

**CODE OF RIGHTS AND RESPONSIBILITIES**

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**Effective Date:** August 1, 2010

**Originating Office:** Board of Governors

**Supersedes /Amends:** May 20, 2004

**Policy Number:** BD-3

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### SECTION I STATEMENT OF PRINCIPLES

#### The Code of Rights and Responsibilities

1. The Code of Rights and Responsibilities (“the Code”) has, as its grounding principles, the values of civility, equity, respect, non-discrimination and an appreciation of diversity as manifested within Concordia University (“the University”) and within society-at-large.

#### Rights promoted and protected by the Code

2. All Members of the University, as defined in Section III of the Code, may reasonably expect to pursue their work, studies and other activities related to University life in a safe and civil environment. As such, neither the University nor any of its Members shall condone any conduct which adversely affects the University or any of its Members.
3. All Members have the freedom of conscience and religion; freedom of thought, belief, opinion and expression; freedom of peaceful assembly and freedom of association, the whole subject to the limits recognized by law and [University policies](#) and procedures.

#### Academic Freedom

4. The Code is not to be applied in such a way as to detract from the right of Members to engage in the frank discussion of potentially controversial matters, such as race, sex, sexual orientation, gender identity, politics or religion. Furthermore, the Code shall not be interpreted in such a way as to limit the use of legitimate instructional techniques, such as irony, argument, conjecture and refutation, or the assignment of readings, which may present a controversial point of view. The Code also recognizes the right to teach, within the bounds of the course calendar description and requirements of competence, and to conduct research and to engage in creative activity according to one’s best judgment.

#### Responsibilities

5. All Members are expected to refrain from violating the Code and those who have supervisory authority over others bear a particular responsibility to act in a timely and effective manner when they become aware of any alleged violation of the Code.

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### Complaints Subject to a Range of Responses

6. In keeping with its desire to settle conflicts in an effective and constructive manner, the University and its Members shall endeavour to seek an appropriate response to any alleged violations of the Code, ranging from the use of informal methods of conflict resolution to formal procedures for adjudicating complaints. Every attempt shall be made to use remedies and sanctions that restore harmony, collegiality and cooperation between Members.

### Fairness and Consistency

7. Complaints made under the Code shall be adjudicated in a manner that is consistent with the principles of natural justice and fair for all parties, regardless of constituency. The principles of natural justice may be defined broadly as the right to be heard, the obligation to hear the other side and decisions to be made untainted by bias.

### Management Rights

8. The Code is not to be applied in such a way as to detract from the right and duty of those with supervisory authority to manage and, if necessary, to discipline Members in accordance with [collective or employee agreements](#) and [University policies](#) and procedures.

### Union Rights

9. The Code is not to be applied in such a way as to detract from the rights of unions or employee associations to defend the interests of their members and to exercise their rights under a [collective or employee agreement](#).

### Recourse at Law

10. The Code does not detract from the right of Members to seek recourse at law.

### Code Does Not Supersede Other Policies or Agreements

11. Nothing in the Code shall replace or supersede any complaint, grievance or appeal procedure set out in any [collective or employee agreement](#) to which the University is a

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party, the [Academic Code of Conduct](#), the [University Calendars](#) or other [University policies](#) or procedures.

### SECTION II MANDATE AND FUNCTIONS OF THE OFFICE OF RIGHTS AND RESPONSIBILITIES AND THE ADVISOR

12. The mandate of the Office of Rights and Responsibilities (“the Office”) is to assist Members in resolving incidents involving an alleged violation of the Code in an effective and constructive manner. Such assistance is available both to Members who believe that they have been subjected to conduct that violates the Code and to those with supervisory authority who are called upon to respond to incidents of such conduct. The operations of the Office are directed by the Advisor on Rights and Responsibilities (“the Advisor”).
13. The Advisor shall actively promote, through education and direct intervention, the values outlined in [article 1](#) while carrying out all duties described in the Code. The Advisor shall be impartial in the exercise of his/her duties, shall respect the confidentiality of all who seek assistance from the Office, and shall do so in a non-judgmental manner. The Administration of the University shall respect the independence of the Office as it carries out its duties.
14. The Advisor shall advise, assist and support Members who are experiencing behavioural problems from another Member, as described in the Offences section of the Code, and shall endeavor to seek an appropriate response to any alleged violation. Responses may range from the use of informal dispute resolution methods to formal procedures for adjudicating complaints.
15. The Advisor may, when warranted, make recommendations to University authorities regarding situations within a unit, department, faculty, or the University as a whole, which have the general effect of violating the rights of Members to pursue his/her work, study and other activities related to University life in a safe and civil manner in keeping with the values espoused by the University and outlined in the Code.
16. The Advisor shall submit an annual report to the Secretary-General by November 1 of each year covering the previous academic year. The report shall detail the activities of the Office, including statistics on all complaints received, and make recommendations, as necessary, with regard to either the Code or the operations of the Office. The report

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shall be published in the University's newspaper and shall be submitted, for information purposes, to the Senate and Board of Governors.

17. If a Member considers that the Advisor has failed to follow the procedures outlined in the Code with respect to any matter to which the Member has been a party, he/she may submit a written complaint, detailing the alleged procedural failure, to the Secretary-General. The written complaint shall be investigated and the Member shall be informed of the results of the investigation, normally within fifteen (15) Days of the receipt of the complaint.
18. The Advisor shall be appointed by and shall report to the Secretary-General upon the recommendation of an advisory committee, composed of representatives of the University constituencies, including at least one (1) undergraduate and one (1) graduate student, struck for this purpose.
19. The appointment shall be made for an initial term of two years, renewable for further terms of five years. During the fourth year of each such term, the Secretary-General shall appoint an appraisal committee, composed of representatives of the University constituencies, including at least one (1) undergraduate and one (1) graduate student, which shall:
  - a) review the operations of the Office;
  - b) make recommendations with respect to the Office;
  - c) make a recommendation with respect to the renewal of the Advisor.

This review shall include, but shall not be limited to, consultations with the University community as well as an external appraisal.

