

WESTERN UNIVERSITY CODE OF STUDENT CONDUCT

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| Subsections: | Introduction and Purpose ; Definitions ; Jurisdiction ; Relationship to Other University Policies and Codes ; Examples of Prohibited Student Conduct ; Sanctions ; Appeals ; Confidentiality ; Annual Report ; Review of Code |
| Approving Authority: | Board of Governors |
| Responsible Committee: | Senior Policy and Operations Committee |
| Related Procedures: | * |
| Officer(s) Responsible for Procedures: | * |
| Related Policies: | * |
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A. Introduction and Purpose

- 1) Western University (the University) is a community of students, faculty and staff involved in learning, teaching, research, and other activities. The University seeks to provide an environment of free and creative inquiry within which critical thinking, humane values, and practical skills are cultivated and sustained. It is committed to a mission and to principles that will foster excellence and create an equitable, diverse and inclusive environment where its students, faculty, and staff can grow and flourish.
- 2) Upon registration, students accept the rights and responsibilities associated with membership in the University's academic and social community. Students are responsible for observing a standard of conduct that will contribute to the University's mission and that will support an environment conducive to the intellectual and personal growth of all who study, work and live here. This responsibility includes respecting the rights, property, and well-being of other members of the University community and visitors to the campus and not engaging in conduct that could reasonably be seen to endanger or adversely

affect the health, safety, rights, security or property of the University, its members and visitors. The academic and social privileges granted to each student are conditional upon the fulfillment of this responsibility and students must familiarize themselves with the University regulations and the conduct expected of them while registered at the University.

- 3) The University expects students to set for themselves the highest standards of behaviour off-campus, including behaviour conducive to the peaceful and safe enjoyment of housing by both students and neighbours. The University does not condone behaviour that infringes upon the rights of the University's neighbours or that brings the University's good name into disrepute.
- 4) Students are reminded that they are equally responsible for observing the standard of conduct set out in this Code when using any means of electronic or digital communication to send, share, or post messages, images, or other material, including the use of social media sites.
- 5) The Code of Student Conduct sets out the expectations for student behaviour at the University, as well as the processes that the University will follow in addressing complaints of student misconduct.
- 6) Nothing in this Code should be interpreted as prohibiting peaceful assemblies, demonstrations, or lawful picketing, or inhibiting lawful freedom of expression, provided that such expressive activity complies with other University policies.

B. Definitions

- 1) In this Code:
 - a) "Affiliated University Colleges" means Huron University College and King's University College.
 - b) "Code" or "Code of Student Conduct" refers to this Western University Code of Student Conduct.
 - c) "Complainant" means the individual submitting a complaint alleging a breach of the Code by one or more Students.
 - d) "Dean" is the Dean of the student's home faculty or designate, or in the case of a graduate student, the Vice-Provost (Graduate and Postdoctoral Studies) or designate.
 - e) "Faculties" includes the School of Graduate and Postdoctoral Studies at the University.

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- f) “Premises of the University or its Affiliated University Colleges” includes lands, buildings and grounds of the University and its Affiliated University Colleges and other places or facilities used for the provision of the University’s courses, programs or services.
- g) “Student” is an individual registered at the University in a course or program of studies.
- h) “Student under Investigation” means a Student whose conduct is, or was, formally investigated under the Code.
- i) “UDAC” means the University Discipline Appeals Committee, a subcommittee of the Board of Governors of the University.
- j) “University” means the University of Western Ontario operating as Western University.
- k) “University Community” includes employees, students, volunteers and other individuals who work or study at the University.
- l) “University Program, Event or Activity” is a program, event or activity, whether on or off-campus, that is hosted, sanctioned, sponsored, or organized by the University and includes, but is not limited to, coursework, research, and other academic activities, placements, student exchange programs, study abroad, internships, co-ops, field trips, social events, and volunteer and community service activities.
- m) “University Secretariat” means the Secretary of the Board of Governors and Senate for the University or their designate.
- n) Vice-Provost means the Vice-Provost (Students) of the University or their designate.

