



FOR RECOMMENDATION

PUBLIC

OPEN SESSION

TO: University Affairs Board

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DATE: October 31, 2019 for November 13, 2019

AGENDA ITEM: 6

ITEM IDENTIFICATION:

Proposed Revisions: *Code of Student Conduct*

JURISDICTIONAL INFORMATION:

Under Section 5.1.4 of its Terms of Reference, the following matters fall under the purview of the University Affairs Board:

“The Board is responsible for policy concerning multi-campus services campus and student services on the St. George campus and University-wide policies that apply to the St. George, UTM and UTSC campuses. It is also responsible for overseeing their operation.”

GOVERNANCE PATH:

For Approval

- 1. University Affairs Board [for recommendation] (November 13, 2019)**
2. UTSC Campus Council [for information] (November 19, 2019)
3. UTM Campus Council [for information] (November 20, 2019)
4. Executive Committee [for endorsement and forwarding] (December 4, 2019)
5. Governing Council [for approval] (December 12, 2019)

PREVIOUS ACTION TAKEN:

The current *Code of Student Conduct* was recommended to the Governing Council for approval by the University Affairs Board on January 15, 2002.

HIGHLIGHTS:

Summary

The proposed technical changes to the *Code of Student Conduct* (“*Code*”) align the *Code* to the *Policy on Sexual Violence and Sexual Harassment*. The changes may be summarized as follows:

- 1) Change the definition of sexual violence in the *Code of Student Conduct* to align with definition under the *Policy on Sexual Violence and Sexual Harassment*.
- 2) Clarify that the “Division Head”, as outlined in the *Code*, is the Vice-Provost, Students for offences of Sexual Violence and Sexual Harassment.
- 3) Changes to the range of sanctions a Hearing Officer may impose, and clarifying the Hearing Officer’s ability to adjust the process of the Hearing as appropriate.
- 4) Other changes including updating the language pertaining to vexatious conduct to reflect the Ontario Human Rights Code, update the names of relevant offices, and clarify various administrative processes.

FINANCIAL IMPLICATIONS:

There are no direct implications for the University’s operating budget at this time.

RECOMMENDATION:

Be It Recommended

THAT the proposed revisions to the *Code of Student Conduct*, dated October 31, 2019 be approved, effective December 13, 2019.

DOCUMENTATION PROVIDED:

- Revised *Code of Student Conduct*, dated October 31, 2019



UNIVERSITY OF TORONTO

University of Toronto
Governing Council

Code of Student Conduct

February 14, 2002
Effective July 1, 2002
Revised

To request an official copy of this policy, contact:

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Code of Student Conduct

A. Preface

1. The University of Toronto is a large community of teaching staff, administrative staff and students, involved in teaching, research, learning and other activities. Student members of the University are adherents to a division of the University for the period of their registration in the academic program to which they have been admitted and as such assume the responsibilities that such registration entails.
2. As an academic community, the University governs the activities of its members by standards such as those contained in the *Code of Behaviour on Academic Matters*, which provides definitions of offences that may be committed by student members and which are deemed to affect the academic integrity of the University's activities.
3. The University sponsors, encourages or tolerates many non-academic activities of its members, both on its campuses and away from them. These activities, although generally separate from the defined requirements of students' academic programs, are a valuable and important part of the life of the University and of its students.
4. The University takes the position that students have an obligation to make legal and responsible decisions concerning their conduct as, or as if they were, adults. The University has no general responsibility for the moral and social behaviour of its students. In the exercise of its disciplinary authority and responsibility, the University treats students as free to organize their own personal lives, behaviour and associations subject only to the law and to University regulations that are necessary to protect the integrity and safety of University activities, the peaceful and safe enjoyment of University housing by residents and neighbours, or the freedom of members of the University to participate reasonably in the programs of the University and in activities in or on the University's premises. Strict regulation of such activities by the University of Toronto is otherwise neither necessary nor appropriate.

Under some circumstances, such as when a student has not yet reached the legal age of majority, additional limitations on student conduct may apply.