### SECTION III DEFINITIONS

20. For the purposes of the Code:

“Authority” means the individual to whom a complaint must be submitted under the terms of a Respondent's [collective or employee agreement](#) or relevant [University policy](#).

“Days” means working days, which excludes weekends, holidays and other days during which the University is closed.

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“Expulsion” or “to Expel” means the termination of all of the Member’s rights and privileges as a Student at the University, including the right to enter and be on University property. Expulsion shall be recorded on the Member’s transcript as follows: “Required to withdraw. May request to be considered for re-admission after five (5) years from the date of expulsion pursuant to the Code of Rights and Responsibilities”. The Student may submit a written request to the Provost and Vice-President, Academic Affairs to be considered for re-admission after a period of five (5) years from the date of the expulsion.

“Investigator” refers to a person, external to the University, chosen to conduct an investigation into a complaint of harassment made against a non-Student Member, in accordance with [article 108](#) of the Code.

“Member” means faculty members, employees, administrative and support staff, postdoctoral fellows, members of the administration, students (as defined below) and all other students, interns, stagiaires or researchers including but not limited to exchange students, visiting students, interns or researchers.

“Student” means:

- any person registered in any academic program on a full-time or part-time basis
- any person admitted as an independent student, during the semester in which the person is registered in at least one course as well as the semester immediately following
- any person registered in a non-credit course for the duration of the course only
- any person registered as an Auditor in a credit or non-credit course for the duration of the course only
- any person registered as a student at another university who has written approval from his/her home university to take courses at the University for the semester during which the person is registered in at least one course at the University.

A person ceases to be a Student:

- upon graduation; or
- three consecutive semesters after he/she was last registered in at least one (1) course; or
- at the end of the semester during which such person is declared in failed standing and is no longer entitled to register in any course at the University.

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“Suspension” or “to Suspend” means the withdrawal of such University privileges of a Student as are specified by the President or the Hearing Panel. If no particular privileges are specified, “Suspension” shall entail the withdrawal of all University privileges, including the right to write examinations and the right to enter and be upon University premises, in which case the Student may only come upon University premises for a specified purpose, previously authorized in writing by a Disciplinary Officer. Suspension shall be recorded on the academic transcript as follows: “Required to withdraw. May not resume studies until (date)”. At the date for resumption of studies, the notation shall be removed from the transcript but shall continue to be maintained in the confidential files of the Dean of Students. The maximum length of a Suspension shall be two (2) years, after which the Student may resume his/her studies at the next possible term, providing that all imposed conditions (if any) have been fulfilled.

### **Ambiguities**

21. Wherever there is doubt or ambiguity regarding any provision of the Code or the procedure to be followed, that interpretation or procedure which appears to be most equitable and consistent with the general purposes and philosophy of the Code shall be adopted. Except for those terms specifically defined in this Code, the terms used shall have their usual meanings.

### **SECTION IV JURISDICTION**

22. Complaints with respect to a violation of the Code may be made by Members in relation to the conduct of other Members where the Member complaining (“the Complainant”) is directly affected by the conduct in question. As well, the University, through its Disciplinary Officers, may make a complaint on its own behalf against a Member in relation to conduct against another Member or non-Member. The alleged violation must have taken place on University premises, either rented or owned, or on other premises in the course of any University-sponsored activity or event.

### **Complaints against Former Students**

23. In cases involving a Student’s conduct, the person need only have been a Student at the time of the alleged violation of the Code. If any proceedings under the Code cannot be initiated or completed because a Student has graduated or ceases to be a Student in accordance with the definition contained in Section III of the Code, the proceedings shall

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continue if the person registers again or, in the case of a person who has graduated, if the alleged offence, if proven, would impugn the validity of the degree conferred.

24. If a complaint has been upheld against a Student who later graduates or ceases to be a Student in accordance with the definition contained in Section III of the Code, prior to the fulfillment of the sanction imposed, a notation shall be made on his/her academic record only indicating the sanction under the Code and that he/she cannot pursue further studies at the University until such time as the sanction imposed has been fulfilled or until he/she has made suitable arrangements with the Dean of Students to fulfill the sanction.

### **Contractors their Employees and Visitors**

25. Contractors, their employees and representatives, and visitors to the University as well as any other persons associated with or taking courses at the University or on University premises are expected to conduct themselves in a manner consistent with the Code. Violations of the Code by such persons may be dealt with, where applicable, as potential breaches of contract and, in addition, the President, and any other person designated by the President, may exclude each such person from any University premises and take any other steps that may be appropriate. Should such persons believe that they have been subjected to conduct on University premises in violation of the Code, they may consult the Advisor for advice.

### **SECTION V OFFENCES PROHIBITED UNDER THE CODE**

26. The primary purpose of the Code is to promote and protect the values of civility, equity, respect, non-discrimination, and an appreciation of diversity as manifested within the University and to support Members who have experienced, or are experiencing, conduct that violates these fundamental values.
27. No Member who seeks the services of, files a complaint with, or cooperates in any manner with the Advisor, shall be subject to any reprisals for so doing. The procedure set out in the relevant [University policy](#) or [collective or employee agreement](#) shall be followed in cases of alleged reprisals.
28. The following offences represent the core behaviours the Code wishes to address and are prohibited under this Code:

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a) Harassment

“Harassment” means:

- ii. all forms of repeated or ongoing unwelcome, vexatious conduct, including but not limited to, sexual harassment, psychological harassment or harassment based on a ground prohibited by law directed towards a Member or a group of Members; and
- iii. which may or may not be based upon one of the prohibited grounds specified in the Québec Charter of Human Rights and Freedoms, that is; race, colour, ethnic or national origin, sex, gender identity, pregnancy, sexual orientation, civil status, age, religion, political convictions, language, social condition, handicap or the use of a means to palliate a handicap; and
- iiii. when such conduct has the effect or purpose of unreasonably interfering with a Member's right to pursue his/her work, study or other activities related to University life in a safe and civil manner or of creating an intimidating or hostile environment for such activities.

