

# STUDENT DISCIPLINE BYLAW AND PROCEDURE

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Students are expected to conduct themselves responsibly with due regard for the rights of others and to maintain a high level of personal and academic integrity. Students who transgress these standards, whether expressed in policy or implied in generally accepted codes of conduct, can expect disciplinary action. Penalties arising from disciplinary actions may include fines, withholding of student privileges, suspension or expulsion from programs, or some other action specific to the situation. Penalties may also affect student eligibility to continue in their programs or to graduate.

## Student Discipline Bylaw

### Part I: Reason for Bylaw

1.1 The reason for this Bylaw is to outline the Disciplinary Actions available to Disciplinary Authorities and the subsequent appeal process available to Students for findings of Academic Misconduct and Non-Academic Misconduct.

### Part II: Policy Content

#### Definitions

2.1 The following terms are defined for the purpose of this Bylaw:

(a) "Academic Misconduct" has the same meaning as defined in section 2.5 of the Student Academic Misconduct Procedure.

(b) "Academic Staff" refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.

(c) "Appeal Procedure" means the Student Discipline – Appeal Procedure.

(d) "Bylaw" means the Student Discipline Bylaw.

(e) "College" means a Professional College as defined under the Definitions of Academic Units Policy.

(f) "Disciplinary Action" means the specific disciplinary actions available for each Disciplinary Authority under Table 3: Disciplinary Actions and Disciplinary Authorities.

(g) "Disciplinary Authority" means the discipline authority designated to determine a matter of student discipline under:

(i) Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct; or

(ii) Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct.

(h) "Expulsion" has the same meaning as defined under section 2.16 of this Bylaw.

(i) "Faculty" means a Faculty as defined under the Definitions of Academic Units Policy.

(j) "Non-Academic Misconduct" has the same meaning as defined in section 2.5 of the Student Non-Academic Misconduct and Concerning Behaviour Procedure.

(k) "Reprimand" has the same meaning as defined under section 2.6 of this Bylaw.

(l) "School" means a "School of the University" or a "School of a Faculty", as those terms are defined under the Definitions of Academic Units Policy.

(m) "Student" means any of the following individuals:

(i) Admitted – an individual who has accepted an offer of admission to the University;

(ii) Current – an individual who is either registered in course(s) or in a program of studies at the University or is eligible to continue in their studies at the University either because the individual meets minimum academic performance requirements or will be eligible to continue after discharging a financial hold or serving Suspension due to academic or discipline;

(iii) Former – an individual who has graduated from the University or who has withdrawn (either voluntarily or was required to withdraw).

(n) "Suspension" has the same meaning as defined in section 2.8 of this Bylaw.

(o) Table 1" refers to Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct, which follows the Bylaw.

(p) "Table 2" refers to Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct, which follows the Bylaw.

(q) "Table 3" refers to Table 3: Disciplinary Actions and Disciplinary Authorities, which follows the Bylaw.

(r) "Unit" means a Faculty, School, College, institute, centre, academic support unit (for example, libraries) or administrative unit whose Unit Head reports to the President or a Vice-President, Associate Vice-President or Vice-Provost. An academic department within a Faculty/College/School is not a Unit as the term is used within this Bylaw.

(s) "Unit Head" refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.

(t) "University" means The University of Manitoba.

(u) "University Community" means all Board of Governors members, Senate members, Faculty/College/School Councils, employees,

anyone holding an appointment with the University, Students, volunteers, external parties, contractors and suppliers.

(v) "UDC" means the University Discipline Committee composed under section 2.53 of the Appeal Procedure.

### **Disciplinary Actions**

2.2 Students will be subject to Disciplinary Action under this Bylaw for acts of Academic Misconduct and for acts of Non-Academic Misconduct.

2.3 The Disciplinary Actions available to a Disciplinary Authority are set out in Table 3.

2.4 Once a Disciplinary Action has been implemented, no further Disciplinary Action may be imposed for the same matter except as a result of an appeal by the Student.

### **Student Academic History/Transcript with regard to Disciplinary Actions**

2.5 Disciplinary Actions implemented shall not ordinarily be recorded on the Student's academic history / transcript except in the following:

- (a) if the Student receives Suspension or Expulsion under sections 16, 17, 20 or 26 of Table 3; or
- (b) a Reprimand has been ordered recorded on a Student's academic history / transcript under section 2 of Table 3.

### **Reprimand**

2.6 "Reprimand" means an action intended to convey stern disapproval to a Student by means of recording their Academic Misconduct or Non-Academic Misconduct on their Student's academic history / transcript for a period of up to five (5) years.

2.7 Where a Reprimand has been ordered to be recorded on the Student's academic history / transcript (see section 2 of Table 3), the Reprimand shall be removed:

- (a) Following the elapse of the specified period of time, upon the written request of the Student to the Registrar; or
- (b) Earlier, upon a written order from the Disciplinary Authority that implemented the Disciplinary Action.

### **Suspensions**

2.8 "Suspension" means any withdrawal of one or more rights or privileges for a definite or indefinite period of time.

2.9 A Student may receive Suspension from the following:

- (a) a particular course or courses;
- (b) a department;
- (c) a Faculty/College/School;
- (d) the University; or
- (e) a Residence.

2.10 Students who have been suspended for a definite period of time shall, upon the lifting of the Suspension, have the rights or privileges that were suspended automatically reinstated, subject to any conditions attached to the Disciplinary Action proscribing future conduct.

2.11 Suspension for an indefinite period of time shall be dealt with as follows:

- (a) In the case of Suspension for an indefinite time by the Executive Director of Enrolment Services, the Suspension may be lifted by the Executive Director of Enrolment Services upon consideration at the written request of the Student, after consultation with the Unit Head(s) of the Unit(s) concerned.
- (b) In the case of Suspension for an indefinite period of time by a Disciplinary Authority other than the Executive Director of Enrolment Services, the Student may apply to the Disciplinary Authority that imposed the final penalty for a lifting of the Suspension. If the Suspension is lifted, the Student will have the rights or privileges that were suspended automatically reinstated, subject to any conditions attached to the Disciplinary Action proscribing future conduct.

2.12 Where a Student has received a Suspension pursuant to sections 2.9(c) or 2.9(d) of this Bylaw, any academic credits earned by the Student at the University or at any academic institution during the period of Suspension shall not be counted as credit toward any degree or program offered by the University, unless at the time of the imposition of the Suspension, the Disciplinary Authority stipulates otherwise.

2.13 Where the Student has received Suspension from a Faculty/College/School of the University, any other Faculty/College/School may refuse to register the Student for any course or courses or refuse to accept the Student into their programs, provided that prior to such refusal, the other Faculty/College/School has:

- (a) obtained and considered a written report from the Disciplinary Authority that implemented the Suspension, outlining the circumstances surrounding the Disciplinary Action;
- (b) provided the Student a copy of the report; and
- (c) given the Student an opportunity to respond to the report.

2.14 A Suspension will appear on the Student's academic history / transcript until such time as the Suspension period has elapsed, when it shall be removed upon the written request of the Student to the Registrar.

2.15 In the case of Suspension for supplying false or misleading information in connection with an application for admission (see sections 23 and 24 of Table 3), any notation on the Student's academic history / transcript may only be removed:

- (a) For undergraduate students, by the Registrar upon the written order of the Disciplinary Authority that implemented the Disciplinary Action.
- (b) For graduate students, by the Registrar in consultation with the Dean, Faculty of Graduate Studies, upon the written order of the Disciplinary Authority that implemented the Disciplinary Action.

### **Expulsions**

2.16 "Expulsion" means a withdrawal of all rights or privileges available to Students for either a definite or indefinite period of time.

2.17 A Student may receive Expulsion from the following:

- (a) a Faculty/College/School;
- (b) the University; or

(c) a Residence.

2.18 In the case of an Expulsion for a definite period of time, upon expiration of such time, in order to be readmitted, the Student must reapply for admission through normal channels to the appropriate authority having jurisdiction over admission.

2.19 In the case of an Expulsion for an indefinite period of time the Student may apply to the Disciplinary Authority that imposed the final penalty for a lifting of the Expulsion. If the Expulsion is lifted, the Student, in order to be readmitted, must reapply for admission through normal channels to the authority having jurisdiction over admission.

2.20 Where a Student has received an Expulsion pursuant to sections 2.17(a) or 2.17(b) of this Bylaw, any academic credits earned by the Student at the University or at any academic institution during the period of Expulsion shall not be counted as credit toward any degree or program offered by the University, unless at the time of the imposition of the Expulsion, the Disciplinary Authority stipulates otherwise.

2.21 Where the Student has received Expulsion from a Faculty/College/School of the University, any other Faculty/College/School may refuse to register the Student for any course or courses or refuse to accept the Student into their programs, provided that prior to such refusal, the other Faculty/College/School has:

- (a) obtained and considered a written report from the Disciplinary Authority that implemented the Expulsion, outlining the circumstances surrounding the Disciplinary Action;
- (b) provided the Student a copy of the report; and
- (c) given the Student an opportunity to respond to the report.

2.22 An Expulsion shall appear on the Student's academic history / transcript and may only be removed by the Registrar upon the written order of the Disciplinary Authority that implemented the Disciplinary Action.

### Appeals

2.23 Students have a right to appeal decisions made by a Disciplinary Authority, excluding the following decisions which are final:

- (a) Any decision of the UDC.
- (b) The discretionary decision of a Disciplinary Authority to lift a suspension or an expulsion under section 2.11 or section 2.19 of this Bylaw;
- (c) The decision of a Faculty/College/School to refuse a Student under section 2.21;
- (d) Any finding of fact under the Respectful Work and Learning Environment Policy or the Sexual Violence Policy.

2.24 Appeals shall be conducted in accordance with the Appeal Procedure.

2.25 Subject to section 2.26 of this Bylaw, no Disciplinary Action shall be implemented and Students shall be permitted to continue in their courses or program until the time for appeal has elapsed or until the Student has waived in writing the right to appeal, whichever occurs first. The Disciplinary Authority must ensure that the Student's work continues to be graded normally and is unaffected until the appeal period has lapsed or the appeal process is complete.