5. In January 2017, the *Policy on Sexual Violence and Sexual Harassment* came into effect. Through this *Policy* and its implementation, the University is committed to responding to and addressing incidents and complaints of sexual violence, including sexual harassment, involving its students, staff and faculty, and to ensuring that those members of the community who are affected by sexual violence receive support. For students, this *Policy* intersects with the *Code of Student Conduct* at the point of a Hearing, or the imposition of interim measures under s 55 of the *Policy*.

5-6. University members are not, as such, immune from the criminal and civil laws of the wider political units to which they belong. Provisions for non-academic discipline should not attempt to shelter students from their civic responsibilities nor add unnecessarily to these responsibilities. Conduct that constitutes a breach of the Criminal Code or other statute, or that would give rise to a civil claim or action, will often be adequately ~~should ordinarily be~~ dealt with by the appropriate criminal or civil court. In cases, however, in which criminal or civil proceedings have not been taken or would not adequately protect the University's interests and responsibilities as defined below, proceedings may be brought under a discipline code of the University, but only in cases where such internal proceedings are appropriate in the circumstances.

6-7. The University must define standards of student behaviour and make provisions for student discipline with respect to conduct that jeopardizes the good order and proper functioning of the academic and non-academic programs and activities of the University or its divisions, that

endangers the health, safety, rights or property of its members or visitors, or that adversely affects the property of the University or bodies related to it, where such conduct is not, for the University's defined purposes, adequately regulated by civil and criminal law.

~~7.8.~~ Nothing in this *Code* shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit freedom of speech as defined in the University.

~~8.9.~~ In this *Code*, the word "premises" includes lands, buildings and grounds.

~~10.~~ In this *Code*, "student" means any person,

- (i) engaged in any academic work which leads to the recording and/or issue of a mark, grade or statement of performance by the appropriate authority in the University or another institution; and/or
- (ii) associated with or registered as a participant in any course or program of study offered by or through a college, faculty, school, centre, institute or other academic unit or division of the University; and/or
- (iii) entitled to a valid student card who is between sessions but is entitled because of student status to use University facilities; ~~and/or~~

~~(iv) who is a post doctoral fellow.~~

~~9.11.~~ In this *Code*, the words "University of Toronto" refer to the University of Toronto and include any institutions federated or affiliated with it, where such inclusion has been agreed upon by the University and the federated or affiliated institution, with respect to the premises, facilities, equipment, services, activities, students and other members of the federated or affiliated institution.

Note: The University of Toronto has agreed that, when the premises, facilities, equipment, services or activities of the University of Toronto are referred to in this *Code*, the premises, facilities, equipment, services and activities of ~~the Massey College,~~ University of St. Michael's College, Trinity College and Victoria University are included.

~~12.~~ In this *Code*, where an offence is described as depending on "knowing", the offence shall likewise be deemed to have been committed if the person ought reasonably to have known.

~~10.13.~~ ~~In this Code an offence of sexual violence or sexual harassment means an offence under B.1.(a).~~

~~11.14.~~ This *Code* is concerned with conduct that the ~~University-University~~ considers unacceptable. In the case of student members of the University, the procedures and sanctions described herein shall apply, unless the matter has been or is to be dealt with under other provisions for the discipline of students. In the case of the other members of the University, such conduct is to be dealt with in accordance with the established policy, procedures and agreements that apply to the members.

~~15.~~ Subject to the conditions and considerations outlined in Section B., this *Code* is concerned with conduct arising in relation to a wide variety of activities and behaviours including, but not limited to, conduct related to the use of computers and other information technology and the use or misuse of alcohol. In principle, alleged offences that arise in relation to such conduct are not distinct from those that arise out of other activities that occur in the University community. Such activities may also be considered the commission of one or more offences and, in appropriate circumstances, may be dealt with under other University policies or regulations specific to the behaviour.