A single serious incidence of such behaviour may constitute harassment if it has the same consequences and if it produces a lasting harmful effect on the Member.

b) Sexual Harassment

Sexual harassment means a form of harassment which involves conduct of a sexual nature such as, but not limited to, sexual assault, verbal abuse or threats of a sexual nature, unwelcome sexual invitations or requests, demands for sexual favours or unwelcome and repeated innuendoes or taunting about a Member's body or appearance when:

- i. submission to such conduct is made, whether explicitly or implicitly, a term or condition of the Member's employment or educational progress; or
- ii. submission to or rejection of such conduct is used as the basis for an employment or academic decision affecting that Member; or
- iii. such conduct has the effect or purpose of unreasonably interfering with a Member's right to pursue his/her work, study or other activities related to University life in a safe and civil manner or of creating an intimidating or hostile environment for such activities.

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A single serious incidence of such behaviour may constitute harassment if it has the same consequences and if it produces a lasting harmful effect on the Member.

c) Psychological Harassment

“Psychological harassment” is a specific type of harassment formally recognized in the law and means vexatious behaviour in the form of repeated conduct, written or verbal comments, actions or gestures against a Member which:

- i. are hostile or unwanted; and
- ii. affect the Member’s dignity or psychological or physical integrity; and
- iii. have the effect or purpose of unreasonably interfering with a Member's right to pursue his/her work, study or other activities related to University life in a safe and civil manner or of creating an intimidating or hostile environment for such activities..

A single serious incidence of such behaviour may constitute psychological harassment if it has the same consequences and if it produces a lasting harmful effect on the Member.

d) Discrimination

“Discrimination” means:

- i. treatment which has the effect or purpose of imposing burdens, barriers, obligations or disadvantages on a Member or group of Members; and
- ii. for which there is no bona fide and reasonable justification; and
- iii. when such treatment is based on one of the prohibited grounds specified in the Québec Charter of Human Rights and Freedoms, that is; race, colour, ethnic or national origin, sex, gender identity, pregnancy, sexual orientation, civil status, age, religion, political convictions, language, social condition, handicap or the use of a means to palliate a handicap.

e) Communication of Discriminatory Matter

It is an offense for a Member to engage in the distribution, communication, publication or public exhibition by any means of any matter deemed to be

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discriminatory or to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination, as contemplated under the Québec Charter of Human Rights or under the Canadian Human Rights Act, and for which there is no bona fide and reasonable justification.

f) Threatening or Violent Conduct

“Threatening or violent conduct” means

- i. assaulting another Member; or
- ii. threatening another Member or group of Members with bodily harm or causing another Member or group of Members to have reasonable grounds to fear bodily harm; or
- iii. creating, or threatening to create, a condition, which unnecessarily endangers or threatens the health, safety or well-being of another Member or group of Members or threatens the damage or destruction of property.

29. The following offences represent conduct injurious to Members, or to the University as a whole, and are prohibited under the Code:

- a) “Offences against property” means willfully or recklessly taking, having unauthorized possession of, damaging or destroying any property belonging:
  - i. to the University; or
  - ii. to any Member or group of Members when such property is on University premises or on other premises during the course of a University-sponsored activity or event;
- b) Knowingly furnishing false information, knowingly making a false accusation or knowingly reporting a false emergency to any University Official or Office;
- c) Maliciously activating fire alarms;
- d) Bomb threats;

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- e) Theft or abuse of computing facilities or computer time, including but not limited to: logging into or attempting to log into a server or account without authorized access; accessing data or taking any action to obtain, copy, use, misuse, read or change data, information or services not intended for the Member or the Member's use; unauthorized transfer of a file; use of another individual's account or password; use of computing facilities to interfere with the work of another individual or computing system; attempting to probe, scan or test the vulnerability of a system or network; tampering, hacking, modifying or otherwise corrupting or breaching security or authentication measures; transmitting materials that contain malware such as viruses, Trojan horse software, keyboard loggers; or engage in conduct that could damage, disrupt or otherwise impair or interfere with the functionality or the operation of computing facilities or computer;
- f) Unauthorized entry into any University property;
- g) Obstruction or disruption of teaching, research, administration, study, student disciplinary procedures or other University activity. Notwithstanding the preceding, Members are free to engage in peaceful and orderly protest, demonstration, and picketing that do not disrupt the functions of the University.

For example, peaceful picketing or other activity in any public space that does not impede access nor interfere with the activities in a class or meeting is an acceptable expression of dissent and shall not be considered an infraction of this article.

- h) Camping or lodging on University property other than in authorized facilities;
- i) Forging or, without authority, knowingly altering, using, receiving or possessing University supplies or documents (including without limitation, records, keys, electronic devices or identifications);
- j) Hazing or any method of pre-initiation or initiation into a student organization or any pastime or amusement engaged in with respect to such an organization which causes, or is likely to cause, bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm;

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- k) Unlawful manufacture, distribution, possession, use, sale or the attempted manufacture, distribution, or sale of controlled substances;
- l) Possession, use, threatened use, storage, or manufacture of explosives, firebombs, or other destructive devices;
- m) Possession, use, threatened use, or manufacture of firearms, ammunition, dangerous chemicals or other weapons, except as expressly authorized by law or University regulations;
- n) Unauthorized use or duplication of the University's name, trademarks, logos or seals; and
- o) Any other action that is not specifically described in this Section but which is an offence described in any federal, provincial or municipal law or regulation, which occurs in the University context.

### SECTION VI            INFORMAL RESOLUTION OF COMPLAINTS

#### Consultation with the Advisor

- 30. The Advisor shall be impartial in the exercise of his/her functions and shall respect the confidentiality of all parties.
- 31. Members who believe that they have been subjected to conduct that violates the Code may consult the Advisor. The primary goal of the consultation is to assist the Complainant in making an informed choice as to the most appropriate method of resolution.
- 32. Normally, a complaint should be filed with the Advisor within three (3) months of the alleged violation. This period may be extended at the discretion of the Advisor when, in his/her opinion, there are serious and compelling reasons to grant the extension. If the person against whom the complaint is made ("the Respondent") is a member of a union or employee association, the Advisor shall inform the Complainant of any delays regarding disciplinary procedures which may be prescribed in the Respondent's [collective or employee agreement](#).

