

## Practice Direction regarding Code of Student Conduct Hearings

### 1.0 Purpose

- 1.1 This document sets out procedural rules for matters that have been referred to a hearing under the Code of Student Conduct (“CSC”), to provide guidance to the parties (Respondent and Investigating Officer) or their representatives. It does not apply to other parts of the CSC process. For more information about the CSC and its processes, including matters addressed under the Policy on Sexual Violence and Sexual Harassment, see the resources set out in section 10 below.
- 1.2 This practice direction outlines the process for Non-Academic Discipline hearings under the CSC relating to:
- The participants in a hearing;
  - Conduct and communication;
  - Disclosure;
  - Form of hearing;
  - Evidence at a hearing;
  - Adjournment requests;
  - Proceeding in the absence of the Respondent (Accused); and
  - Proceedings management conferences
- 1.3 This practice direction should be read together with the CSC. To the extent of any conflict, the CSC governs.
- 1.4 Any reference to “days” in this practice direction should be read as “calendar days”. If a deadline specified in this practice direction falls on a holiday, which includes when the University is closed, then the requirement must be met on the next business day.
- 1.5 All deadlines set out in this practice direction may be modified by the Hearing Officer.

### 2.0 Participants in a Hearing

- 2.1 The participants in a Hearing include:
- Hearing Officer, the decision maker;
  - Investigating Officer and/or their representative, if applicable;
  - Respondent and their representative, if applicable;
  - Hearing Secretary, a member of the Appeals, Discipline and Faculty Grievances (“ADFG”) office; and

- Witnesses for the Respondent and/or the Investigating Officer, including the complainant, if applicable.

2.2 The Hearing is open to members of the University.

2.3 If a party would like the Hearing to be closed to members of the University, they may make a request to the Hearing Officer, through the ADFG Office, as set out in section 3.2.

2.4 If a party would like a person who is not a member of the University to attend the hearing, they may make a request to the Hearing Officer, as set out in section 3.2.

### **3.0 Conduct and Communication**

3.1 All persons participating in hearings arising from the CSC are expected to act in a manner that is civil and respectful of the Hearing Officer, staff at the ADFG Office, and other participants in the proceeding.

3.2 All communications and requests to the Hearing Officer must be sent through the ADFG Office and copied to the other party. Where possible, a party making a request should obtain the position of the other party in advance of sending the request to the Hearing Officer.

3.3 The Hearing Officer has the authority to make such directions or orders as are necessary to ensure that the proceedings are civil, respectful, efficient, and not an abuse of process.

3.4 To ensure the proceedings are civil, respectful, efficient, and not an abuse of process, the Hearing Officer may make such directions as are necessary relating to:

- communications protocols with the ADFG Office, other party, Hearing Officer, and/or other participants in the hearing;
- the conduct of the proceeding and hearing; and
- time limits and/or restrictions regarding written materials, number of witnesses, witness testimony, and length of submissions.

### **4.0 Disclosure**

- 4.1 Unless otherwise ordered, the Investigating Officer or their representative must provide the Respondent with all evidence that may be relevant to the case that is known to or in the Investigating Officer's possession that is not subject to privilege.
- 4.2 Anything that is disclosed by a party to the other in the course of the proceeding (e.g. oral and documentary evidence, names or identifying information of participants) ("Disclosure") is subject to an undertaking; that is,
- the use of Disclosure is limited to the CSC proceeding and must not be used for any collateral purpose or proceedings unless compelled by court order or an order made in another administrative proceeding;
  - the Disclosure must not be shared with anyone, other than a legal representative retained by the party, except for the purposes of the CSC proceeding or as authorized by the Hearing Officer in advance in writing; and
  - the Respondent will return the Disclosure to the University and destroy/delete additional copies (in hard copy and electronic format) at the conclusion of proceeding or as otherwise directed by the Hearing Officer.
- 4.3 A breach of the undertaking above is subject to sanction by the Hearing Officer, upon request made with notice to the party who is alleged to have breached the undertaking.