B. Offences

The following ~~offences constitute~~ conduct ~~that shall be deemed to be~~ an offences under this *Code*, when committed by a student of the University of Toronto, provided that such conduct

- (i) has not been dealt with as failure to meet standards of professional conduct as required by a college, faculty or school; and
- (ii) is not specifically assigned to the jurisdiction of the University Tribunal, as in the case of offences described in the *Code of Behaviour on Academic Matters*, or to another disciplinary body within the University of Toronto, ~~as in the case of sexual harassment as described in the *Policy and Procedures: Sexual Harassment*~~, or to a divisional disciplinary body, such as a residence council or a recreational athletics disciplinary body; ~~or, which although it is covered under these policies, but which is it has been~~ deemed by the head of the division to be more appropriately handled by the *Code of Student Conduct*; and
- (iii) except as otherwise provided herein, or as provided in the *Policy on Sexual Violence and Sexual Harassment*, occurs on premises of the University of Toronto or elsewhere in the course of activities sponsored by the University of Toronto or by any of its divisions; and
- (iv) has not been dealt with under provisions for the discipline of students with respect to University offices and services whose procedures apply to students in several academic divisions, such as University residences, libraries or athletic and recreational facilities.

1. Offences against persons

~~(a) No person shall assault another person sexually or threaten any other person with sexual assault.~~

(a) No person shall commit Sexual Violence or Sexual Harassment as defined in the *Policy on Sexual Violence and Sexual Harassment*.

- (b) No person shall ~~otherwise~~ assault another person, threaten any other person with bodily harm, or knowingly cause any other person to fear bodily harm.
- (c) No person shall knowingly create a condition that unnecessarily endangers the health or safety of other persons.
- (d) No person shall threaten any other person with damage to such person's property, or knowingly cause any other person to fear damage to her or his property.
- (e) No person shall engage in a course of vexatious conduct that is directed at one or more specific individuals, and

that is based on the race, ancestry, place of origin, colour, ethnic origin, citizenship, sex, sexual orientation, ~~creed, gender identity, gender expression,~~ age, marital status, family status, ~~handicap, receipt of public assistance or record of offences of that individual or those individuals or disability,~~ and

that is known to be unwelcome, and

that exceeds the bounds of freedom of expression or academic freedom as these are understood in University polices and accepted practices, including but not restricted to, those explicitly adopted.

Note: Terms in this section are to be understood as they are defined or used in the *Ontario Human Rights Code*. ~~Vexatious conduct that is based on sex or sexual orientation is considered an offence under the University's *Policy and Procedures: Sexual Harassment*. If the Sexual Harassment Officer believes, after consultation with relevant parties, that a complaint based on sex or sexual~~

~~orientation would be better handled under the *Code of Student Conduct*, the Officer may refer the matter to the appropriate head of division.~~

- (f) (i) No person shall, by engaging in the conduct described in subsection (ii) below,

whether on the premises of the University or away from the premises of the University,

cause another person or persons to fear for their safety or the safety of another person known to them while on the premises of the University of Toronto or in the course of activities sponsored by the University of Toronto or by any of its divisions, or cause another person or persons to be impeded in exercising the freedom to participate reasonably in the programs of the University and in activities in or on the University's premises, knowing that their conduct will cause such fear, or recklessly as to whether their conduct causes such fear.

- (ii) The conduct mentioned in subsection (i) consists of

- (a) repeatedly following from place to place the other person or anyone known to them;
- (b) repeatedly and persistently communicating with, either directly or indirectly, the other person or anyone known to them;
- ~~(c) besetting or repeatedly watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or~~
- ~~(d) engaging in threatening conduct directed at the other person or any member of the family, friends or colleagues of the other person.~~

2. Disruption

No person shall cause by action, threat or otherwise, a disturbance that the member knows obstructs any activity organized by the University of Toronto or by any of its divisions, or the right of another member or members to carry on their legitimate activities, to speak or to associate with others.