2.26 Section 2.25 of this Bylaw does not apply in the following circumstances:

- (a) Where the Disciplinary Action would be entered on the academic history / transcript of the Student, the Registrar shall be notified by the Disciplinary Authority implementing such Disciplinary Action, and shall not issue any academic transcripts until the appeal period has elapsed or the appeal process is complete;
- (b) Where the Disciplinary Action relating to academic dishonesty or academic fraud may result in a change to the Student's transcript, the Registrar shall be notified by the Disciplinary Authority implementing such Disciplinary Action, and shall not issue any transcripts until the appeal period has elapsed or the appeal process is complete;
- (c) Where changes in the Student's courses and/or program are directly related to the matter under disciplinary consideration, such changes shall not be permitted;
- (d) Where if the Disciplinary Action were not implemented, the safety of members of the University Community would be compromised.

### Confidentiality

2.27 All matters relating to student discipline or appeal must be kept confidential in accordance with applicable University policies and procedures, and The Freedom of Information and Protection of Privacy Act and The Personal Health Information Act.

### Annual Reports

2.28 The Annual Report of the UDC will contain all the disciplinary matters that have occurred on campus from September 1 to the following August 31 of each Calendar year.

2.29 Academic Staff and department heads who have dealt with a disciplinary matter shall report to the Dean/Director of the Faculty/College/School to which each Student belongs, setting out the nature of the offence and particulars of the penalty and the Student's identification number if applicable. The Student's identification number is only used for administrative purposes to reduce the possibilities of errors in duplicate reporting and will not be included in the Annual Report.

2.30 Disciplinary Authorities, except members of the Academic Staff and department heads, shall report all disciplinary matters considered by or reported to them to the Chair of the UDC by October 1 of each year. The report shall contain the number of disciplinary matters referred to such person or body, the nature of the offences and particulars of the dispositions, and such further matters as may be required by the UDC.

2.31 The recording secretary of the UDC shall prepare and the Chair shall submit a report to the University President by December 1 in each year setting out both a summary of the reports submitted to the Chair of the UDC as well as particulars of the number, nature and disposition of cases appealed to the UDC.

2.32 Members of the University Community, shall be kept informed of the nature and disposition of cases dealt with under this Bylaw as the Annual Report shall be presented to the both the Senate and the Board of Governors annually. The names of Students disciplined shall not normally be made public.

### Part III: Accountability

3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Policy is required.

3.2 The President is responsible for the implementation, administration and review of this Policy.

3.3 Students, Faculty/College/School Councils, Unit Heads, Academic Staff and employees are responsible for complying with this Policy.

### Part IV: Secondary Documents

4.1 The President or Approving Body may approve Regulations, Policies and Procedures which are secondary to and comply with this Bylaw.

### Part V: Review

5.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Bylaw is September 1, 2026.

5.2 In the interim, this Bylaw may be revised or repealed if:

- (a) The President or Approving Body deems it necessary or desirable to do so;
- (b) The Bylaw is no longer legislatively or statutorily compliant; and/or
- (c) The Bylaw is now in conflict with another Governing Document.

5.3 If this Bylaw is revised or rescinded, all Secondary Documents will be reviewed as soon as reasonably possible in order to ensure that they:

- (a) comply with the revised Bylaw; or
- (b) are, in turn, rescinded.

### Part VI: Effect on Previous Statements

6.1 This Bylaw supersedes:

- (a) Student Discipline Bylaw, dated January 1, 2009;
- (b) all previous Board/Senate Bylaws, Regulations, Rules, Policies and Procedures, and resolutions on the subject matter contained herein; and
- (c) the previous Faculty/College/School Council Bylaw, Regulations, Procedures, and resolutions on the subject matter contained herein.

### Part VII Cross References

7.1 Cross referenced to:

- (a) Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct;
- (b) Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct;
- (c) Table 3: Disciplinary Actions and Disciplinary Authorities;
- (d) Student Discipline – Appeal Procedure;
- (e) Student Academic Misconduct Procedure;
- (f) Student Non-Academic Misconduct and Concerning Behaviour Procedure;

- (g) Definitions of Academic Units Policy;
- (h) Final Examinations and Final Grades Policy and Procedures;
- (i) Respectful Work and Learning Environment Policy;
- (j) Sexual Assault Violence Policy;
- (k) Disclosures and Complaints Procedure;
- (l) Use of Computer Facilities Policy and Procedure;
- (m) Violent or Threatening Behaviour Policy and Procedure;
- (n) The Freedom of Information and Protection of Privacy Act, C.C.S.M. c. F175;
- (o) The Personal Health Information Act, C.C.S.M. c. P33.5

## Student Discipline Appeal Procedures

### Part I: Reason for Procedures

1.1 These Appeal Procedures are secondary to the Student Discipline Bylaw and are intended to establish a process for appeals to be heard, and to provide guidance to the members of appeal panels, to the student and to the Faculty/College/School representatives in relation to appeal hearings.

### Part II: Procedures

#### Definitions

2.1 The following terms are defined for the purpose of this Bylaw and related Procedures:

- (a) "Academic Misconduct" has the same meaning as defined in section 2.5 of the Student Academic Misconduct Procedure.
- (b) "Academic Staff" refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.
- (c) "Appeal Body" means the appropriate persons or bodies as identified in sections 2.9 to 2.14.
- (d) "Appeal Procedure" means this Student Discipline – Appeal Procedure.
- (e) "Appellant" means the Student appealing a Disciplinary Action taken against him or her.
- (f) "Bylaw" means the Student Discipline Bylaw.
- (g) "College" means a Professional College as defined under the Definitions of Academic Units Policy.
- (h) "Disciplinary Action" means the specific disciplinary actions available for each Disciplinary Authority under Table 3 of this Bylaw.

(i) "Disciplinary Authority" means the discipline authority designated to determine a matter of student discipline for Academic Misconduct or Non-Academic Misconduct.

(j) "Discrimination" has the same meaning as defined under the Respectful Work and Learning Environment Policy.

(k) "Faculty" means a Faculty as defined under the Definitions of Academic Units Policy.

(l) "Local Disciplinary Committee" or "LDC" means the standing or, from time to time, ad hoc committee appointed to hear and determine disciplinary matters under section 2.24 of this Appeal Procedure.

(m) "Non-Academic Misconduct" has the same meaning as defined in section 2.5 of the Student Non-Academic Misconduct and Concerning Behaviour Procedure.

(n) "Notice of Appeal" means the appeal documentation that must be filed by the Student under section 2.16.

(o) "Respondent" means the Disciplinary Authority whose decision is being appealed.

(p) "School" means a "School of the University" or a "School of a Faculty", as those terms are defined under the Definitions of Academic Units Policy.

(q) "Sexual Assault" has the same meaning as defined under the Sexual Assault Policy.

(r) "Student" means any of the following individuals:

(i) Admitted – an individual who has accepted an offer of admission to the University;

(ii) Current – an individual who is either registered in course(s) or in a program of studies at the University or is eligible to continue in their studies at the University either because the individual meets minimum academic performance requirements or will be eligible to continue after discharging a financial hold or serving suspension due to academic or discipline;

(iii) Former – an individual who has graduated from the University or who has withdrawn (either voluntarily or was required to withdraw).

(s) "Student Advocate" is a member of the University's Student Advocacy Office who provides students with information on their rights and responsibilities, as well as assistance with resolving problems or concerns resulting from actions or decisions taken by the University.

(t) "Table 3" means Table 3: Disciplinary Actions and Disciplinary Authorities, which follows the Bylaw.

(u) "Unit" means a Faculty, School, College, institute, centre, academic support unit (for example, libraries) or administrative unit whose Unit Head reports to the President or a Vice-President, Associate Vice-President or Vice-Provost. An academic department within a faculty or school is not a Unit as the term is used within this Procedure.

(v) "Unit Head" refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.

(w) "University" means The University of Manitoba.

(x) "University Community" means all Board of Governors members, Senate members, Faculty/College/School Councils, employees, Students, volunteers, external parties, contractors and suppliers.

(y) "UDC" means the University Discipline Committee composed under section 2.53 of this Appeal Procedure.

### Appeals Generally

2.2 Students have a right to appeal Disciplinary Actions made by a Disciplinary Authority, subject to section 2.23 of the Bylaw.

2.3 Only the Student who has been the subject of a Disciplinary Action has the right to appeal.

2.4 An Appeal Body may dispose of the matter by instituting any Disciplinary Action authorized to it under Table 3. The resulting disposition may be the same, more severe or less severe than the original Disciplinary Action and the Appellant must be so informed of this possibility prior to the commencement of an appeal hearing.

2.5 When an appeal is heard by an Appeal Body, the Appellant must be invited to attend the hearing and, if in attendance, be permitted to ask questions and offer an explanation. Every reasonable attempt should be made to schedule the hearing at a time and place that permits the Appellant's participation.

2.6 If the Appellant, Respondent or their respective representatives are unable to attend the hearing in person, the use of a digital communication, such as audio or video conferencing, may be used with prior consent of the chair of the Appeal Body, provided that such means enable all parties to clearly communicate. A request for such a meeting must be made at least one week in advance of the hearing date.

2.7 Subject to sections 2.40 and 2.74 of this Appeal Procedure, the Appellant may appear in person and be represented by a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, or a member of the Appellant's immediate family. It is the Appellant's sole responsibility to determine the adequacy of their representation.

2.8 Subject to sections 2.40, 2.45, 2.76, and 2.83 of this Appeal Procedure, a representative designated in writing by the Appellant may:

(a) attend any disciplinary hearing; and

(b) participate in any disciplinary hearing to the extent of asking questions of anyone in attendance and making submissions to any Appeal Body.

### Appeal Routes

2.9 If the Appellant wishes to appeal the Disciplinary Action of a member of the Academic Staff (except for suspension from attendance for the balance of the meeting of one class), or the decision of a department head, the Notice of Appeal must be delivered to the appropriate Unit Head in the Unit offering course(s) and the Unit Head in the Unit in which the



Appellant is registered, with a copy to the Academic Staff or department head, as the case may be.

2.10 If an Appellant is appealing within a Unit that does not have department heads, then the first level of decision will be the Unit Head of that respective Unit and the next level of appeal will be as set out in section 2.11 of this Procedure.