C. Jurisdiction

- 1) This Code applies to:
 - a) a Student’s conduct that occurs on the Premises of the University or its Affiliated University Colleges;
 - b) a Student’s conduct that occurs during or in connection with a University Program, Event or Activity, including an online component of a University Program, Event or Activity; and

- c) a Student's online or off-campus conduct:
 - i. when the Student is acting as a designated representative of the University or a student organization or when the Student holds out that they are a representative of the University or a representative or member of a student group, team, or organization at the University; or
 - ii. that has, or might reasonably be seen to have an adverse effect on, interfere with, or threaten the proper functioning of the University, its mission, the rights of other members of the University Community to use and enjoy the University's learning and working environments without risk to their health, safety or security; or
 - iii. where the conduct occurs at a program, event or activity not hosted, sanctioned, sponsored, or organized by the University that because of the nature of the program, event or activity and/or the number of Students involved, might reasonably be seen to have a direct or indirect association with the University.
- 2) Despite anything to the contrary in this Policy, the Vice-Provost shall have discretion over whether to exercise jurisdiction over online or off-campus conduct allegations. In determining whether or not to exercise jurisdiction over online or off-campus conduct, the Vice-Provost will consider the seriousness of the alleged conduct, the risk of harm involved, whether the victim(s) are members of the campus community and/or whether the online or off-campus conduct is part of a series of actions that occurred both on and off the Premises of the University or its Affiliated University Colleges.
- 3) Graduate Students are subject to the provisions of this Code except when acting in their capacity as graduate teaching assistants.
- 4) Subject to the provisions of the affiliation agreement between the University and its Affiliated University Colleges, students registered at the Affiliated University Colleges are expected to conform to the standards of this Code while on University property or while participating in a University Program, Event or Activity. Only the Affiliated University Colleges may discipline their students for conduct that would constitute a violation of this Code; however, where circumstances warrant, the University may also take measures to restrict such a student's entry onto University property, use of University facilities, or participation in a University Program, Event or Activity.

- 5) Any Student found responsible for misconduct is subject to the disciplinary sanctions of this Code, regardless of the action or inaction of civil authorities. Nothing in this Code precludes the University from referring a matter to the appropriate law enforcement agency either before, during, or after disciplinary action is taken by the University under this Code. A Student may be subject to criminal prosecution and/or civil proceedings notwithstanding, and in addition to, disciplinary action taken by the University against the Student under this Code.

D. Relationship to Other University Policies and Codes

- 1) If a Student's conduct could be considered a breach of this Code and also a breach of the *Policy on Scholastic Offences* or of the *Policy on Gender-Based and Sexual Violence*, the University, in its discretion, may proceed under the Code or under either of the aforesaid Policies. A student may not be penalized under both the Code and the Policy on Scholastic Discipline or the Policy on Gender-Based and Sexual Violence for the same conduct.
- 2) Other than as set out in subsection D.1, no penalties or restrictions imposed under other University policies, rules, codes, regulations, or contracts (e.g., regulations relating to use of computing resources, regulations established by various units of the University including but not limited to Intercollegiate Athletics, Western Libraries, and Western Campus Recreation; or a residence contract with the Division of Housing and Ancillary Services) shall bar or prevent the University from also instituting disciplinary proceedings and imposing sanctions under this Code. In such event, the Vice-Provost shall consult the relevant unit head before taking additional disciplinary action.

E. Examples of Prohibited Student Conduct

- 1) The following list sets out examples of prohibited conduct. It is not intended to be exhaustive or exclusive. Any conduct that breaches the standard of conduct set out in subsection A.2 may be subject to discipline under this Code.

a) Disruption or Interference

- i. Disrupting or obstructing by action, threat or otherwise, any University or Affiliated University College activity, including a University Program, Event or Activity, or other authorized activities on Premises of the University or its Affiliated University Colleges, or the right of another person to carry on his/her legitimate activities, or to speak or to associate with others. University or Affiliated University College activities include, but are not limited to, teaching, research, studying, sports and recreation, administration and meetings.