For example, peaceful picketing or other activity outside a class or meeting that does not substantially interfere with the communication inside, or impede access to the meeting, is an acceptable expression of dissent. And silent or symbolic protest is not to be considered disruption under this *Code*. But noise that obstructs the conduct of a meeting or forcible blocking of access to an activity constitutes disruption.

3. Offences involving property

- (a) No person shall knowingly take, destroy or damage premises of the University of Toronto.
- (b) No person shall knowingly take, destroy or damage any physical property that is not her or his own.
- (c) No person shall knowingly destroy or damage information or intellectual property belonging to the University of Toronto or to any of its members.
- (d) No person, in any manner whatsoever, shall knowingly deface the inside or outside of any building of the University of Toronto.
- (e) No person, knowing the effects or property to have been appropriated without authorization, shall

possess effects or property of the University of Toronto.

- (f) No person, knowing the effects or property to have been appropriated without authorization, shall possess any property that is not her or his own.
- (g) No person shall knowingly create a condition that unnecessarily endangers or threatens destruction of the property of the University of Toronto or of any of its members.

4. Unauthorized Entry or Presence

No person shall, contrary to the expressed instruction of a person or persons authorized to give such instruction, or with intent to damage or destroy the premises of the University of Toronto or damage, destroy or steal any property on the premises of the University of Toronto that is not her or his own, or without just cause knowingly enter or remain in or on any such premises.

5. Unauthorized use of University facilities, equipment or services

- (a) No person shall knowingly use any facility, equipment or service of the University of Toronto contrary to the expressed instruction of a person or persons authorized to give such instruction, or without just cause.
- (b) No person shall knowingly gain access to or use any University computing or internal or external communications facility to which legitimate authorization has not been granted. No person shall use any such facility for any commercial, disruptive or unauthorized purpose or in any way contrary to the Provost's Guidelines on Appropriate Use of Information Technology, as amended from time to time.
- (c) No person shall knowingly mutilate, misplace, misfile, or render inoperable any stored information such as books, film, data files or programs from a library, computer or other information storage, processing or retrieval system.

6. False charges

No person shall knowingly or maliciously bring a false charge against any member of the University of Toronto under this *Code*.

7. Aiding in the Commission of an Offence

No person shall counsel, procure, conspire with or aid a person in the commission of an offence ~~defined under in~~ this *Code*.

8. Refusal to comply with sanctions

No person found to have committed an offence under this *Code* shall refuse to comply with a sanction or sanctions imposed under the procedures of this *Code*.

9. Unauthorized Possession or Use of Firearms or Ammunition

No person other than a peace officer or a member of the Canadian Forces acting in the course of duty shall possess or use any firearm or ammunition on the premises of the University of Toronto without the permission of the officer of the University having authority to grant such permission.

Note: The President of the University or another senior officer designated by the President has been given the authority to grant such permission for the premises of the University of Toronto under the authority of the Governing Council of the University. The President has designated the Vice-President, ~~Business Affairs, who is the Chief Administrative Officer of the~~ University Operations to exercise this authority. Various officers of institutions federated with the University of Toronto have authority to grant such permission with respect to

the premises of the federated institutions.