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33. The Advisor may, upon written notice to the Complainant, refuse to assist in informal resolution or to proceed with a formal complaint, on one or more of the following grounds:
- it is not within the jurisdiction of the Code, in which case the Advisor shall, if appropriate, re-direct the Complainant to the relevant channels for redress; or
  - it is trivial, frivolous, vexatious or made in bad faith; or
  - it is being dealt with, or has already been dealt with, by another University officer, policy or procedure; or
  - it does not appear to be supported by sufficient evidence.
34. If the Advisor has refused to proceed with a formal complaint, the Complainant may appeal such a refusal within ten (10) Days of receipt of the Advisor's notice, by submitting a request in writing to the Secretary of the Hearing Panel who will provide a copy of the request to the Advisor. A Hearing Panel shall be convened as soon as possible after receipt of the notification and normally within ten (10) Days. Once a hearing date is fixed by the Secretary, the Complainant and the Advisor shall each deliver written submissions to the Secretary at least two (2) Days prior to the date fixed for the hearing. The Hearing Panel shall render its reasoned decision based on such written submissions. The Secretary shall advise the Complainant and the Advisor of the names of the panelists no later than five (5) Days before the hearing. The provisions of Section VII shall apply, except that a reasoned objection to the participation of a panelist on the grounds of potential bias shall be filed no later than three (3) Days before the hearing. The decision of the Hearing Panel is final.
35. If the Advisor does not make a determination under [article 33](#), the Complainant shall decide upon one of the following courses of action:
- to proceed with informal conflict resolution; or
  - to proceed with a formal process under Section VII or Section VIII; or
  - to take no further action; or
  - to pursue any other course of action available at law, under a [collective or employee agreement](#) or under any other [University policies](#) or procedures.

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### Procedures for Informal Resolution

36. If the Complainant opts to proceed with informal conflict resolution, he/she may authorize the Advisor to take steps to attempt an informal resolution. Such steps may take a variety of forms, for example, helping to clarify perceptions, raising awareness of the impact of certain conduct, reconciling differences or sorting out misunderstandings. The parties may be brought together or communication may be effected through the Advisor.
37. Where the situation lends itself to structured mediation and both parties agree, the Advisor may personally act as mediator, or may assist the parties in obtaining the services of another Member who is qualified to perform this function.
38. Any informal agreement reached between the parties through informal conflict resolution is entirely voluntary. Neither the Advisor nor any other mediator has the authority to impose conditions or sanctions upon either party.
39. The Complainant may withdraw the complaint at any point during the process of informal resolution. As well, the Advisor may withdraw from the informal process if he/she determines that no useful purpose will be achieved by continuing.
40. Normally, attempts at informal resolution shall not last longer than three (3) months.

### Referral to the Dean of Students

41. Where a concern has been raised about a Student's conduct, and, in the opinion of the Advisor, it cannot be adequately addressed using the range of informal options described in [article 36](#), the Advisor may, with the agreement of the Complainant, refer the matter to the Dean of Students for disposition.
42. The Advisor shall forward the details of the matter, in writing, to the Dean of Students, who shall meet with the Respondent.
43. In disposing of the matter, the Dean of Students shall seek a response, which is instructive for the Respondent and which is intended to help prevent further problems of behaviour. Responses may include, but are not limited to, the following examples:

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- a) issuing of a verbal or written warning not to repeat the behaviour in question;
- b) requesting that the Respondent give a verbal or written apology; or
- c) directing that the Respondent's University computer privileges be suspended, where the complaint concerns abuse of such privileges. This measure may only be implemented if it can be done in such a manner as to not hinder the Student's academic activities.

44. The Dean of Students will maintain a file on the matter and will provide a written summary of the outcome to the Advisor who will, in turn, inform the Complainant.

### **SECTION VII PROCEDURES FOR ADJUDICATING FORMAL COMPLAINTS AGAINST STUDENTS**

#### **Formal Complaints**

45. Formal complaints made by Students against other Students shall be adjudicated by a Hearing Panel consisting only of students. Formal complaints made by any Member who is not a Student against a Student shall be adjudicated by a Hearing Panel consisting of students, faculty and/or administrative and support staff.

#### **The Secretary**

46. A Secretary of the Hearing and Appeal Panels, who shall form part of the Office of Student Tribunals, shall be designated by the Secretary-General. The Office of Student Tribunals shall be responsible for the administrative functioning of the Hearing Panels and shall maintain the confidential files and recordings of proceedings of the Hearing and Appeal Panels.

#### **Structure of Hearing Panels**

47. Where a formal complaint is made by a Student against another Student, the Secretary shall select a Hearing Panel composed of three (3) graduate or undergraduate students drawn from the Student Tribunal Pool and one (1) non-voting chair.
48. In all other cases, the Secretary shall select a Hearing Panel composed of:
- a) one (1) non-voting chair; and
  - b) two (2) undergraduate or graduate students drawn from the Student Tribunal Pool;

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- c) one (1) faculty member drawn from the Faculty Tribunal Pool if the Complainant is a faculty member; or one (1) member of the administrative or support staff drawn from the Administrative and Support Staff Tribunal Pool if the Complainant is a member of the administrative or support staff. If the Complainant is the University (as per [article 22](#)), a member of the senior administration or the Security Department, the member shall be drawn from the Faculty Tribunal Pool.