- ii. Interfering with, obstructing, disrupting, misleading, or failing to comply with the directions of, any University official or emergency personnel (e.g., Western Special Constable Service, fire, ambulance response) acting in the performance of their duties.

b) Misconduct Against Persons and Dangerous Activity

- i. Any assault, harassment, stalking, intimidation, threats, or coercion.
- ii. Conduct that threatens or endangers the health or safety of any person.
- iii. Contravention of the University's *Non-Discrimination/Harassment/Sexual Misconduct Policy*.
- iv. Knowingly (which includes when one should reasonably have known) creating a condition that endangers the health, safety, or well-being of any person regardless of consent.
- v. Engaging in conduct that is, or is reasonably seen to be, humiliating or demeaning to another person, or coercing, enticing or inciting a person to commit an act that is, or is reasonably seen to be, humiliating or demeaning to that person or to others (e.g., hazing) regardless of consent.

c) Misconduct Involving Property

- i. Unauthorized entry and/or presence on any Premises of the University or its Affiliated University Colleges, or any premises used for University Programs, Events or Activities.
- ii. Misappropriation, damage, unauthorized possession, defacement, vandalism, and/or destruction of premises or property of the University or its Affiliated University Colleges, or the property of others.
- iii. Use of University or Affiliated University College facilities, equipment or services contrary to express instruction or without proper authority or permission, as required.
- iv. Misuse of University or Affiliated University College supplies and documents, including equipment, library and computer resources, keys, records, transcripts and permits.

- v. Interfering with, obstructing, or tampering with emergency telephones, fire protection equipment or emergency equipment or facilities (e.g., fire doors, fire bells, fire extinguishers, fire hoses); disconnecting or blocking fire alarms; setting unauthorized fires; raising a false fire alarm; blocking or wedging open fire and smoke doors on corridors or stairways.

d) Misrepresentation or False Information

- i. Furnishing false information.
- ii. Forging, altering or misusing any document, record, card or instrument of identification where such conduct does not constitute a scholastic offence under Senate policy. This applies to any identification or information, including Western ONECard, access cards, key cards, transcripts.

e) Alcohol and Drug Use

- i. Illegal use, possession or distribution of a controlled or restricted substance.
- ii. Contravention of provincial liquor laws or the policies of the University or Affiliated University Colleges governing the possession, distribution and/or consumption of alcoholic beverages on the Premises of the University or its Affiliated University Colleges.

f) Improper Use of Dangerous Objects and Substances

Storage, possession or use of firearms, explosives, or other weapons (including any item that can reasonably be perceived to be a weapon by others, e.g., replica guns, airsoft guns), flammable solvents, biohazardous, volatile or poisonous materials, except in areas formally designated for that purpose by authorized University personnel.

g) Contravention of University Regulations

Violation of any published or posted University policy, rule or regulation.

h) Contravention of Other Laws

Contravention of any provision of the Criminal Code or any other federal or provincial statute or municipal by-law.

i) Aiding in the Commission of a Prohibited Act or Attempting to Commit a Prohibited Act

Aiding or encouraging others in the commission of an act prohibited under this Code or attempting to commit an act prohibited under this Code.

j) Failure to Comply

Failure to comply with any sanction or interim measure imposed by the Vice-Provost under this Code.

F. Complaint Procedures

Overview:

Allegations that a Student's conduct may be a violation of this Code should be submitted to the Vice-Provost as soon as possible following the discovery of the alleged violation.

- 1) The Vice-Provost is authorized to respond to complaints/reports of alleged misconduct, make final determinations as to whether there have been breaches of the Code, and impose sanctions. Students who have been found to have breached the Code may appeal those decisions and sanctions in accordance with the appeal process set out in this Code.
- 2) Allegations of misconduct shall be reviewed in a timely manner. As part of the review process, the Vice-Provost may meet with, seek assistance from, and/or consult with any member of the University community or individuals outside the University community with particular knowledge of the alleged incident or those involved, and may consult or seek assistance from appropriate University officials in resolving a complaint.
- 3) Unless the Dean has been designated by the Vice-Provost to deal with the complaint, the Dean shall be notified of formal Code proceedings at the commencement of an investigation.

Procedures:

- 1) Upon receipt of a complaint/report, the Vice-Provost will review the allegations and, if they fall within the jurisdiction of the Code, may attempt to resolve the matter informally or may proceed to initiate formal Code proceedings. If, in the opinion of the Vice-Provost, the allegations fall outside the jurisdiction of the Code or should the Vice-Provost determine not to exercise jurisdiction over online or off-campus conduct, the Vice-Provost may dismiss the complaint/report.

