

Executive Committee Orientation:
***The Code of Behavior on Academic Matters –
Process and Considerations***

October 19, 2022



Code of Behaviour

- Highlights
 - Importance of Academic Integrity
 - Multiple Steps Prior to Executive Committee
 - Most Cases Disposed of within Division
 - Fairness Considerations – Due Process
 - Right to Legal Representation;
 - Access to Prior Reasons for Decision;
 - Onus on Provost;
 - Internal Appeal Process;
 - Review by President;
 - Review by Governing Council (delegated to Executive Committee)

Code of Behaviour

- Divisional Process
 - Number of Steps Depends on the Faculty and Type of Offence
 - Examples of Types of Cases at Division
- Fairness Considerations in the Division
 - Right of Legal Representation at Dean's Meeting
 - No Authority of Dean to Sanction if Student not Admit to the Offence
 - Right to be Heard by Impartial Panel of Peers
 - Often Opportunities After Charges Laid for Diversion Back to Division for Sanctioning Purposes

Code of Behaviour

- Referral to Provost
 - Laying of Charges
 - Review by Provost and Discipline Counsel
 - Dean and Provost need to agree to file charges
 - Could Include Further Attempts to Contact the Student Before Laying Charges
 - Post-Charges - Opportunity for Diversion Back to Dean if Student Admits to Offence and it is Minor

Code of Behaviour

- Tribunal Process
 - About Two-Thirds to Three-Quarters are Diverted Back to Division
 - Right to Legal Representation – Reminded at all Major Steps in Tribunal Process
 - Access to Prior Reasons
 - Disclosure From Discipline Counsel
 - Multiple Attempts to Contact Student and Provide Notice – Courier (Pre-Covid), Telephone, Email
 - Opportunities for Adjournments

Code of Behaviour

- Appeal Process
 - Student Can File Appeal Regarding Either Finding and/or Sanction
 - Student can Seek Extension to File an Appeal Late, Even After Expiry of Appeal Period
 - Students Advised of Actual Appeal Due Date
 - Again Advised of Right to Legal Representation

Code of Behaviour

- Governance Process for Expulsion
 - *The Code states that the Tribunal has the power only to recommend that such a penalty be imposed.*
 - *When recommending an expulsion, the Tribunal makes the recommendation to the President for a recommendation by him or her to the Governing Council – now delegated to Executive Committee.*
 - *Therefore recommendation to the Governors is from the President, not the Tribunal.*
- Governance Process for Degree Recall and Suspension
 - *Recommendation is Directly to Executive from the Tribunal – BUT President Reviews as an Added Step in the Process*

Role of the President

- Factors Considered by the President When Considering a Recommendation:
 - Process and documentation, including reasoning of Tribunal
 - Appropriateness of the sanction
 - Consistency
 - Obligation to promote and protect academic integrity

Role of Governing Council

- Process between President and Executive Committee – Student Has Opportunity to Submit a Statement Regarding the Sanction
- Authority of Governing Council - *University of Toronto Act, 1971*, Section 80 (2) and 83 and the *Code of Behaviour on Academic Matters, 1995*, Section C.ii.(b).(i):
 - Governing Council can adopt the recommendation from the President, but it has the power to impose such lesser penalty as it sees fit.

Role of Governing Council

- What are Governors expected to consider when reviewing the recommendation?
- Important to recognize that GC is *not* reviewing the facts, but considering whether this is the appropriate or reasonable penalty in these circumstances and in this context.
- Reviewing bodies should show deference to the Tribunal who is the trier of fact
- Consider the Tribunal's *reasons* for its sanction and fairness of the process
- Main question to ask when reviewing the dossier: “Was there a flaw in the process, or logic of the Tribunal, that warrants interference with the recommendation, taking into account the reasons and past decisions?”

Role of a Governor

SAMPLE CHECKLIST FOR GOVERNORS WHEN REVIEWING THE DOSSIER

- Have I read the Expulsion Dossier thoroughly?*
- Have I satisfied myself that the sanction of expulsion/degree revocation is appropriate to the offence, given the reasons provided, past cases, and all of the circumstances as outlined through the dossier?*

Matters excluded from the *Code of Behaviour*

- The *Code of Behaviour* does not apply to graduates who commit an offence after they have graduated.
- In these cases, the University lays charges under *The University of Toronto Act, 1947*, and *The University of Toronto Act, 1971*.
- The University Tribunal does not have jurisdiction to hear these cases. These matters are heard by a Judicial Board.

Judicial Board

- The Executive Committee establishes a Judicial Board pursuant to section 2(14)(e) of *The University of Toronto Act, 1971*.
- A Judicial Board is composed of three members: a legally-qualified chair, a member of the teaching staff, and a student (at least two of whom must be members of the Governing Council);
- It can hear and decide all matters related to charges against the graduate and can impose any penalty.
- Its reasons are provided to the Executive Committee for information only.