### Initiating a Formal Complaint

49. A Complainant may opt to proceed directly to a formal complaint at the outset or after an attempt at informal conflict resolution has been unsuccessful. No statements, documents or information brought forward in the course of an attempt at informal conflict resolution may be used or referred to should a formal complaint be initiated and no reference may be made to the fact that informal conflict resolution was attempted.
50. In the event that a formal complaint proceeds, the following provisions shall apply.
51. The Advisor shall provide the Complainant with a copy of this Code and shall inform the Complainant of the following:
  - a) the required format for submitting the complaint, which must be made in writing, signed and dated and must identify the Complainant and the Respondent and the precise nature of the complaint, including the relevant provision(s) of the Code;
  - b) the procedures which shall be followed by a Hearing Panel;
  - c) the right of the Complainant and the Respondent to consult any person in the preparation of his/her case, and to be accompanied or represented before a Hearing Panel by any Member. If the Complainant is a Student, he/she also has the option of obtaining a student advocate through the services of Advocacy and Support Services or a student advocacy service offered by a student association; and
  - d) the right of appeal.
52. Upon receipt of the written complaint, the Advisor shall immediately notify the Respondent. The Respondent shall be provided with a copy of the Code, a copy of the complaint together with the information detailed in [article 51](#) b), c) and d).
53. Concurrent with the notification sent to the Respondent, the Advisor shall notify the Secretary who shall convene a Hearing Panel to hear the matter. Thereafter, the

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Secretary shall be responsible for all communications with the Complainant and the Respondent.

54. A Hearing Panel shall be convened as soon as possible after receipt of the notification by the Secretary and normally within twenty (20) Days.
55. Once a hearing date is fixed by the Secretary, the Complainant shall submit any additional documentation substantiating his/her case to the Secretary no later than fifteen (15) Days before the scheduled hearing date. Such documentation shall include any supporting documents and a list of the witnesses that will appear, if any, and written statements, if any, made by witnesses regarding the complaint.
56. The Secretary shall forward the documentation together with a list of the panelists selected for the case to the Respondent no later than ten (10) Days before the scheduled hearing date. The list of panelists shall also be sent to the Complainant.
57. The Respondent shall deposit with the Secretary whatever documentation he/she wishes to present at the hearing and the list of witnesses who shall testify on his/her behalf no later than five (5) Days before the hearing. The Secretary shall immediately and no later than three (3) Days before the hearing forward a copy of the entire file to each member of the Hearing Panel. The Hearing Panel may limit the number of witnesses called by both parties taking into account their relevancy.
58. Either party may object to the participation of a panelist on the grounds of potential bias. A reasoned objection shall be filed, no later than five (5) Days after having received the list of panelists, with the Secretary who shall arrange for an alternate panelist to serve if the Secretary determines that the objection is well founded. If the Secretary feels that the objection is frivolous and the matter cannot be resolved, the issue shall be forwarded to the Chair of the Hearing Panel who shall render a final decision in this regard.
59. A settlement may be agreed to by the parties at any time prior to the hearing. If both parties agree to attempt a settlement, the Advisor shall convene and facilitate a meeting between them. The process is entirely voluntary but once a settlement is reached, it is binding. The Advisor shall monitor the terms of the settlement and if either party defaults on the settlement, the Advisor shall inform the other party, who may then decide to resume the formal procedure. No settlement may be imposed by either party without the full agreement of the other.

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### The Hearing

60. The Hearing Panel shall establish its own rules of procedure. Minimally, these rules shall provide for opening statements by the parties, the presentation of evidence and witnesses, the right of cross examination, questioning by members of the Hearing Panel, representations with respect to desired sanctions and closing statements. Hearings shall be recorded, and the recording kept as part of the permanent record of proceedings for a period of not less than five (5) years.
61. The role of the Chair shall be to preside over the proceedings, keep order and ensure fairness. The Chair shall preside over the deliberations of the Hearing Panel but shall not vote. Decisions shall be made by majority vote. The deliberations of the Hearing Panel shall only be attended by the Chair, the Secretary and the panelists.
62. The hearing shall be closed and confidential unless both parties have consented in writing to the attendance of other Members.
63. If the Respondent fails, without reasonable excuse, to attend the hearing, the hearing may proceed in his/her absence or, at the Chair's discretion, the start of the hearing may be postponed. If the hearing proceeds in the Respondent's absence, all rights contingent on the Respondent's presence, with the exception of the right to have an advocate present to plead for postponement, are forfeited. In such a case, a Respondent's right of appeal is limited to a consideration of the reasonableness of his/her excuse for not appearing. If an Appeals Panel finds that the excuse is reasonable, it shall order a new hearing by a new Hearing Panel with the Respondent present. The decision of the new hearing is appealable as if it were a first hearing.
64. The Hearing Panel shall provide a signed, dated and reasoned decision. The standard of proof to be relied upon by the Hearing Panel shall be one of a "preponderance of evidence". A "preponderance of evidence" standard means that the Complainant must establish that his/her version of the facts is significantly more probable. This standard is less rigorous than the standard of "beyond a reasonable doubt" required under criminal law.

### Sanctions

65. The Hearing Panel may impose one or more of the following sanctions:

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- a) a written reprimand;
  - b) conditions (the Hearing Panel does not, however, have the authority to bar a student from any academic activity);
  - c) payment as compensation for damage or loss of property or to otherwise rectify a situation which the Respondent created or helped to create;
  - d) specified community service at the University of up to ten (10) hours per week for a specified period of time not exceeding a total number of sixty (60) hours;
  - e) a fine not exceeding \$500 when the Hearing Panel deems that other sanctions are not appropriate or practical;
  - f) subject to confirmation by the President, a recommendation of Suspension;
  - g) subject to confirmation by the President, a recommendation of Expulsion.
66. All monetary sanctions shall be payable within twenty (20) Days of the date of transmission of the Hearing Panel's decision. The execution of any non-monetary sanction imposed by the Hearing Panel shall not be suspended by an appeal.
67. The decision of the Hearing Panel shall normally be rendered within ten (10) Days of the hearing and shall be communicated in writing to both parties and the Advisor together with notice as to the appeal process provided for under this Code.
68. The administration and monitoring of the sanction(s) imposed shall be the responsibility of the Dean of Students. Failure to pay any monetary sanction imposed within the delay prescribed in [article 66](#) shall result in the amount being added to the Respondent's student account. Should the Respondent fail to comply with any non-monetary sanction, the Dean of Students shall, in writing, convene him/her to an interview and inform the Respondent of his/her right to be accompanied by a student advocate from Advocacy and Support Services or from a student advocacy service offered by a student association or any other Member. During the interview, the Respondent shall have the opportunity to review the evidence related to the alleged violation of the sanction(s) and to provide the Dean of Students with his/her explanation.
69. Following the interview, the Dean of Students may recommend to the President that the Respondent:
- a) not be permitted to re-register until such time as he/she has fully complied with the sanction(s) imposed;

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- b) be Suspended, or given an additional Suspension if the original sanction was a Suspension;
- c) be Expelled if the Respondent has failed to respect the sanction imposed more than twice;
- d) have his/her diploma withheld until such time as he/she has fully complied with the sanction(s) imposed.