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- 2) The Vice-Provost (Students) or designate may consult with the Dean to determine whether the matter should be dealt with informally, and may refer the matter to the Dean for informal resolution. In the event the matter cannot be resolved informally, the Vice-Provost may initiate formal Code proceedings.
- 3) Where a complaint/report was made by a member of the University Community, the Complainant shall be advised by the Vice-Provost whether the matter will be resolved informally, whether formal Code proceedings will be initiated, or if the complaint will be dismissed.
- 4) If the Vice-Provost initiates formal Code proceedings regarding a Student's conduct, the Student under Investigation shall be informed in writing of the nature of the allegations and the facts alleged against them. The Dean shall be informed of the decision to initiate formal Code proceedings.
- 5) The Student under Investigation shall be given a reasonable opportunity to respond to the allegations and to submit relevant information. The Student under Investigation shall also be given a reasonable opportunity to meet personally with the Vice-Provost to discuss the matter. It is the responsibility of the Student under Investigation to provide the Vice-Provost with all materials and information in support of their position.
- 6) The Vice-Provost may interview any other person they feel is relevant and review any other materials and information relevant to the investigation.
- 7) If the Vice-Provost concludes that there has been a breach of this Code, they may impose an appropriate sanction or sanctions on the Student under Investigation. Prior to doing so, the Vice-Provost shall provide an opportunity for the Student under Investigation to make submissions on sanction. The Vice-Provost may also consult with the Dean on sanction.
- 8) If the Student under Investigation does not respond to the allegation or does not meet with the Vice-Provost after having been given a reasonable opportunity to do so, the Vice-Provost may proceed to make a final decision and impose a sanction without such a response or meeting.
- 9) At all meetings with the Vice-Provost, the Student under Investigation may be accompanied by a support person of their choosing.
- 10) The Vice-Provost may request a staff member to be present at a meeting. In such cases, the Student under Investigation will be notified in advance of the meeting of who will be in attendance and the reason for their attendance.
- 11) The decision of the Vice-Provost, with reasons, shall be communicated in writing to the Student under Investigation. A copy of the decision will be kept in the office of the Vice-Provost and will be shared with other units/Faculties on a need-to-know basis (e.g., Office of the Registrar, Western Special Constable

Service, Dean). Where a complaint/report was made by a member of the University Community, they shall be informed of the decision as to whether the Code had been breached and whether corrective measures have been taken. In exceptional circumstances, other person(s) affected by the conduct of the Student under Investigation may be advised of the outcome.

- 12) The Vice-Provost is responsible for the implementation of any decision made under the Code.
- 13) The Vice-Provost may continue Code proceedings notwithstanding that a Student under Investigation withdraws from the University prior to a final decision. Where a Student's conduct comes to light after they have left the University, the Vice-Provost may decide to proceed with the review and disposition of a complaint, if the seriousness of the allegation warrants such action.

G. Sanctions

- 1) The Vice-Provost may impose one or more sanctions on a Student under Investigation for a breach of this Code, of which those listed below are examples. Sanctions imposed shall be proportional to the type of misconduct. The most serious types of misconduct will merit the most serious sanctions: suspension and expulsion. Prior breaches of the Code may be considered in determining an appropriate sanction. Any interim measures imposed on the Student under Investigation shall also be taken into consideration.
- 2) In considering an appropriate sanction, the Vice-Provost's primary focus must be to ensure the safety and security of the University, its members, and visitors. However, where possible and appropriate, the Vice-Provost shall consider educational sanctions in addition to or instead of other sanctions. Such sanctions are designed to help a Student under Investigation understand why their behaviour was inappropriate and to appreciate the impact of that behaviour on others.
- 3) Sanctions include:
 - a) **Written Warning or Reprimand.**
 - b) **Educational Sanctions.** Such sanctions include apologies, educational programs, activities and assignments, University or community service, restorative practice, individual assessment, and counselling.
 - c) **Behavioural Contract.** A set of behavioural expectations, terms, and conditions that is developed with and signed by the Student under Investigation. With their signature, the Student under Investigation agrees to the expectations, terms, and conditions and acknowledges that any breach of the contract may result in more serious sanctions.