2.11 If the Appellant wishes to appeal the Disciplinary Action of a Unit Head, or the Director of Student Residences, the Notice of Appeal must be delivered to the appropriate Local Disciplinary Committee in care of the respective Unit Head or Director of Student Residence.

2.12 If the Appellant wishes to appeal the Disciplinary Action of the University Librarian (other than as a delegate of the President), a delegate of the University Librarian, or an ad hoc committee appointed by the University Librarian, the Notice of Appeal must be delivered to the Chair of the Senate Committee on Libraries, with a copy to the person or ad hoc committee which made the initial disciplinary decision. Within ten (10) working days of receipt of the Notice of Appeal, the Chair of the Senate Committee on Libraries will appoint a Library Appeals Committee to hear the appeal.

2.13 If the Appellant wishes to appeal the disciplinary decision of any of the following Disciplinary Authorities or appeal any Disciplinary Action related to Sexual Violence or Discrimination, the Notice of Appeal must be delivered to the UDC in care of the Secretary of the UDC (University Secretary):

- (a) the decision of an LDC or the Library Appeals Committee;
- (b) the decision of the Executive Director of Enrolment Services;
- (c) the decision of the Dean of the Faculty of Graduate Studies in relation to fraudulent documents submitted for admission to the Faculty;
- (d) the decision of the Executive Director of Enrolment Services or the Associate Vice-President (Administration) or an ad hoc committee appointed by either of these persons;
- (e) the decision of the Chief Information Officer of Information Services and Technology (IST);
- (f) the decision of the Registrar;
- (g) the decision of the Vice-President (Administration);
- (h) the decision of the Vice-Provost (Students); or
- (i) the decision of the President or delegate.

2.14 If the disciplinary matter involved two or more Students and two or more Students appeal:

- (a) The Students must have separate hearings, but the members of the Appeal Body may be the same for each hearing, subject to sections 2.33 and 2.67 of this Procedure;
- (b) The Respondents may bring in relevant information on the other Student(s) as it pertains to each appeal; and
- (c) Every effort must be made to protect the identity of the other Student(s).

### **Filing an Appeal**

2.15 The Appellant must deliver the Notice of Appeal to the appropriate Appeal Body within ten (10) working days as of the date on the letter notifying the Appellant of the Disciplinary Action from the lower body.

2.16 The Notice of Appeal must include:

- (a) such appeal application form, with current mailing address and telephone numbers, as may be required by the Appeal Body;
- (b) copies of such written materials as the Appellant wishes considered in connection with the appeal;
- (c) copies of the letter indicating the lower level decision, if not a first level appeal;
- (d) A letter clearly outlining the reason for the appeal and the remedy sought, including an indication of whether the Appellant is appealing the decision on:
  - (i) the finding of facts; where permitted subject to s. 2.23 of the Student Discipline Bylaw;
  - (ii) the Disciplinary Action imposed by the Disciplinary Authority; or
  - (iii) both the facts and the Disciplinary Action, where permitted subject to s. 2.23 of the Student Discipline Bylaw; and
- (e) the name and contact information of any representative that the Appellant wishes to have present at the appeal hearing, subject to subject to sections 2.7, 2.39 and 2.74 of this Appeal Procedure.
- (f) In the case of an appeal to the LDC or UDC, a listing of all resources or witnesses the Appellant wants in attendance at the hearing and their relevance. The scheduling of witnesses and resource people is the responsibility of the Appellant.

2.17 Subject to section 2.18, if an appeal is not received by the next level Appeal Body by the deadline set out in section 2.15, the Disciplinary Action against the Student will be implemented.

2.18 The time for delivery of a Notice of Appeal may be extended by the Appeal Body, or by the chair of the Appeal Body where the Appeal Body is the LDC or the UDC.

2.19 The Disciplinary Action implemented may be put on hold if the Appeal Body receiving the next level of appeal deems the lateness acceptable and grants the Appellant permission to proceed with the appeal after deadline.

2.20 The Appellant and the designated representative of the Appellant must receive the same notices of hearings held by the LDC and the UDC as the Respondents.

### **Responsibilities of Respondents**

2.21 The Respondent will be given ten (10) working days to respond to the Notice of Appeal.

2.22 Respondents must submit the following:

- (a) A written response to the Appellant's Notice of Appeal;
- (b) All relevant documentation the Respondents will rely on as support for their position regarding the appeal; and

(c) In the case of an appeal to the LDC or UDC, a listing of all resource people or witnesses they want in attendance at the hearing and their relevance. The scheduling of witnesses and resource people is the responsibility of the Respondent.

(d) All the above documents must be filed within the time set out in section 2.21. If the Respondent had not received permission for an extension, a written request must be submitted to the Appeal Body to determine whether the Respondent's submission will be accepted.

2.23 If no response is received from the Respondent by the date requested by the office coordinating the appeal, a hearing may be set.

### Local Discipline Committee (LDC)

#### LDC Jurisdiction

2.24 Each Faculty/College/School, and the University Student Residences under the jurisdiction of the Office of Student Residences, must establish a standing or, from time to time, ad hoc committee to hear and determine disciplinary matters appealed to it by Students from a decision of the Dean/Director of that Faculty/College/School, or the Director of Student Residences for the University Residences under the Office of Student Residences' jurisdiction.

2.25 The LDC and the hearing panels thereof must exercise disciplinary authority on all Students that are appealing a decision from the Dean or Director of the Faculty/College/School or University Student Residence.

2.26 The Disciplinary Actions available to the LDC are set out in Table 3.

#### LDC Composition

2.27 In Faculties/Colleges/Schools, the LDC must be composed of an equal number of faculty members and students with a minimum of eight (8) members.

2.28 In the case of University Student Residences, the LDC must be composed of an equal number of residence staff and students with a minimum of eight (8) members. Members must be appointed by the Director of Student Residences with the advice of the appropriate Residence Students' Association.

2.29 The chair of the LDC must be elected by and from the membership of the LDC.

2.30 A quorum must be half the members, with a minimum of four (4) members, ensuring at least one (1) student and one (1) faculty member are present.

2.31 Where the Disciplinary Action relates to two (2) or more Faculties, Colleges or Schools, the LDC hearing panel must contain at least one (1) student and one (1) faculty member from each Faculty/College/School.

2.32 The chair must only vote in the case of a tie.

2.33 The Appellant, or the Appellant's representative, if any, and Respondent must have the right to challenge for cause any member of the LDC, the validity of the challenge to be judged by the remainder of the LDC. Such cause may include current teacher-student relationship, bias, or any factor likely to prejudice a fair hearing. Any person, who was directly involved in the original Disciplinary Action, either as a principal in the case or as a Disciplinary Authority, must be automatically removed from any hearing panel regarding the appeal.

#### LDC Hearing Procedures

2.34 The Appellant must be presumed innocent until the evidence presented indicates that, on the balance of probabilities Disciplinary

Action is warranted. The LDC, in weighing the balance of probabilities, must consider the severity of the alleged incident.

2.35 The hearing must be by way of a trial de novo unless the appeal has been made only in relation to the severity of the Disciplinary Action imposed.

2.36 Hearings must be closed unless the Appellant requests in writing at least forty-eight (48) hours before the hearing that a hearing be open and there is no reasonable objection to an open hearing.

2.37 If the appeal hearing is in closed session, no observers may be present in the room. If the appeal hearing is in open session, any observers present will not be allowed to contribute in any way to the proceedings. Regardless of open or closed status, no electronic or other recording devices will be permitted.

2.38 Regardless of section 2.36, hearings related to discipline under the Respectful Work and Learning Environment Policy and/or discipline under the Sexual Violence Policy must be closed.

#### Representatives at LDC Hearing

2.39 At the LDC hearing, the Appellant may appear in person and be represented by a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, or a member of the Student's immediate family. It is the Appellant's sole responsibility to determine the adequacy of their representation.

2.40 If the Appellant or the Respondent wishes to have a lawyer present, the lawyer(s) present may only be a non-participating observer(s) at hearings of the LDC, but may represent the Appellant or Respondent at hearings of the UDC.

#### Failure to Attend LDC Hearing

2.41 An Appellant who fails to attend a scheduled appeal hearing may have the appeal considered on the basis of the Appellant's written submission, the presentation of the Appellant's designated representative, if any, and the verbal and written submissions made by the Respondent.

2.42 The Appellant shall be advised that the LDC has made a decision regarding the appeal and that the Appellant has ten (10) days to provide reasons for missing the hearing prior to the implementation of the decision. The LDC Chair will determine whether the hearing should be re-scheduled based on any submission from the Appellant. A reasonable attempt will be made to reconvene the same members should the hearing be re-scheduled.

#### Evidence at LDC Hearing

2.43 The Appellant and the Appellant's designated representative, if any, and the Respondent or the Respondent's representative, will receive in writing, at least five (5) working days before the date set for the hearing, the names of the members of the LDC hearing panel who will hear the appeal and the information that has been submitted to the LDC hearing panel by both relevant parties, in accordance with The Freedom of Information and Protection of Privacy Act and The Personal Health Information Act.

2.44 The Appellant, or the Appellant's designated representative, if any, and the Respondent, or the Respondent's representative, if any, may call witnesses and submit other evidence. The Appellant, the Appellant's representative, if any, and the Respondent, or Respondent's representative, if any, are responsible for arranging their own witnesses.

If witnesses are to be called, a witness list must be provided by the Appellant or the Appellant's representative, if any, in their original appeal package provided to the Chair and a witness list must be provided by the Respondent or the Respondent's representative, if any, with their response to the appeal.

2.45 The Appellant must not be required to testify, but if the Appellant elects to do so, then the Appellant may be cross-examined by the Respondent, or the Respondent's representative, if any.

2.46 The Appellant or the Appellant's designated representative, if any, and the Respondent, must have the right to cross-examine witnesses.

2.47 The LDC may consider confidential information from the University Health Service, Counselling Service, University Chaplains and other similar services which are submitted by these services to the LDC at the request of the Appellant. Such confidential information submitted to the LDC may only be used for the purpose of the appeal.

