

## **17.10 Academic Integrity and the Academic Code of Conduct**

17.10.1 ACADEMIC INTEGRITY

17.10.2 UNDERSTANDING AND UPHOLDING ACADEMIC INTEGRITY

17.10.3 ACADEMIC CODE OF CONDUCT

## **17.20 Policy on the Establishment of Tribunal Hearing Pools**

## **17.30 Rights and Responsibilities**

## **17.40 Ombuds Office**

# Section 17

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# ACADEMIC INTEGRITY AND THE ACADEMIC CODE OF CONDUCT

Section 17.10

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## 17.10.1 ACADEMIC INTEGRITY

Academic integrity is key to academic success at Concordia University. More specifically, “The integrity of University academic life and of the degrees, diplomas and certificates the University confers is dependent upon the honesty and soundness of the instructor-student learning relationship and, in particular, that of the evaluation process. Therefore, for their part, all students are expected to be honest in all of their academic endeavours and relationships with the University.”

(Academic Code of Conduct, article 1)

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## 17.10.2 UNDERSTANDING AND UPHOLDING ACADEMIC INTEGRITY

Concordia University has several resources available to students to better understand and uphold academic integrity. Concordia’s website on academic integrity can be found at the following address, which also includes links to each Faculty and the School of Graduate Studies: [provost.concordia.ca/academicintegrity](http://provost.concordia.ca/academicintegrity).

The definitions, procedures, and sanctions related to charges of academic offences are outlined in the Academic Code of Conduct.

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## 17.10.3 ACADEMIC CODE OF CONDUCT

### I. Preamble

#### Introduction

1. The integrity of University academic life and of the degrees, diplomas and certificates the University confers is dependent upon the honesty and soundness of the instructor-student learning relationship and, in particular, that of the evaluation process. Therefore, for their part, all students are expected to be honest in all of their academic endeavours and relationships with the University.

#### Jurisdiction

2. For the purposes of this Code, the student need only have been a student at the time of the alleged offence.
3. If, prior to the initiation of any proceedings under this Code, the student has graduated, the proceedings shall continue.
4. Neither the withdrawal by a student from a degree, diploma or certificate program or from a course, nor the termination of that student’s program by his/her department shall affect the filing of an Incident Report or any process provided for under this Code. If a student withdraws from the course, the Registrar will replace the withdrawal (DISC) notation by a pending (PEND) notation until the outcome of the charge is finalized.

#### Ambiguity

5. Wherever there is doubt or ambiguity regarding any provision of this 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 this Code shall be adopted. Except for those terms specifically defined in this Code, the terms used shall have their usual meanings.

### II. Definitions

#### Student

6. Student is defined as:
  - a. any person registered in the University whether for courses or research and whether or not a candidate for a degree, diploma or certificate;
  - b. persons once registered in the University who are under suspension from the University;
  - c. persons registered during a preceding academic term.

#### Days

7. Days is defined as working days which excludes weekends, holidays, and other days during which the University is closed as listed in the Undergraduate and Graduate Calendars.

#### Dean

8. Dean is defined as:
  - a. the Dean of the Faculty or School offering the program in which the student is registered; or
  - b. if the student is not registered in a program, the Dean of the Faculty or School providing the course concerned or in the event that the offence is not related to a particular course, the Dean of the Faculty or School providing the most credits on the student’s record; or
  - c. if the student is a graduate student, the Dean of the School of Graduate Studies.The Dean may designate a delegate to fulfil any of his or her obligations under this Code. If the course concerned is taught by the Dean, the Provost and Vice-President, Academic Affairs shall assume all of the duties imposed on the Dean in this Code.

**Invigilator**

9. Invigilator means an instructor or any other person who is charged with supervising an evaluative exercise.

**Examination**

10. Examination means any evaluative exercise including tests, quizzes and like assignments as well as site supervised examinations and non-site supervised examinations.

**Administrator**

11. Administrator, as allowed for in article 27, means those individuals who through the normal course of their duties at the University may encounter possible incidents of academic misconduct. Examples of an administrator may include, but are not restricted to: Office of the Registrar or Admissions personnel, Graduate Program Directors, Associate Deans, re-evaluators (see Academic Re-evaluation Procedures) and academic department staff.

**Secretary of the Academic Hearing Panel**

12. A Secretary of the Academic Hearing Panel shall be named and shall be responsible for the administrative functioning of the Academic Hearing Panels, including maintaining the confidential files and recordings of proceedings of the hearing panels.

**Secretary of the Appeals Panel**

13. A Secretary of the Appeals Panel shall be named and shall be responsible for the administrative functioning of the Appeals Panels, including maintaining the confidential files of the Appeals Panels. The Secretary of the Appeals Panel shall not be the same individual as named in article 12.