- d) **Exclusion from a class, examination room, or other area.** (Note: In this context, “class” refers to a period of instruction such as a lecture, seminar, tutorial, laboratory session, recital, concert or exhibition of visual arts or sports event.)
- e) **Removal**, either temporarily or permanently, from a course in which the Student under Investigation is registered.
- f) **Restriction or Denial of University Services or Privileges.** The lost privileges may include, but are not limited to, parking privileges, unrestricted access to the library, access to athletic facilities, and access to and participation in extra-curricular activities.
- g) **No Contact Order.** Requirement that a Student under Investigation have no direct or indirect contact with a specific individual or group.
- h) **Prohibition** or limitation of employment at the University.
- i) **Prohibition** or limitation on entering University premises or specific parts thereof including academic/research facilities and laboratories.
- j) **Restitution.** Requirement that restitution be made to another individual or the University for any loss or damage to personal or University property.
- k) **Forfeiture** of University awards or financial assistance.
- l) **Disciplinary Probation.** A designated period of time during which the Student under Investigation is required to adhere to the terms of the probation which may include restrictions of student privileges and/or set behavioural expectations, violation of which will result in the imposition of further sanctions.
- m) **Suspension** from the University for a specified time period. Conditions for readmission may be specified.
- n) **Expulsion** from the University.

H. Disruption of Instructional or Administrative Activities: Short Term Removals

- 1) Disruption of instructional activities, including examinations, initially may be dealt with by the appropriate instructor or proctor as a matter of classroom discipline. The instructor or proctor may require the Student to leave the area for the remainder of the particular class or examination and shall report the incident immediately to the relevant Chair/Dean.

- 2) Academic or administrative unit heads (or designates) may require a Student to leave an office or other facility if the unit head (or designate) believes on reasonable grounds that the Student's continued presence in that area will be detrimental to good order or will constitute a threat to the safety of others. The incident shall be reported immediately to the Vice-Provost or to Western Special Constable Service.

I. Interim Measures

- 1) **Notice of Trespass:** Western Special Constable Service, in circumstances in which they reasonably believe that there are grounds to make an interim measure as set out in subsection 2 below, may temporarily exclude a Student from campus for up to 10 days by delivering a Notice of Trespass under the *Trespass to Property Act*.
- 2) **Interim Measures:** Upon a receipt of a complaint/report, the Vice-Provost may impose interim measures that the Vice-Provost deems to be appropriate pending completion of the Complaint Process. When determining interim measures, the Vice-Provost shall consider the interests of the Complainant and the Student under Investigation, the integrity of the ongoing investigation and the Complaint Process, and the health and safety of the Members of the University Community. Interim measures are not disciplinary and do not represent a finding of misconduct.
- 3) Interim measures may include but are not limited to one or more of the following:
 - a) removing a Student from class or residence;
 - b) imposing a no-contact directive;
 - c) a prohibition from attending campus or other University owned property;
 - d) suspending campus or work-related privileges;
 - e) changing a lab schedule;
 - f) moving an office to another location; and/or
 - g) providing an escort to the Complainant.
- 4) A Student who is subject to interim measures can ask the Vice-Provost to reconsider whether they are appropriate, in consideration of the factors in section I.2. The Vice-Provost shall advise the Student of their reconsideration decision in writing ordinarily within three business days of the Student's request for reconsideration. There is no further right of reconsideration or appeal of the decision with respect to interim measures.

J. Notices

- 1) Notices and other written communications under this Code may be delivered in-person, by email or by mail (regular priority, courier, or registered). Mail service will be deemed effective on the fifth day after mailing for regular mail. Emails shall be sent to the Western email account of the Student/Student under Investigation. Documents sent or delivered off-campus will be sent to the home address recorded in their electronic record at the University unless the Student/Student under Investigation expressly requests that the documents be sent to another address.

K. Transcripts and Registration

- 1) Suspension and expulsion are recorded on the official transcript. The suspension notation will be removed when the Student under Investigation graduates or five years after the last registration. The expulsion notation is permanent unless the President grants a petition for its removal. Any such petition may be made no sooner than five years after the offence. Removal of the expulsion notation from the transcript does not overturn the expulsion decision; the expulsion remains in effect.
- 2) While under investigation for serious misconduct that may result in suspension or expulsion, a Student under Investigation will not be issued transcripts directly, but, at the Student under Investigation's request, transcripts will be sent to institutions or potential employers. If the Student under Investigation is subsequently suspended or expelled, the recipients of the transcript will be issued a revised transcript. This restriction also applies in situations where the Student under Investigation is no longer enrolled at the University during the investigation.