70. If the Respondent fails, without reasonable excuse, to attend the interview, the Dean of Students shall review the evidence related to the alleged violation of the sanction(s) and, as the case may be, make a recommendation to the President.

### Appeals

71. A party who wishes to appeal a decision or sanction of the Hearing Panel, or both, shall apply in writing to the Secretary for the authorization to lodge an appeal. Such request for authorization to appeal shall be submitted to the Secretary no later than fifteen (15) Days after the date of transmission to the parties of the decision of the Hearing Panel.
72. Any request for authorization to appeal may be based only on the following grounds:
- a) the discovery of new evidence following the rendering of the decision of the Hearing Panel;
  - b) the presence of serious and prejudicial procedural defects during the hearing process; or
  - c) the decision of the Hearing Panel is patently unreasonable.
73. The request for authorization to appeal shall state in clear and precise terms the grounds on which the appeal is based. Upon receipt of the request for authorization to appeal, the Secretary shall provide the other party with a copy.
74. In his/her request for authorization to appeal, an appealing party ("the Appellant") subject to a sanction may ask the Appeals Panel to suspend the execution of the sanction until a final decision has been rendered by the Appeals Panel.
75. The other party ("Respondent on Appeal") shall submit a concise written reply to the Appellant's request for authorization to appeal and the grounds invoked within five (5)

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Days his/her receipt. This statement shall identify the Respondent on Appeal's position on each ground of appeal.

76. All parties to the appeal shall have access to the audiotape recordings for the purpose of preparing their statements.
77. An Appeals Panel shall be convened as soon as possible after receipt of the request by the Secretary and normally within fifteen (15) Days.
78. The Secretary shall select an Appeals Panel composed of:
  - a) one (1) non-voting chair;
  - b) two (2) graduate or undergraduate students drawn from Student Tribunal Pool;
  - c) two (2) faculty members drawn from the Faculty Tribunal Pool;
  - d) one (1) member of the administrative or support staff drawn from the Administrative and Support Staff Tribunal Pool.
79. Notwithstanding [article 78](#) above, if the original Complainant (whether the Appellant or not) is a member of the administrative and support staff, the Appeals Panel shall be composed of two (2) members of the administrative or support staff drawn from the Administrative and Support Staff Tribunal Pool and one (1) faculty member drawn from the Faculty Tribunal Pool. If the Appellant is the University (as per [article 22](#)), a member of the senior administration or the Security Department, the Appeals Panel shall be composed of two (2) faculty members drawn from the Faculty Tribunal Pool and one (1) member of the administrative or support staff drawn from the Administrative and Support Staff Tribunal Pool.
80. In no case shall a member of the Appeals Panel also have been a member of the Hearing Panel which conducted the original hearing.
81. The Appeals Panel shall decide whether an appeal shall be heard, having regard to the circumstances of each case.
82. The Appeals Panel shall normally render its decision with respect to the request for authorization, and, as the case may be, the suspension of the execution of any sanction, based upon the written record only, within five (5) Days of its consideration of the

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- request. The Appeals Panel shall be provided with the complete file of the Hearing Panel.
83. The Appeals Panel shall render its decision with respect to the request for authorization in writing, with brief reasons supporting its decision.
  84. If the authorization to appeal is granted, it shall normally be heard within fifteen (15) Days of the decision to authorize the appeal. Notification of such decision to authorize the appeal shall be sent to both parties.
  85. During the hearing of the appeal, the Appellant and the Respondent on Appeal shall be allowed to make oral representations but shall not be allowed to bring witnesses or to produce new evidence. The decision of the Appeals Panel on the appeal shall only be based upon the representations made by the parties, the decision of the Hearing Panel, the written record, the complete file of the Hearing Panel and the audiotape recordings, as the case may be.
  86. The Appeals Panel has the authority to confirm, reverse or modify the decision being appealed. Furthermore, should the appeal be based on the production of new evidence, the Appeals Panel may order a new hearing of the complaint by a new Hearing Panel.
  87. The decision of the Appeals Panel shall be signed, dated and reasoned and shall be sent to both parties and the Advisor.
  88. The decision of the Appeals Panel shall be final.
  89. In extraordinary circumstances where he/she determines that a Hearing Panel or Appeals Panel has acted outside of its jurisdiction as provided for in the Code, the Secretary-General may set aside a Hearing Panel or Appeals Panel decision and order that a new Hearing Panel or Appeals Panel, as the case may be, re-hear the matter.

### **Files of Formal Complaints against Students**

90. The Advisor shall maintain a file of all formal complaints processed. The file shall include the written complaint, the decision of the Hearing Panel and the decision of the Appeals Panel, if any. If a settlement is reached prior to a hearing, the general substance

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of the settlement shall be included in the file. If the complaint is withdrawn at any stage of the formal process, a notation to that effect shall be recorded.

### SECTION VIII PROCEDURES FOR RESPONDING TO FORMAL COMPLAINTS MADE AGAINST FACULTY, ADMINISTRATIVE OR SUPPORT STAFF MEMBERS OR MEMBERS OF THE ADMINISTRATION

#### General Rules

91. The application of the present Section to a Respondent who is unionized or a member of an employee association is subject to the provisions of his/her [collective or employee agreement](#) and to the provisions of articles [9](#), [10](#) and [11](#) of the Code.
92. In all cases governed by the present Section, the Advisor shall invite the Complainant to consider an informal resolution and shall advise him/her of their right to consult their respective union or association.
93. The Advisor shall terminate any attempt at informal resolution or formal resolution should either party initiate a process such as, but not limited to, a grievance or other formal internal procedure, or any external procedure such as a complaint or action before a commission, board or tribunal.
94. The absence or non-availability of the Complainant is a factor in the decision of the Advisor and/or the University official empowered to continue any procedures set out in the Code but is not decisive.