C. Procedures

1. General

- (a) The University shall establish a centrally appointed pool of trained Investigating and Hearing Officers, who shall be available to the divisions, at the discretion of the head of the division, if that is considered appropriate or preferable for any reason.
- (b) Each division shall appoint an Investigating Officer and a Hearing Officer, who may be student, staff or faculty members from that division.
- ~~(b)(c)~~ Where allegations of offences noted under Section B.1.(a) are to be investigated, they will be investigated in accordance with the *Policy on Sexual Violence and Sexual Harassment*. Investigating Officers for offences related to section B.1.(a) will be appointed in accordance with the *Policy on Sexual Violence and Sexual Harassment*. Hearing Officers for offences under Section B.1.(a) will be appointed from the central pool.
- ~~(d)~~ (d) Whether the incident is investigated locally or centrally, every effort shall be made to conclude the case through to delivery of a final decision within the University within one year from the alleged incident of misconduct.
- ~~(e)(c)~~ (c) Pursuant to the provisions of Section D., interim conditions may be imposed by the head of the division, or in cases of allegations of offences under Section B.1.(a), by the Vice-Provost, Students in consultation with the head of the division.
- ~~(e)(f)~~ (f) For the purposes of confidential and central record keeping, a one-page summary of the outcome of all investigations, whether or not they have proceeded to a Hearing, shall be copied to the ~~Judicial Affairs Officer~~ Office of Appeals, Discipline and Faculty Grievances in the Office of the Governing Council. Outcomes of investigations pertaining to offences under Section B.1.(a) are maintained by the Office of High Risk and Safety and are only provided to the Office of Appeals, Discipline and Faculty Grievances for the purposes of a Hearing.
- ~~(g)~~ (g) Whenever possible and appropriate, informal resolution and mediation shall be used to resolve issues of individual behaviour before resort is made to formal disciplinary procedures.

2. Specific

Section ~~C~~.2.(a), (b), (c) and (i) do not apply to offences of Sexual Violence or Sexual Harassment under Section B.1.(a). See the *Policy on Sexual Violence and Sexual Harassment*, Section 73.

- ~~(g)(a)~~ (a) An Investigating Officer shall be appointed for a term of up to three years by the principal, dean or director (hereinafter called "head") of each faculty, college or school in which students are registered (hereinafter called "division"), after consultation with the elected student leader or leaders of the division, to investigate complaints made against student members of that division. Investigating Officers shall hold office until their successors are appointed and may be re-appointed.
- ~~(h)(b)~~ (b) A Hearing Officer shall be appointed for a term of up to three years by the council of each division to decide on complaints under this *Code* made against student members of that division. Hearing Officers shall hold office until their successors are appointed and may be re-appointed.
- (c) If the Investigating Officer is unable to conduct an investigation, or the Hearing Officer is unable

to conduct a hearing, or where the head of the division believes on reasonable grounds that the appointed officer is inappropriate to conduct the particular investigation or chair a particular hearing, then the head of the division shall seek an appointment from the central pool for that particular case from the Director, Office of Appeals, Discipline and Faculty Grievances.

- (d) If the head of the division, or the Vice-Provost, Students for cases involving offences under Section B.1.(a), intends to request either suspension from registration or expulsion from the University as a sanction in a particular case, or if the case appears to the head of the division, or the Vice-Provost, Students for cases involving offences under Section B.1.(a), to require a Hearing Officer with legal qualifications, then the Senior Chair of the University Tribunal may, on the application of the head of the division, or the Vice-Provost, Students for cases involving offences under Section B.1.(a), appoint a legally qualified person as Hearing Officer for the particular case.
- (e) Where the head of the division has reason to believe that a non-academic offence as defined in this *Code* may have been committed by a student member or members of the division, the Investigating Officer will conduct an investigation into the case. After having completed the investigation, the Investigating Officer shall report on the investigation to the head of the division. If the head of the division concludes, on the basis of this report, that the student or students may have committed an offence under the *Code of Student Conduct*, the head of the division, or the Vice-Provost, Students for cases involving offences under Section B.1.(a), shall have the discretion to request that a hearing take place to determine whether the student or students have committed the offence alleged.
- (f) The hearing will be chaired by the Hearing Officer. The case will be presented by the Investigating Officer, or in Sexual Violence or Sexual Harassment cases by the Vice-Provost, Students or designate, who may be assisted and represented by legal counsel. If the right to a hearing is waived, or after a hearing, the Hearing Officer will rule on whether the student or students have committed the offence alleged and may impose one or more sanctions as listed below. The accused student or students may be assisted and represented by another person, who may be legal counsel.
- (g) Appeals against decisions of bodies acting under authority from the council of a division to hear cases arising out of residence codes of behaviour may be made to the Hearing Officer of the division, where provision therefor has been made by the council of the division.
- (h) Appeals against the decision of the Hearing Officer may be made to the Discipline Appeals Board of the Governing Council.
- (i) Where the head of a division has reason to believe that a non-academic offence may have been committed by a group of students including students from that division and from another division or divisions, the head may consult with the head of the other division or divisions involved and may then agree that some or all of the cases will be investigated jointly by the Investigating Officers of the divisions of the students involved and that some or all of the cases will be heard together by the Hearing Officer of one of the divisions agreed upon by the heads and presented by one of the Investigating Officers agreed upon by the heads.