### **Adjournments of LDC Hearing**

2.48 Requests for adjournment must be granted within reason.

### **Disposition of LDC Hearing**

2.49 A decision to uphold or deny an appeal, in whole or in part, and a decision to take different Disciplinary Action, in whole or in part, requires a simple majority of LDC Committee members present and voting. The results of the hearing must be conveyed in writing, in a timely fashion, by the Chair of the LDC to the Appellant or the Appellant's designated representative, if any and to the Respondent or the Respondent's designated representative, as the case may be.

2.50 If, after hearing all the evidence, the LDC is satisfied on the evidence presented that the Appellant has committed Academic Misconduct or Non-Academic Misconduct, the LDC may dispose of the matter by instituting any Disciplinary Action set out in the column entitled "Deans, Directors or LDC" in Table 3.

### **University Discipline Committee (UDC) UDC Terms of Reference**

2.51 The UDC must:

- (a) Report annually to the President.
- (b) Establish procedures, consistent with this Bylaw, for hearing panels.
- (c) Hear appeals, either as a committee of the whole or through a hearing panel, from decisions of Disciplinary Authorities.
- (d) Review the Bylaw and related procedures periodically and, if necessary, to recommend changes to them.

### **UDC Jurisdiction**

2.52 The UDC and the hearing panels thereof shall exercise Disciplinary Authority on behalf of the Board of Governors on all Students that are appealing a decision from the Disciplinary Authorities that are set out in section 2.13 of this document.

### **UDC Composition**

2.53 The UDC shall be composed of nineteen (19) members. The nineteen (19) shall include:

- (a) eight (8) faculty members nominated by the Senate Nominating Committee and appointed by the Board of Governors;

- (b) seven (7) students nominated by the Student Senate Caucus and appointed by the Board of Governors;

- (c) the President of the University of Manitoba (or designate), as an ex-officio member;

- (d) the President of the University of Manitoba Students' Union (or designate), as an ex-officio member;

- (e) the President of the University of Manitoba Graduate Students' Association (or designate), as an ex officio member; and

- (f) the Chair appointed pursuant to section 2.57. The Chair must only vote in the event of a tie.

2.54 Positions for which no nomination had been received from the Student Senate Caucus by September 15th shall be nominated by the Senate Nominating Committee.

2.55 The terms of office shall be three (3) years for academic staff, and one (1) year for students, from June 1 to May 31 (academic staff), and October 14 to October 13 (students). A member whose term of office has expired in any year shall continue in office until a successor has been appointed and shall be eligible for reappointment.

2.56 A quorum must be nine (9) the members, where a minimum of one (1) student and one (1) academic are present.

2.57 A Chair will be appointed by the Board of Governors for a three (3) year term.

2.58 The Vice-Chair shall be elected from and by the members of the UDC for a three (3) year term.

### **UDC Hearing Panels**

2.59 When a matter has been appealed to the UDC, the Chair must either convene the UDC or convene a hearing panel thereof to hear the appeal.

2.60 A quorum shall be a minimum of four (4) members, ensuring at least one (1) student and one (1) faculty member are present including the Chair.

2.61 The Chair may vote only if there is a tie.

2.62 UDC members who have a conflict of interest in a particular case, or have a temporary work conflict, or are otherwise unable to sit, may disqualify themselves from hearing an appeal.

2.63 Notwithstanding the foregoing, the Chair of the UDC may, in a particular case, require that a larger hearing panel be convened to consider the matter, provided that such a larger hearing panel maintains the proportional representation as set out in section 2.60.

2.64 The Chair of the UDC may use his/her discretion to reject an appeal if the appeal appears to be clearly outside the jurisdiction of the UDC, (for example, matters not dealing with discipline nor related Disciplinary Actions taken by a lower Appeal Body).

2.65 When an appeal is received based on a fine or the amount ordered, the only decision from which an appeal is taken is the amount levied by way of fine or the amount ordered to be paid by way of restitution; then, if such fine or restitution does not exceed \$500.00, the Chair may, at the Chair's discretion, personally decide the matter, or may convene a hearing panel to hear the appeal.



2.66 A staff member from the Office of the University Secretary, will serve as recording secretary for the hearings.

2.67 The Appellant, or the Appellant's representative, if any, and the Respondent must have the right to challenge for cause any member of the UDC hearing panel, the validity of the challenge to be judged by the remainder of the UDC hearing panel if such a challenge is made at this time. Such cause may include current teacher-student relationship, bias, or any other factor likely to prejudice a fair hearing. Any person who was directly involved in the original Disciplinary Action, either as a principal in the case or as a Disciplinary Authority, must be automatically removed from any hearing panel regarding the appeal. The Office of the University Secretary after consultation with the Chair will make every reasonable attempt to address any concerns made prior to the hearing date regarding bias by either the Appellant or the Respondent.

#### UDC Hearing Procedures

2.68 The Appellant must be presumed innocent until the evidence presented indicates that, on the balance of probabilities Disciplinary Action is warranted. The UDC, in weighing the balance of probabilities, must consider the severity of the alleged incident.

2.69 The hearing before the UDC hearing panel must be by way of a trial de novo except where the appeal has been made only in relation to the severity of the Disciplinary Action imposed, such as appeals of Disciplinary Action imposed in relation to the Respectful Work and Learning Environment Policy or the Sexual Violence Policy.

2.70 After an appeal hearing has commenced, the appeal may be withdrawn by the Appellant only with leave of the UDC hearing panel.

2.71 Hearings must be closed unless the Appellant requests in writing at least forty-eight (48) hours before the hearing that a hearing be open and there is no reasonable objection to an open hearing.

2.72 If the appeal hearing is in closed session, no observers may be present in the room. If the appeal hearing is in open session, any observers present will not be allowed to contribute in any way to the proceedings. Regardless of open or closed status, no electronic or other recording devices will be permitted.

2.73 Regardless of section 2.71, hearings related to discipline under the Respectful Work and Learning Environment Policy and/or discipline relating to Sexual Violence must be closed.

#### Representatives at UDC Hearing

2.74 At the UDC hearing, the Appellant may appear in person and may be represented by a Student Advocate, a representative from the University of Manitoba Student's Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, a member of the Appellant's immediate family, or a lawyer. It is the Appellant's sole responsibility to determine the adequacy of their representation.

2.75 At the UDC hearing, the Respondent may be represented by a lawyer from the University of Manitoba's Office of Legal Counsel.

2.76 If any party intends to have a lawyer present at the hearing, that party must notify the Chair of the UDC at least seven (7) working days prior to the hearing. In that event, the UDC hearing panel may also retain the services of legal counsel. A rescheduling of the hearing may be required for all parties to retain legal counsel.

2.77 Subject to the notice provision in section 2.76, a representative designated in writing by any party may:

- (a) attend the disciplinary hearing; and
- (b) participate in any disciplinary hearing to the extent of asking questions of anyone in attendance and making submissions to the UDC.

2.78 The Appellant and the Appellant's designated representative, if any, and the Respondent and the Respondent's representative, if any, shall be entitled to receive in writing, at least five (5) working days before the date set for the hearing, the information that has been submitted to the previous Appeal Body by the parties in accordance with The Freedom of Information and Protection of Privacy Act and The Personal Health Information Act.

#### Failure to Attend UDC Hearing

2.79 An Appellant who fails to attend a scheduled appeal hearing may have the appeal considered on the basis of the Appellant's written submission, the presentation of the Appellant's designated representative, if any, and the verbal and written submissions made by the Respondent.

2.80 The Appellant must be advised that the UDC has made a decision regarding the appeal and that the Appellant has ten (10) days to provide reasons for missing the hearing prior to the implementation of the decision. The Chair must determine whether the hearing should be re-scheduled based on any submission from the Appellant. A reasonable attempt will be made to reconvene the same members should the hearing be re-scheduled.

#### Evidence at UDC Hearing

2.81 The Appellant, or the Appellant's representative, if any, and the relevant Respondent, or the Respondent's representative, if any, may call witnesses and submit other evidence. The Appellant, or the Appellant's representative, if any, and the relevant Respondent, or the Respondent's representative, if any, are responsible for arranging their own witnesses. If witnesses are to be called, a witness list must be provided by the Appellant or the Appellant's representative, if any, in their original appeal submission provided to the Chair and a witness list must be provided by the relevant Respondent, or the Respondent's representative, if any, with their response to the appeal.

2.82 The Appellant or the Appellant's designated representative, if any, and the Respondent, or the Respondent's representative, if any, must have the right to cross-examine witnesses.

2.83 The Appellant must not be required to give testimony but if the Appellant elects to do so, the Appellant may be cross-examined.

2.84 The UDC may consider confidential information from the University Health Service, Counselling Service, University Chaplains and other similar services which are submitted by these services to the UDC at the request of the Appellant. Such confidential information submitted to the UDC may only be used for the purpose of the appeal and will be treated as other documentation submitted for the appeal hearing as set out in section 2.87.

2.85 Appellants may not appeal the disposition of a finding under the Respectful Work and Learning Environment Policy or under the Sexual Violence Policy, but may appeal disciplinary action based on that finding. Where an appeal of disciplinary action has been initiated and upon the written request of the Chair of the UDC, the Vice-President (Administration) shall forward to the UDC the report of the investigator

for consideration in the disposition of the appeal. Such confidential information submitted to the UDC may only be used for the purpose of the appeal and will be treated as other documentation submitted for the appeal hearing as set out in section 2.87.

2.86 Subject to section 2.78, the Appellant, the Appellant's representative and the relevant Disciplinary Authority normally must have the right to receive a copy of any university document that the UDC or hearing panel considers in relation to the appeal. The Chair of the Committee must make the final determination on this matter.

2.87 All members of the UDC and/or hearing panel will keep all materials and information used for the appeal in strict confidence and surrender such materials to the recording secretary who will have the materials destroyed by way of confidential shredding.

### Adjournments

2.88 Requests for adjournment shall be granted within reason.

### Disposition

2.89 A decision to uphold or deny an appeal, in whole or in part, and a decision to take different Disciplinary Action, in whole or in part, requires a simple majority.

2.90 If, after hearing all the evidence, the UDC is satisfied on the evidence presented that the Appellant has committed Academic Misconduct or Non-Academic Misconduct, the UDC may dispose of the matter by instituting any Disciplinary Action set out in the column entitled "UDC" in Table 3.