#### Informal resolution

95. A Member who has a concern regarding the behaviour of a faculty, administrative or support staff member, or a member of the administration is strongly encouraged to consult the Advisor and seek a remedy through one or more of the informal dispute resolution procedures described in articles [Section VI](#) of the Code.
96. In order to facilitate the informal resolution of the complaint, a Member who belongs to a collective or employee association may agree to suspend any applicable delays provided that all parties (the Member, the University, the union and/or the association) have so agreed in writing.

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97. A Member who chooses not to advise his/her union or employee association of the matter should consult the Advisor concerning the possible consequences of such a decision.
98. Attempts at informal resolution facilitated by the Advisor does not constitute a formal University proceeding. Until a formal process is undertaken, no notification shall be deemed to have been made to the University of any complaint or procedure involving a Member.

### **Initiating a Formal Complaint against a Faculty, Administrative or Support Staff Member or against a Member of the Administration**

99. To the extent permitted by the Respondent's [collective or employee agreement](#) and relevant [University policies](#) and with the agreement of the Respondent's union or employee association on a case by case basis, the following procedure shall be considered the formal investigation under the Respondent's [collective or employee agreement](#).
100. A Member who wishes to file a formal complaint against faculty, administrative or support staff members or against members of the administration shall contact the Advisor.
101. The Advisor shall provide the Complainant with a copy of the Code and shall inform him/her of the following:
  - a) the required format for submitting the complaint, which must be made in writing, signed and dated and must identify the Complainant and the Respondent and the precise nature of the Complaint, including the provision(s) of the Code under which the complaint is being filed;
  - b) the right of the Complainant to consult any person in the preparation of his/her complaint, and to be accompanied or represented by any Member during the process of resolution. If the Complainant is a Student, he/she may opt to be accompanied by a student advocate from Advocacy and Support Services or a student advocacy service offered by a student association. If the Complainant is a member of a union or an employee association, he/she may opt to be accompanied by a union or association representative.

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102. If the Respondent is a member of a union or association, the Advisor shall inform the Complainant of any delays regarding the imposition of a disciplinary measure which may be set out in the Respondent's [collective or employee agreement](#). The Advisor shall, in particular, advise the Complainant of the delay of ninety (90) Days since the last incident in matters of psychological harassment complaints, as set out in the [Quebec Labour Standards Act](#).
103. Upon receiving a formal complaint, the Advisor shall transmit the complaint to the Authority to whom the complaint must be submitted under the terms of the Respondent's [collective or employee agreement](#) and the relevant [University policy](#), with a copy to the Respondent's union or association along with all the relevant information and documentation.
104. In an egregious case, in which the safety or well-being of a Member, or of a group of Members, or of the University as a whole, is at risk, the Authority may take such temporary measures permitted under the [collective or employee agreement](#), relevant [University policy](#) and the law, as he/she deems necessary.

### **Powers and Duties of the Authority**

105. The Authority shall inform the Respondent of his/her right to consult any person in the preparation of his/her case, and to be accompanied or represented by any Member during the process of resolution. If the Respondent is a member of a union or an employee association, he/she may be accompanied by a union or association representative.
106. The Authority shall then take the necessary steps to resolve the matter in such a manner as to respect the principles of natural justice and the procedures of any [collective or employee agreement](#) or [University policy](#), which may apply.
107. More specifically, the Authority may:
  - a) meet with the Complainant and the Respondent on an individual basis;
  - b) have access to all official files and information as are required, the whole subject to the applicable legislation;
  - c) meet any individual who might, in his/her opinion, provide information relevant to the complaint;

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- d) consult any University officer (representatives of the Department of Human Resources, the Office of the General Counsel, etc.) or outside counselors as may be required;
- e) refer the matter to be investigated internally or externally.

### Harassment Complaints

- 108. The formal investigation of a complaint of harassment, including psychological harassment, may be submitted, with the agreement of the parties (including the Respondent's union or association), to an internal assessor as provided for in the relevant [collective or employee agreements](#), [University policies](#) or externally to one of the Investigators ("the Investigator") chosen from an Investigator Pool agreed to by the University and the unions and employee association.
- 109. All information, whether in writing or in any other form, obtained by the Authority and/or the Investigator in the performance of his/her duties in relation to any complaint and harassment shall be strictly confidential except as provided for by law.
- 110. In cases where an Investigator is used, he/she must complete his/her mandate within a reasonable delay and in all cases within forty (40) Days from the appointment of the Investigator, unless the parties have agreed otherwise in writing. Upon the completion of his/her investigation, the Investigator shall send the written report to the Authority and to the Advisor. A summary of the report, prepared by Investigator without any mention of nominative information shall be provided to the Respondent and his/her union or association.
- 111. Upon the completion of the investigation, the Authority may dismiss the complaint, impose or recommend the imposition of a disciplinary measure or take any other action permitted by the relevant [collective or employee agreement](#) or [University policy](#).
- 112. When the matter has been decided by the Authority, the Authority shall notify the Complainant and the Advisor of the general substance of the decision and any action that was taken as a result of the complaint.
- 113. When the decision or remedial action taken by the Authority is not a disciplinary action as defined by the relevant [collective or employee agreement](#) or [University Policy](#), as the case may be, the Authority or the Associate Vice-President, Human Resources, as

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appropriate, shall monitor compliance. Once satisfied that compliance has been effected, the Authority shall so inform the Complainant and the Advisor.

114. If disciplinary action is taken and subsequently overturned by a higher authority or by the grievance and arbitration procedures, the Complainant and Advisor shall be notified.

### **Files of Formal Complaints against Faculty, Administrative and Support Staff Members or Members of the Administration**

115. The Advisor shall maintain a file of formal complaints received against faculty, administrative or support staff members or members of the administration which shall summarize the substance of the consultation with the Complainant, the record of resolution as supplied by the Authority and information that a sanction has been overturned through grievance or arbitration, if this is the case.