L. Appeals

Grounds for Appeal

- 1) A Student under Investigation may appeal a finding of misconduct to UDAC on one or more of the following grounds:
 - a) that there was a serious procedural error in the consideration of the complaint which was prejudicial to the Student under Investigation;
 - b) that new evidence, not available at the time of the earlier decision, has been discovered, which casts doubt on the correctness of the decision; and/or
 - c) that the Vice-Provost did not have the authority under this Code to reach the decision or impose the sanctions they did.

- 2) In addition to the grounds set out in subsection L.1, if the sanction is forfeiture of University awards or financial assistance, suspension, or expulsion, a Student under Investigation may appeal the finding of misconduct and/or the sanction(s) to UDAC on the ground that the decision and/or sanction was unreasonable or unsupportable on the evidence before the Vice-Provost.
- 3) Parties to an appeal are the Student under Investigation and the Vice-Provost.

Legal Counsel

- 4) The Student under Investigation and/or the Vice-Provost may be represented by legal counsel. UDAC also reserves the right to retain and be represented by legal counsel.
- 5) The Student under Investigation and the Vice-Provost/University shall be responsible for their respective legal costs, if any. UDAC will not order the Vice-Provost/University to pay all or part of the Student under Investigation's legal costs, nor will it order the Student under Investigation to pay all or part of the Vice-Provost's/University's legal costs.

UDAC Support

- 6) The University Secretariat shall provide administrative support and procedural advice to Panels during initial panel meetings and oral hearings.

Application for Appeal and Evidence

- 7) An appeal application form (the "Appeal Application") must be filed with the University Secretariat within four (4) weeks after a decision has been issued by the Vice-Provost. The Appeal Application must contain a copy of the Vice-Provost's decision, the grounds for the appeal, the outcome sought, a full statement supporting the grounds for the appeal, the name of legal counsel or agent, if any, and any relevant documentation in support of the appeal. Where the basis of the appeal is new evidence, such new evidence shall be described clearly and the names of any witnesses shall be provided.
- 8) An Appeal Application will not be accepted by the University Secretariat if incomplete or not filed within the time period specified above. The University Secretariat strongly encourages all parties to electronically file their submissions.
- 9) Exceptions to the time limit for filing an Appeal Application are at the discretion of the Chair of UDAC upon written application of the Student under Investigation. The Appeal Application and further details on hearing procedures may be obtained from the University Secretariat.

- 10) The Appeal Application shall comply with the following formatting requirements:
 - a) the length shall be no more than ten (10) pages (letter size);
 - b) the spacing shall be at least one and one-half lines apart;
 - c) the font shall be 12-point size; and
 - d) the margins shall not be less than 2.5 cm or 1 inch.
- 11) An Appeal Application shall not include any duplicative materials. The University Secretariat shall inform the Student under Investigation if their Application does not conform with these requirements and will provide an opportunity for a student to amend their submissions (e.g., remove duplicate materials, reorganize materials) within a reasonable timeframe determined by the University Secretariat.
- 12) All arguments must be supported by evidence in the initial Appeal Application. A detailed description of the evidence supporting the argument (including any supporting documentation) must be presented, in writing, as part of the Appeal Application.
- 13) Upon receipt of the Appeal Application, the University Secretariat shall provide the Vice-Provost with a copy of the Appeal Application and attachments. The Vice-Provost shall file a concise written response (the "Response") to the Appeal Application with the University Secretariat within two (2) weeks of receiving the documents. A copy of the Response shall be provided by the University Secretariat to the Student under Investigation, who shall be given an opportunity to file a reply within ten days of receipt of the Response (the "Reply").
- 14) Furthermore, upon receipt of the Appeal Application, the Response, and the Reply (if any), the University Secretariat shall:
 - a) notify the Chair of UDAC;
 - b) constitute a panel of at least two (2) members and the Chair of UDAC (the "Panel"); and
 - c) schedule the initial meeting of the Panel.
- 15) If either party submits new evidence to the University Secretariat at any point of the process prior to a panel meeting or hearing, it must be relevant to the grounds for appeal under consideration and accompanied by a written explanation as to why the evidence is relevant and significant and why it was not previously available. Similarly, in the case of a hearing, if either party intends to call a witness whose evidence was not before the Vice-Provost or

designate, the evidence of the witness must be relevant to the grounds for appeal under consideration and accompanied by a written explanation of the evidence, why it is relevant and significant, and why it was not previously available. The University Secretariat shall notify and provide the new evidence to the other party, who will have the opportunity to respond to the new evidence, typically within seven (7) business days. If the student provides new evidence, the Vice-Provost may also reconsider their decision, typically within seven (7) business days of the notification.