2.91 The Chair of the UDC or hearing panel must, after a decision has been made, report the results of that decision in writing to:

- (a) the Appellant or the designated representative of the Appellant, if any;
- (b) the Respondent, or the Respondent's representative, if any, from whose decision the appeal has been heard;
- (c) the Dean/Director of the Faculty/College/School involved; or the Associate Vice-President (Administration), the Director of Student Residences, or the Chief Information Officer (CIO) of IST, as the case may be;
- (d) the Registrar;
- (e) the Vice-President (Administration);
- (f) the Vice-Provost (Students); or
- (g) any others as deemed relevant.

## Part III: Accountability

3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Appeal Procedure is required.

3.2 The President or his or her delegate is responsible for the implementation, administration and review of this Appeal Procedure.

3.3 Students, Faculty/College/School Councils, Unit Heads, Academic Staff and employees are responsible for complying with this Appeal Procedure.

## Part IV: Review

4.1 Governing Document reviews must be conducted every ten (10) years. The next scheduled review date for this Appeal Procedure is September 1, 2026.

4.2 In the interim, this Appeal Procedure may be revised or repealed if:

- (a) the Approving Body deems it necessary or desirable to do so;
- (b) the Appeal Procedure is no longer legislatively or statutorily compliant;
- (c) the Appeal Procedure is now in conflict with another Governing Document; and/or
- (d) the Parent Policy is revised or repealed.

## Part V: Effect on Previous Statements

5.1 This Appeal Procedure supersedes all of the following:

- (a) Student Discipline Procedure, effective January 1, 2009, revised January 26, 2010.
- (b) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
- (c) all previous Administration Governing Documents on the subject matter contained herein.

## Part VI: Cross References

6.1 This Appeal Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:

- (a) Student Discipline Bylaw;
- (b) Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct;
- (c) Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct;
- (d) Table 3: Disciplinary Actions and Disciplinary Authorities;
- (e) Student Academic Misconduct Procedure;
- (f) Student Non-Academic Misconduct and Concerning Behaviour Procedure;
- (g) Definitions of Academic Units Policy;
- (h) Final Examinations and Final Grades Policy and Procedures;
- (i) Respectful Work and Learning Environment Policy;
- (j) Sexual Violence Policy;
- (k) Disclosures and Complaints Procedure;
- (l) Use of Computer Facilities Policy and Procedure;
- (m) Violent or Threatening Behaviour Policy and Procedure;
- (n) The Freedom of Information and Protection of Privacy Act, C.C.S.M. c. F175;
- (o) The Personal Health Information Act, C.C.S.M. c. P33.5.

# Student Academic Misconduct Procedure

## Part I: Reason for Procedure

1.1 The University of Manitoba emphasizes the importance of academic integrity and works diligently to uphold a rigorous and ethical academic environment.

1.2 The reason for this Procedure is to:

- (a) Articulate the University's expectation that all Students maintain the highest standards of integrity;
- (b) Outline the jurisdiction for each Disciplinary Authority dealing with the Academic Misconduct of Students; and
- (c) Provide a fair and thorough investigation process into allegations of Academic Misconduct.

## Part II: Procedure Content

### Definitions

2.1 The following terms are defined for the purpose of this Procedure:

- (a) "Academic Misconduct" has the same meaning as defined in section 2.5 of this Procedure.
- (b) "Academic Staff" refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.
- (c) "Appeal Procedure" means the Student Discipline – Appeal Procedure.
- (d) "Bylaw" means the Student Discipline Bylaw.
- (e) "College" means a Professional College as defined under the Definitions of Academic Units Policy.
- (f) "Disciplinary Action" means the specific disciplinary actions available for each Disciplinary Authority under Table 3.
- (g) "Disciplinary Authority" means the disciplinary authority designated to determine a matter of student discipline for Academic Misconduct under Table 1.
- (h) "Faculty" means a Faculty as defined under the Definitions of Academic Units Policy.
- (i) "Procedure" means this Student Academic Misconduct Procedure.
- (j) "School" means a "School of the University" or a "School of a Faculty", as those terms are defined under the Definitions of Academic Units Policy.
- (k) "Student" means any of the following individuals:
  - (i) Admitted – an individual who has accepted an offer of admission to the University;

(ii) Current – an individual who is either registered in course(s) or in a program of studies at the University or is eligible to continue in their studies at the University either because the individual meets minimum academic performance requirements or will be eligible to continue after discharging a financial hold or serving suspension;

(iii) Former – an individual who has graduated from the University or who has withdrawn (either voluntarily or was required to withdraw).

(l) "Student Advocate" is a member of the University's Student Advocacy Office who provides Students with information on their rights and responsibilities, as well as assistance with resolving problems or concerns resulting from actions or decisions taken by the University.

(m) "Table 1" refers to Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct, which follows the Bylaw.

(n) "Table 3" refers to Table 3: Disciplinary Actions and Disciplinary Authorities, which follows the Bylaw.

(o) "Unit" means a Faculty, School, College, institute, centre, academic support unit (for example, libraries) or administrative unit whose Unit Head reports to the President or a Vice-President, Associate Vice-President or Vice-Provost. An academic department within a Faculty/College/School is not a Unit as the term is used within this Procedure.

(p) "Unit Head" refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.

(q) "University" refers to the University of Manitoba.

(r) "University Community" means all Board of Governors members, Senate members, Faculty/College/School Councils, employees, anyone holding an appointment with the University, Students, volunteers, external parties, contractors and suppliers.

(s) "UMSS" means the University of Manitoba Security Services.

### Scope

2.2 This Procedure applies to Student's academic conduct in relation to any University Matter.

2.3 "University Matter" means any activity, event, or undertaking in which a member of the University Community participates which has a substantial connection to the University, such as:

- (a) University-related activities or events, including but not limited to:
  - (i) Any activity or event on property owned or controlled by the University;
  - (ii) The leasing of space, including student residence rooms, on property owned or controlled by the University;
  - (iii) The offering of any service by the University, including educational services;
  - (iv) Student placements, practica, or clinical training;

- (v) University research activities, whether on or off campus;
- (vi) Student and/or employee exchanges arranged in connection with the University;
- (vii) Social events or networking, where matters regarding the University or members of the University Community are a significant focus of the activity;
- (viii) University field trips, travel-study tours, service-learning activities, and similar activities;

(b) Activities or events involving members of the University Community, where the actions of those members of the University Community may reasonably reflect upon or affect the University, including but not limited to:

- (i) Any aspect of the employment or engagement of employees and contractors for roles and projects substantially connected to the University;
- (ii) Participation on a committee or board as a representative of the University;
- (iii) Writings, photographs, artwork, audio or video recordings, and/or electronic communications, including communications through social media, where matters regarding the University or members of the University Community are a significant focus of the communication;
- (iv) Matters related to The University of Manitoba Students' Union, the Graduate Students' Association, and their affiliated student groups to the extent that it affects the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environments; or
- (v) Matters of off-campus conduct that have, or might reasonably be seen to have an adverse effect on the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environments.

### **Academic Misconduct**

2.4 As members of the University Community, Students have an obligation to act with academic integrity. Any Student who engages in Academic Misconduct in relation to a University Matter will be subject to discipline.

2.5 "Academic Misconduct" means any conduct that has, or might reasonably be seen to have, an adverse effect on the academic integrity of the University, including but not limited to:

- (a) Plagiarism – the presentation or use of information, ideas, sentences, findings, etc. as one's own without appropriate attribution in an assignment, test or final examination.
- (b) Cheating on Quizzes, Tests or Final Examinations – the circumventing of fair testing procedures or contravention of exam regulations. Such acts may be premeditated/planned or may be unintentional or opportunistic.
- (c) Inappropriate collaboration – when a Student and any other person work together on assignments, projects, tests, labs or other work unless authorized by the course instructor.

(d) Duplicate Submission – cheating where a Student submits a paper/assignment/test in full or in part, for more than one course without the permission of the course instructor.

(e) Personation – writing an assignment, lab, test, or examination for another Student, or the unauthorized use of another person's signature or identification in order to impersonate someone else. Personation includes both the personator and the person initiating the personation.

(f) Academic Fraud – falsification of data or official documents as well as the falsification of medical or compassionate circumstances/documentation to gain accommodations to complete assignments, tests or examinations.

2.6 Students will be subject to Disciplinary Action for any instance of Academic Misconduct, regardless of whether such behaviour is covered by other University policies, procedures or bylaws. Matters relating to certain Academic Misconduct may also be subject to additional policies, such as the Responsible Conduct of Research Policy and related procedures.

### **Jurisdiction of Disciplinary Authority**

2.7 The specific jurisdiction of each Disciplinary Authority designated to determine an allegation of Academic Misconduct is set out in Table 1.

2.8 For matters involving the Academic Misconduct of an undergraduate Student, the Disciplinary Authority with the closest connection to the particular alleged Academic Misconduct has jurisdiction over the matter, subject to section 2.10 of this Procedure. However, the Disciplinary Authority must inform the Unit Head of the Student's home Faculty/ College/School prior to any investigation.

2.9 Matters involving Academic Misconduct of a graduate Student must be referred directly to the Dean of the Faculty of Graduate Studies who shall, in turn, inform the department head or Unit Head of the Student's home department or Unit prior to any investigation and Disciplinary Action.

2.10 When the alleged Academic Misconduct, if proven on a balance of probabilities, would:

- (a) Constitute a second instance of Academic Misconduct by the Student; or
- (b) Be of such severity as to warrant a Disciplinary Action that is not available to the Disciplinary Authority with the closest connection to the matter under Table 1 (e.g. Department Head); the matter shall be referred to the next appropriate Disciplinary Authority under Table 1 (e.g. Dean/Director) for investigation and decision.

2.11 If a question arises as to which Disciplinary Authority should hear a particular case, the question must be referred to the President for resolution.

2.12 If the Academic Misconduct relates to a criminal offence, the Disciplinary Authority must provide relevant information to UMSS for potential follow-up by the appropriate policing authority.