## **SECTION IX URGENT SITUATIONS**

### **Reporting and Responding to Urgent Situations**

116. Members who are faced with an urgent situation involving threatening or violent conduct, where there is reasonable cause to believe that the safety or security of persons may be threatened, shall immediately contact the Security Department. The Security Department shall take whatever reasonable action is necessary to secure the safety of persons, and shall immediately alert the Advisor. In such a case, the Advisor shall be guided by the *Protocol on the Coordination of Urgent Cases of Threatening or Violent Conduct* ("[the Protocol](#)").
117. Members shall immediately report to the Advisor any conduct which they have reasonable cause to believe potentially threatens the safety or security of persons. The Advisor shall assess the situation as specified in the [Protocol](#), consult experts as necessary, and make recommendations as to any further action appropriate in the circumstances.
118. Any Member who is called to a Team meeting under the [Protocol](#) shall respond promptly.

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### Disciplinary Officers

119. For the purposes of the Code, the following individuals are hereby constituted as “Disciplinary Officers” and shall have the powers, duties and obligations conferred upon them in the present Code as well as any powers reasonably incident thereto:
- a) the President and Vice-Chancellor;
  - b) the Vice-Presidents;
  - c) the Academic Deans including the Dean of the School of Extended Learning.

### Temporary Exclusion of a Student by a Disciplinary Officer

120. A Disciplinary Officer may require any Student to immediately leave and remain away from the University premises or a part thereof, for a period not exceeding two (2) Days, if to his/her personal knowledge or based upon reliable information, the Disciplinary Officer has reasonable grounds to believe that the Student’s continued presence at the University:
- a) is detrimental to any Member's pursuit of his/her work, studies and other activities related to University life in a safe and civil environment; or
  - b) constitutes an immediate threat to the safety or security of others.
121. No Student shall be barred from taking any examination or submitting any academic assignment as a result of this Section but the Disciplinary Officer may make special arrangements as to the time and place for the completion and/or submission of any academic assignment or writing of any exam.
122. A Disciplinary Officer shall immediately advise the Registrar, the Secretary, the Dean of Students, the relevant Academic Dean(s), the Advisor and the Security Department of the temporary exclusion of a Student under this Section.
123. Any temporary exclusion ordered under this Section shall not be deemed to be in lieu of other proceedings under the Code if the conduct for which exclusion is ordered also constitutes an offence under articles [28](#) and [29](#) of the Code.

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### Suspension of a Student by the President

124. The President may Suspend a student, exclude the student from any University premises and take any other steps that may be appropriate where:
- a) the Student presents a clear and present danger to the safety of persons or to the activities of the University as a whole or any of its Members or groups of Members; or
  - b) the Student has, on one or more occasions, presented a clear danger to the safety of persons or to the activities of the University as a whole or of any of its Members or groups of Members and whose identity or action has only recently been identified; or
  - c) the Student's actions are of such a serious nature that they create an intimidating and hostile environment for work or study or constitute a serious threat to the ability of the University and its Members to carry out the University's functions.
125. In such a case, the President shall provide the Student with a written suspension notice with a copy to the Registrar, the Secretary, the Dean of Students, the relevant Academic Dean(s), the Advisor, and the Security Department. The President shall inform the Student of his/her right to consult a student advocate from Advocacy and Support Services or a student advocacy service offered by a student association and shall also provide the Student with a copy of any supporting information and a copy of the Code.
126. In such a case, the President shall immediately lay a complaint against the Student under Section V of the Code. The regular delays of the Code shall not apply and a hearing into the complaint shall be held within ten (10) Days of the suspension order. The President may designate another Member to represent him/her at the hearing. The Hearing Panel shall render its decision and inform the parties within three (3) Days of the hearing. If no hearing into the complaint has been held within fifteen (15) Days of the suspension order for reasons other than the Student's inability to attend the hearing as outlined below, the suspension order shall be lifted until such time as the Hearing Panel may re-impose the suspension.
127. Should the suspended Student be unable to attend the hearing within the prescribed delay, he/she shall notify the Secretary as soon as he/she is able to attend a hearing. Upon such notification, the Secretary shall convene a hearing as soon as possible.

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128. In the event that the Hearing Panel determines that the original complaint was unfounded, that decision shall not invalidate the Presidents' prior action. However, every effort shall be made to remedy any academic disadvantage that the student may have experienced as a consequence of the Suspension.
129. Upon the lifting of the Suspension, the Secretary shall notify the Registrar, the Dean of Students, the relevant Academic Dean(s), the Advisor and the Security Department.

### **Temporary Exclusion of a Member of the Faculty or Administrative and Support Staff**

130. Where a member of the faculty or administrative and support staff presents a clear and present danger to the safety or security of persons or to the activities of the University as a whole or of any of its individual Members, the matter shall be dealt with according to the provisions of the relevant [collective or employee agreement](#) or [University Policy](#).
131. A Member against whom such action is taken may seek recourse through the grievance procedures of the relevant [collective or employee agreement](#) or the grievance procedures contained in [University Policy](#), where they exist.

## **SECTION X MISCELLANEOUS**

### **Confidential Nature of Files**

132. The Advisor shall maintain suitable records of complaints and their disposition which shall be accessible only to the staff of the Office of Rights and Responsibilities or as required by law. Such files shall be destroyed according to a retention schedule determined in accordance with provincial legislation.

### **Delays**

133. In the calculation of any delay set out in the Code, the months of July and August shall not be taken into account. However, in the case of a hearing before a Hearing Panel or an Appeals Panel that commenced before July 1, the regular delays set out in the Code shall apply.

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### Notices

134. Any written notice to any person shall be sent by courier, e-mail or fax to the last address or fax number provided by the person to the University and shall be deemed to be received one (1) Day after delivery.

### Language

135. Any party or witness participating in a hearing before a Hearing Panel or an Appeals Panel may make their presentation in either English or French.

### The Secretary-General

136. The overall responsibility for the implementation and recommended amendments to the Code shall rest with the Secretary-General.