Request for Accommodations

- 16) If a student with a disability requires reasonable accommodations to participate in any aspect of the appeal procedures, the student shall submit written notice to the University Secretariat in the form of a letter addressed to the Chair of UDAC. The University Secretariat shall notify Accessible Education and the Student of its receipt of the request and offer to share information on appeal procedures, if needed, to assist in Accessible Education's determination of reasonable accommodations for the student. Accessible Education shall provide written notice to the Chair of UDAC and the Student regarding its determination. If a Student disagrees with the decision of Accessible Education, they shall follow the appeal procedures set out in the *Policy on Academic Accommodation for Students with Disabilities* and provide written notice to the Chair of UDAC that they have initiated those appeal procedures.

Onus

- 17) The onus is on the Student under Investigation to satisfy the Panel that the ruling of the Vice-Provost or designate was unreasonable or unsupportable on the evidence before them. Unreasonable, for the purposes of appeals to UDAC, means the decision is not supported by the evidence provided to the Vice-Provost. When determining whether a decision is unreasonable, UDAC must consider that a high degree of deference is given to the Vice-Provost in reaching their decisions. The question posed to UDAC isn't whether someone besides the Vice-Provost could have made a different decision, but whether the decision could have been made by a reasonable person based on the evidence provided.

Implementation of Sanctions Pending Appeal

- 18) Filing an Appeal Application will not stay the implementation of any sanctions imposed except where the Chair of UDAC otherwise orders, upon application of the Student under Investigation, and after receipt of submissions on the issue from the Vice-Provost.

Initial Panel Review Process

- 19) The Panel is bound by neither strict legal procedures nor strict rules of evidence. The Panel will consider only evidence that was before the Vice-Provost or designate whose decision is being appealed, including such new evidence submitted in accordance with section L.15.
- 20) Copies of all documentation submitted to the University Secretariat by the parties will be distributed to both parties and to the members of UDAC serving on the Panel by the University Secretariat prior to UDAC's review of the appeal.
- 21) Subject to the requirements set out herein, the Panel shall determine its own procedures and practices in any proceeding and the Chair may make such rules and orders as they deem necessary and proper to ensure a fair and expeditious proceeding. The Panel shall proceed fairly in its disposition of the proceeding, ensuring that both parties are aware of the evidence to be considered, are given copies of all documents considered by the Panel, and are given an opportunity to present their evidence during the process.
- 22) The Panel may, in its discretion:
 - a) summarily dismiss an appeal if the Appeal Application does not, in the judgment of the Panel, raise a valid ground of appeal or does not assert evidence capable of supporting a valid ground;
 - b) grant an oral hearing if a party satisfies the Panel that there is valid reason to do so; or
 - c) make a finding as set out in subsection L.31 below, solely on the basis of written material filed by the parties.

Scheduling an Oral Hearing

- 23) While an attempt shall be made to schedule an oral hearing at a time convenient to the Panel and the parties, a request by a party for a lengthy delay in the scheduling of the hearing or a postponement of a scheduled hearing will be granted by the Chair of UDAC only in exceptional circumstances.
- 24) In the case of an oral hearing, if the University Secretariat is unable to contact the Student under Investigation within a reasonable time to schedule a hearing, they will be notified at the email address on the Appeal Application of the deadline by which they must contact the University Secretariat to arrange a hearing. If the Student under Investigation has not contacted the University Secretariat by the specified deadline, the appeal will be deemed to be abandoned and may not be resubmitted.

- 25) Each party to an oral hearing shall be sent a Notice of Hearing setting out the time, place, and purpose of the hearing. If a party does not attend the oral hearing, the Panel may proceed in the party's absence.