D. Interim Conditions and Measures

1. Interim Conditions: Ongoing Personal Safety

In those cases where the allegations of behaviour are serious and, if proven, could constitute a significant personal safety threat to other students or members of the University community, the head of the division, or the Vice-Provost, Students in consultation with the head of the division in cases of allegations of an offence under Section B.1.(a), is authorized to impose interim

conditions that balance the need of complainants for safety with the requirement of fairness to the respondent student. The interim conditions are in no way to be construed as indicative of guilt, and shall remain in place until the charges are disposed of under the *Code's* procedures.

2. Interim Measures: Urgent Situations

In some circumstances, such as those involving serious threats or violent behaviour, it may be necessary to remove a student from the University. Where the head of the division has requested an investigation by the Investigating Officer and the investigation is pending under the *Code*, or where an investigation is pending under the *Policy on Sexual Violence and Sexual Harassment*, the Vice-President & Provost (or delegate) may, on the advice of the head of the division, or the advice of the Vice-Provost, Students in the case of the *Policy on Sexual Violence and Sexual Harassment*, suspend a student or students temporarily for up to three working days if, in the opinion of the Vice-President & Provost (or delegate), there is reasonable apprehension that the safety of others is endangered, damage to University property is likely to occur, or the continued presence of the student(s) would be disruptive to the legitimate operations of the University. The student(s) shall be informed immediately in writing of the reasons for the suspension and shall be afforded the opportunity to respond. Any such temporary suspension must be reviewed by the Vice-President & Provost (or delegate) within the three-day temporary suspension period, following a preliminary investigation, and either revoked or continued. If the suspension is continued, the student(s) may appeal to the Senior Chair (or delegate), or the Associate Chair (or delegate) of the University Tribunal, who shall hear and decide on the appeal within five days.

E. Sanctions

The following sanctions or combinations of them may be imposed upon students found to have committed an offence under this *Code*.

In addition, students found to have committed an offence may be placed on conduct probation for a period not to exceed one year, with the provision that one or more of the following sanctions will be applied if the conduct probation is violated.

1. Formal written reprimand.
2. No Contact Order, including no direct or indirect contact or by social media or other means including offensive or disparaging comments or images, in an appropriate case.
~~Non-Disparagement Order.~~
- ~~3.~~ Mandated educational training or assignment.
- ~~4.~~ Order for restitution, rectification or the payment of damages.
- ~~5.~~ A fine or bond for good behaviour not to exceed \$500.
- ~~6.~~ Requirement of public service work not to exceed 25 hours.
7. Denial of access to specified services, activities or facilities of the University for a specified period of ~~up to one year~~time.
8. Other conditions for participation in the University community that are considered appropriate ~~advisable~~ to enhance the health and safety of the community.
9. Suspension from registration and attendance in a course or courses, ~~in any course or program,~~ an academic ~~of a division or unit,~~ or the University ~~any divisions~~ for a period of up to four years.
- ~~5-10.~~ Recommendation of expulsion from the University. The Hearing Officer has power only to recommend that such a penalty be imposed. In any such case, the recommendation shall be made by the Hearing Officer to the President for a recommendation by ~~them~~ ~~him or her~~ to the Governing Council. Expulsion shall mean that the student shall be denied any further registration

at the University in any program. If a recommendation for expulsion is not adopted, the Governing Council shall have the power to impose such lesser penalty as it sees fit.

