologies.

b) Letter of reprimand:

This sanction is written notice that the Respondent has violated the Code and has been formally reprimanded. Repeat offences may result in more severe sanctions.

c) Fines:

A fine may be imposed. Fines will be progressive in nature with a maximum of \$100 for a first offence, \$300 for a second, and \$500 for a third. The fine shall form a charge against the student's University account.

d) Probation:

A student may be placed on non-academic probation for a designated period of time from 6 months up to 4 years. Any further offences under the Code will be cause for further sanctions, up to and including expulsion.

e) Loss of privileges:

A Respondent may lose privileges for a designated period of time. This may include, but is not limited to, computer privileges, library facilities, and distance education access.

f) Limitation of Access:

A Respondent may be limited in their access to all or part of the University premises for a designated period of time. Limitation of access may include the Respondent being prohibited from registration in a particular course or program. This sanction shall not be used to evict a resident from on-campus Student Residences.

g) Eviction from Residence:

A Respondent may be evicted from residence for a designated or indefinite period of time. Eviction will occur only after consultation with the Director of Student Residences (St. John's) or the Manager, Student Housing (Grenfell) as appropriate, or their designate.

h) Suspension:

Loss of all academic privileges at the University for a specified period of time and/or until imposed conditions are met. The period of suspension shall not exceed 4 years. The Respondent will be eligible to return after this time but may be required to fulfill specified conditions upon return.

i) Expulsion:

A Respondent may be expelled from the University.

## 8. HEARINGS

- a) A hearing will be held in the event that the Student Conduct Officer recommends a sanction in section 7 (h) or (i) above. A hearing panel will be called, and shall consist of five members comprised as follows:

- i) three (3) non-students from the University community, one of whom will act as Chair and voting member; and
- ii) two (2) students. The student representatives will be appointed by the student union of which the Respondent is a member.

The hearing panel members will be selected by the Chief Risk Officer of the University from a pool of candidates. Decisions of the hearing panel will be by majority vote.

- b) Subject to the rules in this section, the hearing panel, assisted by legal counsel, has discretion to determine its own procedure in accordance with due process, natural justice, and fairness.
- c) The recommendation of the sanction under section 8 (h) or (i) will be presented by the Student Conduct Officer or designate, who may be assisted by legal counsel. The Respondent may be assisted and represented by another person, who may be legal counsel.
- d) A hearing may proceed, at the discretion of the Chair, in the absence of the Respondent, provided the Respondent has been given at least two weeks' notice of the hearing date and fails to attend.
- e) The hearing panel shall provide a written decision after the hearing. The decision shall either affirm the recommendation of the Student Conduct Officer to impose a sanction under section 7 (h) or (i), or deny the recommendation of the Student Conduct Officer to impose a sanction under section 7(h) or (i), and in that case will substitute another sanction or sanctions under section 7 of the Code. .
- f) Hearing guidelines:
  - 1) The hearing shall be conducted in private unless there is agreement otherwise between the Complainant, Respondent, the Student Conduct Officer and the Chair;
  - 2) The Respondent and the Student Conduct Officer may present witnesses and cross-examine each other's witnesses;
  - 3) The Respondent and the Student Conduct Officer may make opening statements and closing arguments;
  - 4) The hearing panel has the discretion to accept records, exhibits, and written statements as evidence for consideration at the hearing.

## 9. APPEALS

- a) A Student who has received a sanction from the Student Conduct Officer or the hearing panel shall have a right to appeal the sanction to the Head of Campus. The Respondent shall have 10 working days to provide written grounds why the sanction imposed by the Student Conduct Officer or hearing panel should be reconsidered.

The Respondent is entitled to a meeting with the Head of Campus but the appeal must be in writing. If the sanction is eviction from residence, the student may be required to leave residence while the appeal is pending;

Appeals to sanctions will be addressed by the Head of Campus within ten (10) working days from receipt of a written appeal by the Student, and the Head of Campus will provide their decision in writing. The decision of the Head of Campus will either confirm, vary or overturn the sanction imposed by the Student Conduct Officer or the hearing panel, and in the case of overturning the sanction, may substitute its own decision on sanctions.

- b) If the Head of Campus decides suspension or expulsion is appropriate, they will advise the University Registrar.
- c) Decisions of the Head of Campus confirming suspension or expulsion may be appealed in writing, within 10 working days of the decision, to a panel of the Board of Regents.

## 10. RECORDS

### a) Keeping of Records

A Record must be kept in all cases that have been the subject of an investigation, hearing and appeal, the result of which has been the imposition of a sanction, whether or not the Respondent has waived the right to a hearing. All such records shall be maintained for a period of five (5) years. All written complaints, witness statements, decisions, etc. will be disclosed to the Complainant and Respondent.

### b) Composition of Records

The record of cases shall comprise any written reports, including MMS reports, the notice of hearing (including the offence); documentary evidence filed at a Hearing; all decisions.

### c) Storage of Records

The records shall be stored in the office of the appropriate Head of the Campus, or designate.

### d) Use of Records:

Records of previous convictions may be taken into account in imposing a sanction.

### e) Recordings of Hearings



The Student Conduct Officer shall ensure that a recording is made, and a transcript prepared, of all sessions of a hearing.

## **11. REVIEW**

This Code will be reviewed annually by a committee of not less than five (5) people appointed by the Deputy Provost. The committee shall include at least two (2) students. The committee may make recommendations to the Board of Regents for amendments to the Code.