Oral Hearing

- 26) The oral hearing shall be held *in camera*. At the discretion of the Chair of UDAC, other members of UDAC may attend the *in camera* meetings as observers.
- 27) Each member of a Panel, including the Chair, shall vote. There shall be no abstentions. A majority of positive votes is required to grant an appeal.
- 28) The Chair of a Panel may waive any time limits specified herein or in any procedures adopted by a Panel in a given proceeding.
- 29) The Panel will meet in closed session immediately prior to the hearing to handle any preliminary matters.
- 30) The hearing shall proceed in the following order:
- a) Chair's introduction
 - b) Opening statement of Student under Investigation (brief description of the grounds for the appeal and the outcome sought by Student)
 - c) Presentation of evidence by Student under Investigation
 - d) Cross-examination by Vice-Provost or designate
 - e) Questions from UDAC Appeal Committee
 - f) Re-examination

Subsections (c), (d), (e), and (f) are repeated for each of the Student's witnesses. The order of presentation is at the Student's discretion.

- g) Opening statement of Vice-Provost or designate
- h) Presentation of evidence by Vice-Provost or designate
- i) Cross-examination by Student under Investigation
- j) Questions from Appeal Committee
- k) Re-examination

Subsections (h), (i), (j), and (k) are repeated for each of the Vice-Provost's witnesses. The order of presentation is at the Vice-Provost's discretion.

- l) Reply evidence by Student, if desired, on any new matters raised by Vice-Provost or designate
- m) Cross-examination of reply witness by Vice-Provost or designate
- n) Questions from Appeal Committee
- o) Closing submissions of Student under Investigation
- p) Closing submissions of Vice-Provost or designate

Findings

- 31) UDAC may:
 - a) Deny the appeal.
 - b) In the case of an appeal under paragraph L.1(a) or (b), grant the appeal and direct the Vice-Provost to consider the matter or reconsider some pertinent aspect of their decision, and may include recommendations relating to the conduct of any reconsideration.
 - c) In the case of an appeal under paragraph L.1(c), grant the appeal and quash the original decision.
 - d) In the case of an appeal under subsection L.2, grant the appeal and quash or vary the original decision, grant the appeal and vary the sanction, or grant the appeal and direct the Vice-Provost to reconsider the matter or reconsider some pertinent aspect of their decision, and may include recommendations relating to the conduct of any reconsideration.

Notice of Decision

- 32) Notice of UDAC's decision will be sent to the parties by the University Secretariat as soon as possible after a decision is made. A brief written statement of reasons will follow within a reasonable time. The Vice-Provost will notify the Complainant and relevant units/Faculties, on a need-to-know basis, of the decision.

Further Appeal

- 33) Within two weeks of receipt of the reasons for decision from UDAC, either party may appeal to the President on the grounds that there was a serious procedural error by UDAC that was prejudicial to the party. The President may designate another individual to hear the appeal.
- 34) The appeal must state the full grounds upon which the party relies and all arguments in support thereof. The President or designate may invite written submissions from the other party and/or the Chair of UDAC before making his or her decision. The President or designate may dismiss the appeal, grant the appeal and order that the matter be re-heard by UDAC, or make such other disposition of the matter as they deem appropriate, and will provide reasons for their decision. The decision of the President or designate is final.

M. Confidentiality

1. The University will treat complaints/reports in a confidential manner and in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act*. The University will limit sharing of information to those within the University who have a need to know the information for the purposes of implementing the Code, including providing support, accommodation, implementing interim measures, and facilitating the investigation and decision-making processes.
2. Confidentiality cannot be maintained where information needs to be disclosed in order to address a risk to the health and safety of a member or members of the University Community, or where required by law.
3. Where a Complainant makes a complaint/report against a Student, the name of the Complainant, if known, and the material allegations being made will be disclosed to the Student.
4. Both a Student under Investigation and Complainant are required to maintain the confidentiality of the investigation process. Unauthorized disclosure of investigation-related information, including but not limited to interim measures or findings under the Code, will be considered a breach of the Code and may be subject to disciplinary action. These confidentiality obligations shall not apply to a Student under Investigation or Complainant seeking support from professional advisors and/or support persons, who shall also be bound by these confidentiality obligations.

N. Annual Report

The Vice-Provost shall report annually to the Board of Governors of the University summarizing the categories of misconduct, the range of sanctions, the number of appeals to UDAC, and the outcome of such appeals. The report will be posted publicly by the University Secretariat.

O. Review of Code

The Board of Governors of the University shall review the Code every five years.