~~The following two sanctions, which would directly affect a student's registration in a program, may be imposed only where it has been determined that the offence committed is of such a serious nature that the student's continued registration threatens the academic function of the University of Toronto or of any of its divisions or the ability of other students to continue their programs of study.~~ Where the sanction of suspension and/or expulsion has been imposed on a student, the Vice-President & Provost (or delegate) shall have the power to record that sanction on the student's academic record and transcript for such length of time as he or she considers appropriate.

A sanction of suspension shall be recorded on the student's academic record and transcript for a period of up to five years. The following wording shall be used: "Suspended from the University of Toronto for reasons of non-academic misconduct for a period of [length of suspension], [date]."

A sanction of expulsion shall be permanently recorded on a student's academic record and transcript. The following wording shall be used: "Expelled from the University of Toronto for reasons of non-academic misconduct, [date]."

~~6. Suspension from registration in any course or program of a division or any divisions for a period of up to one year.~~

~~7. Recommendation for expulsion from the University.~~

F. ~~Memorandum on~~ The Maintenance and Use of the Records of Non-Academic Discipline Proceedings

1. Keeping of Records

Records must be kept in all cases that have been the subject of an investigation and have resulted in the imposition of a sanction, whether or not the student has waived the right to a hearing.

Likewise, a Record of the Proceedings of Non-Academic Discipline Hearings must be kept in all cases that have proceeded to a Hearing.

2. Composition of Record

The Record of Proceedings on Non-Academic Discipline cases shall comprise:

- (a) the written report of the Investigating Officers, if any;
- (b) the Notice of Hearing (including the offence charged);
- (c) documentary evidence filed at a Hearing;
- (d) the decision of the Hearing Officer and the reasons therefor.

3. Storage of Records

The Records of the Proceedings of Non-Academic Discipline Hearings shall be stored in the ~~office of the head of the division~~Office of Appeals, Discipline and Faculty Grievances.

4. Records of the Investigating Officer

Where the investigation has not proceeded to a Hearing, the records and notes of the Investigating Officer shall be kept and may have a bearing on the decision to prosecute in a future case. Where a sanction has been imposed, a copy of the letter of sanction to the student shall be filed, in

confidence, with the ~~Judicial Affairs Officer~~Director, Office of Appeals, Discipline and Faculty Grievances, Office of the Governing Council.

5. Publishing of Records

Decisions of the Hearing Officer, including the name of the respondent, the offence and the sanction, shall be reported to the Vice-President & Provost, who shall convey the information, anonymously and in statistical form, annually to the University Affairs Board. A Hearing Officer or the Discipline Appeals Board may recommend to the Vice-President & Provost that the nature of the offence and the sanction be published in the University newspapers. Where circumstances warrant, they may also order the publication of the name of the person found to have committed the offence. The Vice-President & Provost shall have the discretion to withhold publication of the name of the person.

6. Use of Records

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

7. Tape Recordings of Hearings

The Hearing Officer shall ensure that a tape recording is made of all sessions of a Hearing. Such tape recordings shall be kept by the head of the division for at least 90 days after notice has been given of the decision of the hearing.

G. ~~Memorandum of~~ Procedures for Hearings arising from the *Code of Student Conduct*

Sections 1, 2, and 3, below do not apply to Sexual Violence or Sexual Harassment matters. Refer to the Policy on Sexual Violence and Sexual Harassment

1. Complaints about the alleged commission of any offence under the *Code of Student Conduct* may be made in writing by any person ("the complainant") to the principal, dean or director ("the head") of the college, faculty or school ("the division") in which the student or students who are alleged to have committed the offence ("the accused") are or were registered.
2. The head of the division shall consider the written complaint and shall determine if the conduct complained of appears to fall under the *Code of Student Conduct*. If it does not appear to fall under the *Code of Student Conduct*, the head may take whatever other action he or she deems appropriate to the circumstances, including communication to the complainant of the conclusion he or she has drawn. Where a student's conduct comes to light after a student has left the University, the head of the division may decide to proceed, if the seriousness of the allegation warrants such action.
3. If the head of the division considers that the conduct complained of appears to fall under the *Code of Student Conduct*, the head of the division may request the Investigating Officer to conduct a discreet investigation of the case and to make a report to ~~him or her~~them.
4. Except for offences under Section B.1.(a), if, on the basis of the report of the Investigating Officer, the head of the division concludes that the accused may have committed an offence under the *Code of Student Conduct*, ~~he or she~~the head of the division shall have the discretion to request that a hearing take place to determine whether the accused has committed the offence alleged. In the case of offences under Section B.1.(a), the Vice-Provost, Students will have the discretion as set out in the Policy on Sexual Violence and Sexual Harassment to request that a hearing take place to determine whether or not the accused has committed the offence alleged.