**III. Offences**

14. Any form of cheating, plagiarism, personation, falsification of a document as well as any other form of dishonest behaviour related to the obtention of academic gain or the avoidance of evaluative exercises committed by a student is an academic offence under this Code.
15. Any attempt at or participation related in any way to an academic offence is also an offence under this Code and shall be dealt with in accordance with the procedures set out in this Code.
16. Without limiting, or restricting, the generality of article 14 above and with the understanding that articles 16 a) to l) are to be considered examples only, academic offences include the carrying out, or attempting to carry out or participating in:
- plagiarism — the presentation of the work of another person, in whatever form, as one's own or without proper acknowledgement;
  - the contribution by one student to another student of work with the knowledge that the latter may submit the work in part or in whole as his or her own;
  - unauthorized collaboration between students;
  - tearing or mutilating an examination booklet, inserting pages into a booklet or taking a booklet from the examination room;
  - multiple submission — the submission of a piece of work for evaluative purposes when that work has been or is currently being submitted for evaluative purposes in another course at the University or in another teaching institution without the knowledge and permission of the instructor or instructors involved;
  - the obtention by theft or any other means of the questions and/or answers of an examination or of any other University-related resource that one is not authorized to possess;
  - the possession or use during an examination of any non-authorized documents or materials or possessing a device allowing access to or use of any non-authorized documents or materials;
  - the use of another person's examination during an examination;
  - communication with anyone other than an invigilator during an examination or the obtention of any non-authorized assistance during an examination;
  - personation — assuming the identity of another person or having another person assume one's own identity;
  - the falsification of a document, in particular a document transmitted to the University or a document of the University, whether transmitted or not to a third party, whatever the circumstances;
  - the falsification of a fact or research data in a work including a reference to a source, which has been fabricated. Falsification shall not include those factors intrinsic to the process of academic research such as honest error, conflicting data or differences in interpretation or judgement of data or of experimental design.

**IV. Procedures****Provisions Governing Examinations**

17. It is the duty of an invigilator to take action under the following articles when he or she becomes aware of any suspected academic offence.
18. Every examination paper shall expressly list the materials and equipment that a student is permitted to have and use during the examination and shall indicate any special conditions relating to the examination.
19. Except if expressly authorized by the invigilator, a student may not speak or otherwise communicate with any person other than an invigilator.

**Centrally Supervised Examinations**

20. Where an examination is supervised by the Office of the Registrar or where another central supervisory function is available to deal with allegations of offences related to examinations, a student who is suspected of an academic offence shall be so informed by the invigilator and shall be required to leave the examination area.

21. Communication with the student shall be restricted to requesting that he or she, in a written statement, choose one of the following options on a completed Academic Code of Conduct Incident Report ("Incident Report"):
  - a. to withdraw from the examination with the understanding that if the charge is dismissed, the student shall be permitted to take another examination for the same course at a mutually agreed upon time but no later than one calendar year from the date of the filing of the Incident Report; or
  - b. to continue the examination under controlled conditions in another location in which case the invigilator shall provide a fresh examination booklet and shall allow additional time for the examination to compensate for any time lost. The student shall continue the examination from the point at which he or she was required to leave the examination area; or
  - c. to acknowledge that the exam has been completed.
22. Should the student not indicate a choice, he or she shall be considered to have chosen to withdraw from the examination. Until such time as the student has indicated that he or she has chosen to withdraw from the examination or is deemed to have done so, he or she remains under examination conditions.
23. The invigilator shall file an Incident Report with the Dean, as defined in article 8 of this Code, and shall include all examination materials as well as any other evidence related to the suspected academic offence. The invigilator may not, on his or her own authority, impose a sanction on the student.

#### **Other Examinations**

24. Where an examination is not supervised by the Office of the Registrar or where another central supervisory function is not available to deal with allegations of offences related to examinations, a student who is suspected of an academic offence shall be so informed by the invigilator and may be required to leave the examination area immediately. The invigilator shall file an Incident Report with the Dean, as defined in article 8 of this Code, and shall include all examination materials as well as any other evidence related to the suspected academic offence. The invigilator may not, on his or her own authority, impose a sanction on the student.

#### **Non-Examination Related Offences**

25. An instructor who, in the course of grading a student's work or through any other means, has reasonable grounds to believe that a student in the instructor's course or working under his or her direction has committed a non-examination related offence shall complete an Incident Report. The instructor shall forward the Incident Report to the Dean as defined in article 8 of this Code. The instructor may not, on his or her own authority, impose a sanction on the student. In the interim, and until there is a final outcome of any proceedings under this Code, the instructor shall enter a pending notation.
26. Should a person other than an instructor, as named in article 25, have reasonable grounds to believe that a student has committed a non-examination related offence, he or she may report his or her findings to the Department Chair, or equivalent. If the Chair, or equivalent, finds that there are reasonable grounds, he or she shall complete an Incident Report. The Chair, or equivalent, shall forward the Incident Report to the Dean as defined in article 8 of this Code. The Chair, or equivalent, may not, on his or her own authority, impose a sanction on the student.
27. Any administrator of the University who to his or her personal knowledge or upon reliable report has reasonable grounds to believe that a student has committed a non-examination related offence shall complete an Incident Report. The administrator shall forward the Incident Report to the Dean as defined in article 8 of this Code. The administrator may not, on his or her own authority, impose a sanction on the student.