### **Notice to the Student**

2.13 If the Disciplinary Authority determines that there is sufficient evidence to initiate an investigation into the allegation of Academic Misconduct under this Student Academic Misconduct Procedure, the Student who is the subject of a disciplinary matter will be informed

in writing by the Disciplinary Authority (with a copy to the University's Registrar) that:

- (a) An investigation is proceeding in accordance with this Procedure, the nature of the matter being investigated, that the Student may be subject to Disciplinary Action and that a hold will be placed on the Student's record in accordance with section 2.14 of this Procedure until the allegation is investigated;
- (b) The Student will be given an opportunity to respond to the allegation and, if a meeting is scheduled, notice will be provided as to who will be present on behalf of the University at the meeting;
- (c) The Student may seek advice and representation from a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, a member of the Student's immediate family or other support person as may be appropriate. It is the sole responsibility of the Student to determine the adequacy of the Student's representation;
- (d) Failure to respond by a specified date will result in the matter being considered without the Student's response;
- (e) The Student may obtain a copy of this Procedure, the Bylaw and related procedures. These documents are available online or from the Office of the University Secretary or the Student Advocacy office;
- (f) The Student has a right to appeal in accordance with the Bylaw and Appeal Procedure.

### Student Records

2.14 The Disciplinary Authority will request that the Registrar place a hold on the Student's record to prevent the issuance of transcripts, transfers between Faculty/College/School and changes in registrations until the alleged Academic Misconduct is investigated. Until a decision has been made and any appeal process available under the Bylaw has concluded, the Student shall be permitted to continue in the course or program until the case is heard and the Disciplinary Authority must ensure the Student's work continues to be graded normally and is unaffected by the allegation of Academic Misconduct, subject to sections 2.25 and 2.26 of the Bylaw.

### Investigation Procedure

2.15 Subject to section 2.16 of this Procedure, the Disciplinary Authority will, either personally or through a designate, conduct an investigation into the allegations of Academic Misconduct in any manner that he or she deems appropriate to the nature of the circumstances and the seriousness of the issues involved and any admissions made during the investigation. This may include some or all of:

- (a) Interviewing witnesses;
- (b) Reviewing documents and records (both paper and electronic);
- (c) Reviewing photographs, audio, and video recordings;
- (d) Examining physical evidence;
- (e) Arranging for testing of physical evidence;
- (f) With the consent of participants, arranging for medical or psychological evaluations; and/or

(g) Submitting a Third Party Data Access Request Form to IST regarding accessing electronic systems and consulting with Access and Privacy Office as required to facilitate the request.

2.16 The Disciplinary Authority may choose not to personally investigate where the issue has been or may be investigated pursuant to another University policy, procedure or bylaw.

2.17 The Disciplinary Authority will conduct the investigation in accordance with the principles of procedural fairness and natural justice. In particular, the Disciplinary Authority will ensure that:

- (a) The Student must be informed of the allegations against him or her, including, subject to section 2.26 of this Procedure, having access to all documentary and other evidence relied upon by the Disciplinary Authority and knowing the identity of the complainant;
- (b) The Student must be provided an opportunity to respond to the allegations;
- (c) While strict rules of evidence do not apply, appropriate weight must be given to evidence based on its credibility and reliability; and
- (d) Witnesses may wish to consult with or respond through an advocate (which may include legal counsel, a union representative, or a Student Advocate, as may be appropriate).

2.18 The Disciplinary Authority (or designate) may meet with the Student to present the facts/evidence concerning the allegation and to give the Student an opportunity to respond to the allegation and present his/her explanation of the matter. The Disciplinary Authority will give notice to the Student as to who will be present on behalf of the University at such a meeting.

### Decision

2.19 The Disciplinary Authority will inform the Student that a written decision letter will be sent normally within five (5) working days of receiving the Student's response. If the Student does not respond within a reasonable time, the Disciplinary Authority will consider the matter and make a decision in the absence of the Student's response and based on the information that is available.

2.20 At the conclusion of the investigation, the Disciplinary Authority will inform the Student of his or her decision in writing and will include, at minimum, the following:

- (a) A summary of the allegation of Academic Misconduct;
- (b) A summary of the process and key timelines in the investigation;
- (c) A summary of the key evidence obtained through the investigation, including the response of the Student to the allegation;
- (d) An indication of which key evidence was considered credible and reliable;
- (e) A conclusion as to whether, on a balance of probabilities, the Academic Misconduct occurred;
- (f) A summary of the reasons for the conclusion;
- (g) A summary of any Disciplinary Action instituted in accordance with the Bylaw and section 2.21 of this Procedure; and



(h) If Disciplinary Action is taken, information about the right to appeal, the time period for appeal, and the person and contact information for the submission of an appeal, in accordance with the Bylaw.

2.21 Where there is a finding of Academic Misconduct, the Disciplinary Authority will consider any previous findings of Academic Misconduct before determining the appropriate Disciplinary Action under the Bylaw.

In the case where the Disciplinary Authority is not the Unit Head of the Faculty/College/School in which the Student is registered, the Disciplinary Authority will determine the appropriate Disciplinary Action in consultation with the Unit Head of that Faculty/College/School.

2.22 The Disciplinary Authority will send a copy of their decision to the Registrar and to the Unit Head of the Faculty/College/School in which the Student is registered.

### Appeals

2.23 Students have a right to appeal Disciplinary Actions in accordance with the Bylaw and Appeal Procedure.

### Obligations of Confidentiality by the University

2.24 In respect of an incidence of Academic Misconduct, the University will not disclose the name of the complainant, the Student, or the circumstances related to the complaint to any person, other than where the disclosure is:

- (a) Necessary to investigate the complaint or take corrective action with respect to the complaint; or
- (b) Required by law.

2.25 Personal information that is disclosed under section 2.24 above in respect of an incidence of Academic Misconduct will be the minimum amount necessary for the purpose.

### Obligations of Confidentiality by the Disciplinary Authority

2.26 The Disciplinary Authority, in conducting the investigation, will comply with The Freedom of Information and Protection of Privacy Act and The Personal Health Information Act with respect to personal information and personal health information collected, used and disclosed in the course of the investigation. Where a Disciplinary Authority is unsure of whether they may disclose particular information, they may seek advice from the Access and Privacy Office.

2.27 The Disciplinary Authority will advise all persons involved with an investigation as to their obligations regarding confidentiality, and the protections available to them under this Procedure.

### Obligations of Confidentiality by the Others

2.28 All persons involved in an investigation of an incident of Non-Academic Misconduct or Concerning Behaviour, whether as a witness or retrieving relevant information or documents, must keep confidential:

- (a) The existence and nature of the investigation; and
- (b) Any information or documentation obtained as a result of the investigation; which information may only be disclosed to those who reasonably need to know. Where an individual is unsure of whether they may disclose particular information, they may seek advice from the Access and Privacy Office.

2.29 Notwithstanding section 2.28, the Complainant, the Respondent, and witnesses involved in the investigation may:

(a) Obtain confidential advice (including advice from a Student Advocate or lawyer, as may be appropriate);

(b) Disclose information to others only to the extent reasonably necessary to gather evidence and, in the case of an accused Student, to make full answer and defense to the allegations; and

(c) Use information obtained independent of the investigation in any other forum.

### Records Management

2.30 The Disciplinary Authority will maintain files with respect to each complaint in accordance with the Records Management Policy and Procedure.

## Part III: Accountability

3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Procedure is required.

3.2 The President is responsible for the implementation, administration and review of this Procedure.

3.3 Students, Faculty/College/School Councils, Unit Heads, Academic Staff and employees are responsible for complying with this Procedure.

## Part IV: Review

4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is September 1, 2026.

4.2 In the interim, this Procedure may be revised or repealed if:

- (a) the President or the Approving Body deems it necessary or desirable to do so;
- (b) the Procedure is no longer legislatively or statutorily compliant;
- (c) the Procedure is now in conflict with another Governing Document; and/or
- (d) the Parent Policy is revised or repealed.

## Part V: Effect on Previous Statements

5.1 This Procedure supersedes all of the following:

- (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
- (b) all previous Administration Governing Documents on the subject matter contained herein.

## Part VI: Cross References

6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:

- (a) Student Discipline Bylaw;
- (b) Table 1: Jurisdiction of Disciplinary Authorities for Academic Misconduct;
- (c) Table 3: Disciplinary Actions and Disciplinary Authorities;
- (d) Student Discipline - Appeal Procedure;
- (e) Definitions of Academic Units Policy;
- (f) Responsible Conduct of Research Policy and Procedures;

- (g) Records Management Policy and Procedure;
- (h) Use of Computer Facilities Policy and Procedure;
- (i) Third Party Data Access Request Form;
- (j) Student Advocacy Office Policy;
- (k) The Freedom of Information and Protection of Privacy Act, CCSM c. F175;
- (l) The Personal Health Information Act, CCSM c. P33.5.

## Student Non-Academic Misconduct and Concerning Behaviour Procedures

### Part I: Reason for Procedure

1.1 The reason for this Procedure is to:

- (a) Articulate the University's expectation that all Students act in a fair and reasonable manner toward their peers, the faculty, staff, administration and the physical property of the University;
- (b) Outline the jurisdiction for each Disciplinary Authority dealing with the Non-Academic Misconduct of Students;
- (c) Provide a fair and thorough investigation process for allegations of Non-Academic Misconduct;
- (d) Coordinate an action plan for Students exhibiting Concerning Behaviour that includes supports and a clear referral mechanism for members of the University Community.

### Part II: Procedure Content

#### Definitions

2.1 The following terms are defined for the purpose of this Procedure:

- (a) "Academic Staff" refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.
- (b) "Appeal Procedure" means the Student Discipline – Appeal Procedure.
- (c) "Bylaw" means the Student Discipline Bylaw.
- (d) "College" means a Professional College as defined under the Definitions of Academic Units Policy.
- (e) "Disciplinary Action" means the specific disciplinary actions available for each Disciplinary Authority under Table 3.
- (f) "Disciplinary Authority" means the discipline authority designated to determine a matter of student discipline for Non-Academic Misconduct under Table 2.
- (g) "Discrimination" has the same meaning as defined in section 2.3 of the Disclosures and Complaints Procedure.