## **5.0 Form of Hearing**

- 5.1 A hearing and any proceedings associated with the matter (e.g. motions) shall be held virtually, unless otherwise ordered by the Hearing Officer.
- 5.2 On the request of a party, a Hearing Officer may order that a hearing, or part of a hearing be held in person, in writing, virtually, or in a hybrid format (i.e. a combination of one or more of these formats).
- 5.3 In deciding whether to order that a hearing be held in a format other than virtual, the Hearing Officer may consider:
- the nature of the witnesses and whether the determination of credibility of any witnesses would be affected by proceeding in one format over another;
  - the convenience of the parties and witnesses;
  - the reduction of cost and delay by proceeding in one format over another
  - fairness, efficiency, and safety; and
  - any other matter relevant in order to secure the just and expeditious determination of the merits of the hearing.

## 6.0 Evidence

- 6.1 Both parties may introduce evidence that is relevant to the proceedings and is not otherwise inadmissible.
- 6.2 Where appropriate, parties are encouraged to use an agreed statement of fact (a document that sets out facts that the parties agree upon, which will be admitted as evidence in the hearing) to assist in streamlining the hearing process.
- 6.3 Evidence may be provided during the hearing:
- orally through the testimony of witnesses given under affirmation;
  - by affidavit, provided that the person who swore/affirmed the affidavit is available for cross-examination at the hearing, if requested;
  - on consent of all parties; and
  - if ruled admissible by the Hearing Officer after a party makes a request to admit the evidence.
- 6.4 If a party wishes to rely on expert evidence (i.e. someone they wish to provide opinion evidence, e.g. from a doctor), the party must provide to the Hearing Officer, through the ADFG Office, copying the other party, no later than 30 days prior to the hearing date:
- the name and curriculum.vitae (résumé) of the proposed expert;
  - the specific area of expertise of the proposed expert evidence; and
  - a written report setting out the expert's opinion

## 7.0 Adjournment Requests

- 7.1 If a party needs an adjournment of a scheduled date, the party must first seek consent from the other party.
- 7.2 Whether or not consent is granted, the party seeking the adjournment must then forward their request, including a reason for the request, and the position of the other party to the ADFG Office. The ADFG Office will forward the request to the Hearing Officer for a decision.
- 7.3 The Hearing Officer will consider any relevant factor in deciding whether to grant an adjournment, including but not limited to:
- whether the other party consents to the adjournment;
  - the delay to the proceedings;

- any prejudice to the non-requesting party; and
- the reason for the request.

## **8.0 Proceeding in the case of Non-Participation of the Respondent**

- 8.1 A Respondent cannot prevent a CSC proceeding from moving forward by refusing to acknowledge correspondence from the University or the ADFG Office on the matter.
- 8.2 The Hearing Officer may order that the hearing proceed in the absence of the Respondent provided that the Respondent has received reasonable notice of the hearing.
- 8.3 In determining whether the Respondent has received reasonable notice of the hearing, the Hearing Officer will consider the steps taken to notify the Respondent of the hearing, including whether the notice of the hearing was emailed to the Respondent at any email address in the Respondent's ROSI record.

## **9.0 Proceedings management conferences**

- 9.1 A party to a proceeding may, at any time, request to attend before the Hearing Officer that has been assigned to preside over the proceeding for a proceedings management conference ("PMC").
- 9.2 The Hearing Officer may, on their own initiative, schedule a PMC.
- 9.3 The PMC is held virtually, unless otherwise ordered by the Hearing Officer conducting the PMC.
- 9.4 At the PMC, the Hearing Officer may:
- address any preliminary or procedural issues, including disclosure issues;
  - determine deadlines and timing for any motions;
  - determine the schedule for the filing of materials or evidence;
  - schedule a further PMC; and
  - give directions as the Hearing Officer determines necessary to secure the just and prompt determination of the merits of the hearing.

## 10.0 Resources

For additional information, please see the following resources:

- [Code of Student Conduct](#)
- [The Student's Companion to the Code of Student Conduct](#)
- [Student's Guide to the Policy on Sexual Violence & Sexual Harassment](#)

## Date

May 2025