5. To initiate a hearing, the head of the division, or the Vice-Provost, Students as the case may be, shall give written notice to the accused indicating the nature of the complaint ~~and,~~ the offence alleged. ~~The notice of and setting a date, time and place for a hearing will be provided by the Office of Appeals, Discipline and Faculty Grievances to provide an opportunity for the accused to respond to the allegations made.~~ The notice shall indicate that if the accused does not appear at the hearing, the hearing may proceed in the absence of the accused.
6. The hearing will be chaired by the Hearing Officer, who shall not have been involved in the investigation leading up to the decision to request a hearing, and who shall make a decision on the basis of evidence presented at the hearing.
7. Hearings shall be conducted in an informal manner, in accordance with the principles of natural justice, and the Hearing Officer shall not be bound to observe strict legal procedures. Procedural defects will not invalidate the proceedings unless there has been a substantial wrong or denial of natural justice.
8. The parties to the hearing are the head of the division, represented by the Investigating Officer, or in cases of Sexual Violence and Sexual Harassment, the Vice-Provost, Students or designate, who may be assisted and represented by legal counsel, and the accused, who may be assisted and represented by another person, who may be a lawyer. Both parties shall be allowed to call, examine and cross-examine witnesses and present evidence and argument. The Hearing Officer controls the process of the hearing, which includes the discretion to adjust the traditional methods or manner of examination in chief or cross-examination where the Hearing Officer determines that such adjustments would help a witness give complete and accurate testimony, or are in the best interests of the witness, provided that such adjustments would not result in procedural unfairness for the respondent in the circumstances. unduly impair the procedural fairness rights of the respondent
9. Hearings shall be open to members of the University unless the Hearing Officer decides there is sufficient cause to provide otherwise.
10. The Hearing Officer is not bound to conduct the hearing according to strict rules of evidence. Evidence may be received in written or oral form.
11. The Hearing Officer may take note of matters generally within the knowledge of members of the University community.
12. The accused may waive the right to a hearing under these procedures, in which case the Hearing Officer will rule on whether the accused has committed the offence alleged and impose one or more of the sanctions listed in the *Code of Student Conduct*.
13. After a hearing, the Hearing Officer shall rule on the complaint and, where the Hearing Officer finds that the accused has committed an offence, shall impose one or more of the sanctions listed in the *Code of Student Conduct* and give reasons for the decision. A copy of the letter to the student imposing the sanction shall be copied, in confidence, to the ~~Judicial Affairs Officer~~ Director, Office of Appeals, Discipline and Faculty Grievances, Office of the Governing Council.
14. The onus of proof is on the head of the division, or the Vice-Provost, Students as the case may be, who must show on ~~clear and convincing evidence~~ that the accused has committed the offence alleged on the balance of probabilities.
15. Any penalty or remedy shall be stayed pending the outcome of any appeal to the Discipline Appeals Board.

January 22, 2002

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Related University of Toronto Policies

Statement of Institutional Purpose

Statement on Freedom of Speech

Statement on Human Rights

Statement on Prohibited Discrimination and Harassment

Policy on Sexual Violence and Sexual Harassment

Policy on Disruption of Meetings

Appropriate Use of Information and Communication Technology

Governing Council document on Association, Admission and Registration

Standards of Professional Practice Behaviour for all Health Professional Students