(h) "Faculty" means a Faculty as defined under the Definitions of Academic Units Policy.

(i) "Harassment" refers to Personal Harassment, Human Rights Based Harassment, and/or Sexual Harassment as defined in section 2.10 of the Disclosures and Complaints Procedure.

(j) "Non-Academic Misconduct" has the same meaning as defined in section 2.5 of this Procedure.

(k) "Procedure" means this Student Non-Academic Misconduct and Concerning Behaviour Procedure.

(l) "School" means a "School of the University" or a "School of a Faculty", as those terms are defined under the Definitions of Academic Units Policy.

(m) "Sexual Violence" has the same meaning as defined in the Sexual Violence Policy.

(n) "STATIS" means the Student/Staff Threat Assessment Triage Intervention Support team established pursuant to section 2.11 of the Violent or Threatening Behaviour Procedure.

(o) "Student" means any of the following individuals:

(i) Admitted – an individual who has accepted an offer of admission to the University;

(ii) Current – an individual who is either registered in course(s) or in a program of studies at the University or is eligible to continue in their studies at the University either because the individual meets minimum academic performance requirements or will be eligible to continue after discharging a financial hold or serving suspension;

(iii) Former – an individual who has graduated from the University or who has withdrawn (either voluntarily or was required to withdraw).

(p) "Student Advocate" is a member of the University's Student Advocacy Office who provides Students with information on their rights and responsibilities, as well as assistance with resolving problems or concerns resulting from actions or decisions taken by the University.

(q) "Table 2" refers to Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct, which follows the Bylaw.

(r) "Table 3" refers to Table 3: Disciplinary Actions and Disciplinary Authorities, which follows the Bylaw.

(s) "UMSS" means the University of Manitoba's Security Services.

(t) "Unit" means a Faculty, School, College, institute, centre, academic support unit (for example, libraries) or administrative unit whose Unit Head reports to the President or a Vice-President, Associate Vice-President or Vice-Provost. An academic department within a Faculty/College/School is not a Unit as the term is used within this Procedure.

(u) "Unit Head" refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.

(v) "University" refers to the University of Manitoba.

(w) "University Community" means all Board of Governors members, Senate members, Faculty/College/School Councils, employees, anyone holding an appointment with the University, Students, volunteers, external parties, contractors and suppliers.

(x) "University Matter" has the same meaning as defined in section 2.3 of this Procedure.

(y) "Violence" means:

- (i) The attempted or actual exercise of physical force against a person; or
- (ii) Any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person.

### Scope

2.2 This Procedure applies to a Student's non-academic conduct in relation to any University Matter.

2.3 "University Matter" means any activity, event, or undertaking in which a member of the University Community participates which has a substantial connection to the University, such as:

(a) University-related activities or events, including but not limited to:

- (i) Any activity or event on property owned or controlled by the University;
- (ii) The leasing of space, including student residence rooms, on property owned or controlled by the University;
- (iii) The offering of any service by the University, including educational services;
- (iv) Student placements, practica, or clinical training;
- (v) University research activities, whether on or off campus;
- (vi) Student and/or employee exchanges arranged in connection with the University;
- (vii) Social events or networking, where matters regarding the University or members of the University Community are a significant focus of the activity;
- (viii) University field trips, travel-study tours, service-learning activities, and similar activities;

(b) Activities or events involving members of the University Community, where the actions of those members of the University Community may reasonably reflect upon or affect the University, including but not limited to:

- (i) Any aspect of the employment or engagement of employees and contractors for roles and projects substantially connected to the University;
- (ii) Participation on a committee or board as a representative of the University;
- (iii) Writings, photographs, artwork, audio or video recordings, and/or electronic communications, including communications

through social media, where matters regarding the University or members of the University Community are a significant focus of the communication;

(iv) Matters related to The University of Manitoba Students' Union, the Graduate Students' Association, and their affiliated student groups to the extent that it affects the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environments; or

(v) Matters of off-campus conduct that have, or might reasonably be seen to have an adverse effect on the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environments.

### Non-Academic Misconduct

2.4 Any Student who engages in Non-Academic Misconduct in relation to a University Matter will be subject to discipline.

2.5 "Non-Academic Misconduct" means any conduct that has, or might reasonably be seen to have, an adverse effect on the integrity or proper functioning of the University or the health, safety, rights or property of the University or members of the University Community, such as:

(a) Threats of harm or actual harm by any means (including electronic means) to another person, including but not limited to:

- (i) Discrimination;
- (ii) Hazing;
- (iii) Harassment;
- (iv) Possession or use of dangerous objects, in violation of any applicable law;
- (v) Sexual Violence;
- (vi) Stalking behaviour, including repetitive behaviour directed at a specific person which reasonably causes that person alarm, distress, fear or a change of normal behavior;
- (vii) Violence;

(b) Property-related misconduct, including but not limited to:

- (i) Theft;
- (ii) Threats to or damage of University property;
- (iii) Vandalism;

(c) Inappropriate or disruptive behavior, including but not limited to:

- (i) Actions which habitually interfere with the learning environment or requires the inordinate time and attention of faculty and staff;
- (ii) Alcohol or substance abuse;
- (iii) Disorderly behaviour;
- (iv) Indecent exposure;
- (v) Unprofessional conduct;

(d) Abuse of the process of University policies, procedures or regulations, including but not limited to:

- (i) Abuse of computer privileges;
- (ii) Breach of student residence rules or regulations;
- (iii) Failure to comply with a previously imposed Disciplinary Action;
- (iv) Frivolous or vexatious complaints or appeals.

2.6 Students will be subject to Disciplinary Action for any instance of Non-Academic Misconduct, regardless of whether such behaviour is covered by other University policies, procedures or bylaws. Matters relating to certain Non-Academic Misconduct may also be subject to additional policies, such as:

- (a) The Respectful Work and Learning Environment Policy and the Complaints and Disclosures Procedure when the matter relates to Discrimination, or Harassment;
- (b) The Sexual Violence Policy and the Complaints and Disclosures Procedure when the matter relates to Sexual Violence;
- (c) The Violent or Threatening Behaviour Policy and Procedure when the matter relates to Violence, hazing, stalking behaviour, or the possession or use of dangerous objects in violation of any applicable law;
- (d) The Use of Computer Facilities Policy and Procedure when the matter relates to abuse of computer privileges;
- (e) The Campus Alcohol Policy and Procedure when the matter relates to alcohol or substance abuse;
- (f) The student Residence Contract when the matter relates to a breach of student residence rules or regulations.

#### Jurisdiction of Disciplinary Authority

2.7 The specific jurisdiction of each Disciplinary Authority designated to determine an allegation of Non-Academic Misconduct is set out in Table 2.

2.8 For matters involving the Non-Academic Misconduct of an undergraduate Student, the Disciplinary Authority with the closest connection to the particular alleged Non-Academic Misconduct has jurisdiction over the matter, subject to section 2.10 of this Procedure.

However, the Disciplinary Authority must inform the Unit Head of the Student's home Faculty/College/School, and the Vice-Provost (Students), prior to any investigation.

2.9 Matters involving Non-Academic Misconduct of a graduate Student must be referred directly to the Dean of the Faculty of Graduate Studies who shall, in turn, inform the department head of the Student's program, and the Vice-Provost (Students), prior to any investigation.

2.10 When the alleged Non-Academic Misconduct, if proven on a balance of probabilities, would:

- (a) Constitute a second instance of Non-Academic Misconduct by the Student; or
- (b) Be of such severity as to warrant a Disciplinary Action that is not available to the Disciplinary Authority with the closest connection to the matter under Table 2 (e.g. Department Head); the matter

shall be referred to the next appropriate Disciplinary Authority under Table 2 (e.g. Dean/Director) for investigation and decision.

2.11 If a question arises as to which Disciplinary Authority should hear a particular case, the question must be referred to the President for resolution.

2.12 If the Non-Academic Misconduct relates to a criminal offence, the Disciplinary Authority must provide relevant information to UMSS for potential follow-up by the appropriate policing authority.

#### Notice to Vice-Provost (Students)

2.13 Before initiating an investigation, the Disciplinary Authority will advise the Vice-Provost (Students) of the following:

- (a) An allegation of Non-Academic Misconduct has been received;
- (b) The nature of the Non-Academic Misconduct;
- (c) The name of the Student alleged to have committed the Non-Academic Misconduct; and
- (d) The intention of the Disciplinary Authority to initiate an investigation in accordance with this Procedure.

2.14 The Vice-Provost (Students) will review this information and advise the Disciplinary Authority if he or she feels the matter should be referred to STATIS before the investigation is conducted.

#### Notice to the Student

2.15 After consultation with the Vice-Provost (Students), the Student who is the subject of a disciplinary matter will be informed in writing by the Disciplinary Authority (with a copy to the University's Registrar) that:

- (a) An investigation is proceeding in accordance with this Procedure, the nature of the matter being investigated, that the Student may be subject to Disciplinary Action, and that a hold will be placed on the Student's record in accordance with section 2.16 of this Procedure until the allegation is investigated;
- (b) The Student will be given an opportunity to respond to the allegation and, if a meeting is scheduled, notice will be provided as to who will be present on behalf of the University at the meeting;
- (c) The Student may seek advice and representation from a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing, a member of the Student's immediate family, or other support person as may be appropriate. It is the sole responsibility of the Student to determine the adequacy of the Student's representation;
- (d) Failure to respond by a specified date will result in the matter being considered without the Student's response;
- (e) The Student may obtain a copy of this Procedure, the Bylaw and related procedures. These documents are available online or from the Office of the University Secretary or the Student Advocacy office;
- (f) The Student has a right to appeal in accordance with the Bylaw and Appeal Procedure.

**Student Records**

2.16 The Disciplinary Authority will request that the Registrar place a hold on the Student's record to prevent the issuance of transcripts, transfers between Faculty/College/School and changes in registrations until the alleged Non-Academic Misconduct is investigated. Until a decision has been made and any appeal process available under the Bylaw has concluded, the Student shall be permitted to continue in the course or program and the Disciplinary Authority must ensure the Student's work continues to be graded normally and is unaffected by the allegation of Non-Academic Misconduct, subject to sections 2.25 and 2.26 of the Bylaw.

**Investigation Procedure**

2.17 Subject to section 2.18 of this Procedure, the Disciplinary Authority will, either personally or through a designate, conduct an investigation into the allegations of Non-Academic Misconduct in any manner that he or she deems appropriate to the nature of the alleged Non-Academic Misconduct, the seriousness of the issues involved, and any admissions made during the investigation. This may include some or all of:

- (a) Interviewing witnesses;
- (b) Reviewing documents and records (both paper and electronic);
- (c) Reviewing photographs, audio, and video recordings;
- (d) Examining physical evidence;
- (e) Arranging for testing of physical evidence;
- (f) With the consent of participants, arranging for medical or psychological evaluations; and/or
- (g) Submitting a Third Party Data Access Request Form to IST regarding accessing electronic systems and consulting with Access and Privacy Office as required to facilitate the request.

2.18 The Disciplinary Authority may choose not to personally investigate where the issue has been or may be investigated pursuant to another University policy, procedure or bylaw.

2.19 The Disciplinary Authority will conduct the investigation in accordance with the principles of procedural fairness and natural justice. In particular, the Disciplinary Authority will ensure that:

- (a) The Student must be informed of the allegations against him or her, including, subject to section 2.34 of this Procedure, having access to all documentary and other evidence relied upon by the Disciplinary Authority and knowing the identity of the complainant;
- (b) the Student must be provided an opportunity to respond to the allegations;
- (c) While strict rules of evidence do not apply, appropriate weight must be given to evidence based on its credibility and reliability; and
- (d) Witnesses may wish to consult with or respond through an advocate (which may include legal counsel, a union representative, or a Student Advocate, as may be appropriate).

2.20 The Disciplinary Authority (or designate) may meet with the Student to present the facts/evidence concerning the allegation and to give the Student an opportunity to respond to the allegation and present his/her explanation of the matter. The Disciplinary Authority will give notice to

the Student as to who will be present on behalf of the University at such a meeting.

**Decision**

2.21 The Disciplinary Authority will inform the Student that a written decision letter will be sent normally within five (5) working days of receiving the Student's response. If the Student does not respond within a reasonable time, the Disciplinary Authority will consider the matter and make a decision in the absence of the Student's response and based on the information that is available.

2.22 At the conclusion of the investigation, the Disciplinary Authority will inform the Student of his or her decision in writing and will include, at minimum, the following:

- (a) A summary of the allegation of Non-Academic Misconduct;
- (b) A summary of the process and key timelines in the investigation;
- (c) A summary of the key evidence obtained through the investigation, including the response of the Student to the allegation;
- (d) An indication of which key evidence was considered credible and reliable;
- (e) A conclusion as to whether, on a balance of probabilities, the Non-Academic Misconduct occurred;
- (f) A summary of the reasons for the conclusion;
- (g) A summary of any Disciplinary Action instituted in accordance with the Bylaw and section 2.23 of this Procedure; and
- (h) If Disciplinary Action is taken, information about the right to appeal, the time period for appeal, and the person and contact information for the submission of an appeal, in accordance with the Bylaw.

2.23 Where there is a finding of Non-Academic Misconduct, the Disciplinary Authority will consider any previous findings of Non-Academic Misconduct before determining the appropriate Disciplinary Action under the Bylaw. In the case where the Disciplinary Authority is not the Unit Head of the Faculty/College/School in which the Student is registered, the Disciplinary Authority will determine the appropriate Disciplinary Action in consultation with the Unit Head of that Faculty/College/School.

2.24 The Disciplinary Authority will send a copy of their decision to the Registrar, to the Vice-Provost (Students), and to the Unit Head of the Faculty/College/School in which the Student is registered.

**Appeals**

2.25 Students have a right to appeal Disciplinary Actions in accordance with the Bylaw and the Appeal Procedure.

**Concerning Behaviour**

2.26 "Concerning Behaviour" means any behaviour that, while not indicative of a clear immediate threat, gives rise to a reasonable apprehension that the Student may engage in conduct harmful to him- or herself or to others, including but not limited to:

- (a) Threats of self-harm;
- (b) Worrisome behavioral changes in an individual, such as changes in appearance, social withdrawal or isolation, apparent detachment



from reality, or inordinate interest in or discussion of violent themes or events.

2.27 Where a Student is exhibiting Concerning Behaviour, members of the University Community must report such behaviour to their Unit Head, a member of STATIS, and/or UMSS. The Unit Head of the Student's Faculty/College/School of registration must be consulted and that Unit Head should, where appropriate:

(a) Ensure the Student receives timely voluntary counselling referrals through existing support services at the University, such as the Student Support Case Manager, Student Counselling Centre, University Health Services, and/or the Faculty Counselling Services (College of Medicine);

(b) Use this Procedure, the Student Discipline Bylaw and other policies, procedures and bylaws as appropriate where additional action is necessary to deal with Concerning Behaviour.

2.28 Members of the University Community must report incidents of Concerning Behaviour to UMSS and STATIS where a Student's Concerning Behaviour is affecting the various services and administration offices of the University, or where the Concerning Behaviour is of a nature or quality that likely will result in:

(a) Serious harm to the Student or substantial deterioration of the Student's health; or

(b) Serious harm to another person or property;

2.29 When reporting concerns to STATIS or UMSS, individuals should attempt to provide the following information:

(a) Description of the Concerning Behaviour;

(b) Name of the Student exhibiting the Concerning Behaviour; and

(c) Indication of what action has been taken to date (if applicable), including a description of any meetings with the Student and any assistance provided, including referrals.

2.30 Information regarding Concerning Behaviour that is received during the Student application process must be referred to the Executive Director of Enrolment Services or the Dean of Graduate Studies, as appropriate. If the information is of serious concern to the respective Executive Director of Enrolment Services or the Dean of Graduate Studies, he/she may seek the advice of the University Legal Counsel and may initiate a staff conference of STATIS.

2.31 If a Student does not accept personal responsibility for their Concerning Behaviour or will not accept appropriate referral for voluntary counselling, the Unit Head should proceed as follows:

(a) Advise the Student to seek professional help; and

(b) Contact the Executive Director of Student Support if the Student refuses to voluntarily seek professional help. The Executive Director of Student Support may consult with colleagues to determine whether or not an involuntary psychiatric assessment is advisable according to mental health legislation and regulations.

## Confidentiality

### Obligations of Confidentiality by the University

2.32 In respect of an incidence of Non-Academic Misconduct or Concerning Behaviour, the University will not disclose the name of the

complainant, the Student, or the circumstances related to the complaint to any person, other than where the disclosure is:

(a) Necessary to investigate the complaint or take corrective action with respect to the complaint;

(b) Necessary to coordinate an action plan for a Student exhibiting Concerning Behaviour that includes supports and a clear referral mechanism for the Student; or

(c) Required by law.

2.33 Personal information that is disclosed under section 2.32 above in respect of an incidence of Non-Academic Misconduct or Concerning Behaviour will be the minimum amount necessary for the purpose.

### Obligations of Confidentiality by the Disciplinary Authority

2.34 The Disciplinary Authority, in conducting the investigation, will comply with The Freedom of Information and Protection of Privacy Act and The Personal Health Information Act with respect to personal information and personal health information collected, used and disclosed in the course of the investigation. Where a Disciplinary Authority is unsure of whether they may disclose particular information, they may seek advice from the Access and Privacy Office.

2.35 The Disciplinary Authority will advise all persons involved with an investigation as to their obligations regarding confidentiality, and the protections available to them under this Procedure.

### Obligations of Confidentiality by the Others

2.36 All persons involved in an investigation of an incident of Non-Academic Misconduct or Concerning Behaviour, whether as a witness or retrieving relevant information or documents, must keep confidential:

(a) The existence and nature of the investigation; and

(b) Any information or documentation obtained as a result of the investigation; which information may only be disclosed to those who reasonably need to know. Where an individual is unsure of whether they may disclose particular information, they may seek advice from the Access and Privacy Office.

2.37 Notwithstanding section 2.36, the Complainant, the Respondent, and witnesses involved in the investigation may:

(a) Obtain confidential advice (including advice from a Student Advocate or lawyer, as may be appropriate);

(b) Disclose information to others only to the extent reasonably necessary to gather evidence and, in the case of an accused Student, to make full answer and defense to the allegations; and

(c) Use information obtained independent of the investigation in any other forum.

### Records Management

2.38 The Disciplinary Authority will maintain files with respect to each complaint in accordance with the Records Management Policy and Procedure.

## Part III: Accountability

3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Procedure is required.

3.2 The President is responsible for the implementation, administration and review of this Procedure.

3.3 Students, Faculty/College/School Councils, Unit Heads, Academic Staff and employees are responsible for complying with this Procedure.

(p) The Freedom of Information and Protection of Privacy Act, CCSM c. F175;

(q) The Personal Health Information Act, CCSM c. P33.5.

## **Part IV: Review**

4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is September 1, 2026.

4.2 In the interim, this Procedure may be revised or repealed if:

- (a) the President or the Approving Body deems it necessary or desirable to do so;
- (b) the Procedure is no longer legislatively or statutorily compliant;
- (c) the Procedure is now in conflict with another Governing Document; and/or
- (d) the Parent Policy is revised or repealed.

## **Part V: Effect on Previous Statements**

5.1 This Procedure supersedes all of the following:

- (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
- (b) all previous Administration Governing Documents on the subject matter contained herein.

## **Part VI: Cross References**

6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:

- (a) Student Discipline Bylaw;
- (b) Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct;
- (c) Table 3: Disciplinary Actions and Disciplinary Authorities;
- (d) Student Discipline - Appeal Procedure;
- (e) Respectful Work and Learning Environment Policy;
- (f) Sexual Violence Policy;
- (g) Complaints and Disclosures Procedure;
- (h) Residence Contract;
- (i) Violent or Threatening Behaviour Policy and Procedure;
- (j) Campus Alcohol Policy and Procedure;
- (k) Definitions of Academic Units Policy;
- (l) Records Management Policy and Procedure;
- (m) Use of Computer Facilities Policy and Procedure;
- (n) Third Party Data Access Request Form;
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