#### **Interviews**

28. Upon receipt of an Incident Report, the Dean shall send a copy to the student, the Registrar and the Secretary of the Academic Hearing Panel and shall indicate whether he or she intends to interview the student to inquire into the alleged offence or whether the Incident Report is being transmitted directly to an Academic Hearing Panel. The Dean shall, as well, include a copy of this Code.
29. Should the Dean decide to interview the student, the interview shall normally take place within fifteen (15) days of the Dean's receipt of the Incident Report. Whenever possible, five (5) days notice shall be given to the student before the interview. In convening the interview with the student, the Dean shall inform the student of his or her right to consult any person and to be accompanied or represented by a student advocate from the Student Advocate Program, the CSU Student Advocacy Centre or any other member of the University community.
30. When the Dean has decided not to interview the student and to transmit the Incident Report directly to an Academic Hearing Panel such transmission shall take place within fifteen (15) days of receipt of the Incident Report.
31. At the outset of the interview, the Dean shall inform the student that he or she is not obliged to answer any of the Dean's questions and that any answers given may become the basis for an immediate disposition of the case under article 32 or cause the Dean to refer the case to an Academic Hearing Panel or be the subject of testimony by both parties at any subsequent proceeding. The standard of proof to be relied upon by the Dean shall be one of a "preponderance of evidence" as defined in article 49.
32. Within ten (10) days from the conclusion of the interview, the Dean shall write to the student indicating his or her decision to dismiss the charge or, in the case of upholding the charge, to impose one or more of the following sanctions:
  - a. Reprimand the student;
  - b. Direct that a piece of work be resubmitted;
  - c. Enter a grade of "0" for the piece of work in question;
  - d. Enter a grade reduction in the course;
  - e. Enter a failing grade for the course;
  - f. Enter a failing grade and ineligibility for a supplemental examination or any other evaluative exercise for the course;

- g. Impose the obligation to take and pass courses of up to twenty-four (24) credits in addition to the total number of credits required for the student's program as specified by the Dean. If the student is registered as an Independent student, the sanction will be imposed only if he or she applies and is accepted into a program;

After the interview, the Dean also has the option to refer the case directly to an Academic Hearing Panel, which must be done in all cases of repeat offences.

In the case of a student who has graduated, the only two available sanctions are i) a notation on the student's academic record that he or she has been found guilty of academic misconduct; or ii) a recommendation to Senate for the revocation of the degree obtained.

Where the Dean has decided to dismiss the charge, the Dean shall direct the instructor to submit a grade for the course in question, if applicable.

33. In the case of a sanction imposed by the Dean under article 32, the letter to the student shall inform him or her of the right to obtain a full hearing before an Academic Hearing Panel by notifying the Secretary of the Academic Hearing Panel (the Secretary), in writing, within ten (10) days after the date of transmission of the Dean's decision. A copy of the Dean's letter shall be sent to the Secretary, the Registrar, the instructor and the Department Chair, or equivalent, if applicable.  
When the Dean has decided to dismiss the charge against the student, a copy of the letter dismissing the charge shall be sent to the Secretary, the Registrar, the instructor and the Departmental Chair, or equivalent, if applicable.
34. Where the Dean has imposed a sanction under article 32 and the student has not elected to obtain a full hearing under article 33, the Secretary shall, within a reasonable time, so notify the Dean and the Dean shall file a report with the Registrar containing the following:
  - a. identification of the student concerned;
  - b. a statement of the facts and findings;
  - c. a statement of the course of action taken;
  - d. a statement to the effect that the student concerned was notified in writing of the action taken and of his or her right to a full hearing before an Academic Hearing Panel. Such report shall form a part of the student's permanent file maintained by the Registrar.
35. When the student has elected to obtain a full hearing under article 33, the execution of any decision of the Dean shall be suspended pending disposition by an Academic Hearing Panel. In such cases, the imposition of the sanction of a failing grade shall not be taken into account when calculating the student's grade point average.

#### **Composition of the Academic Hearing Panels**

36. An Academic Hearing Panel ("AHP") of five (5) members, as well as a non-voting Chair, shall be selected by the Secretary for a given hearing. The AHP shall be composed of three (3) faculty members drawn from the Faculty Tribunal Pool and two (2) students drawn from the Student Tribunal Pool provided for under the *Policy on the Establishment of Tribunal Hearing Pools* (BD-6). Every attempt will be made to select at least one (1) faculty member and one (1) student from the student's constituency (i.e. by faculty and undergraduate or graduate status).
37. In the absence of one or more panellists and with the consent of both parties, it shall be permitted to proceed with a reduced Panel. A reduced AHP shall be composed of the non-voting Chair as well as two (2) faculty members and one (1) student.

#### **Procedures Before an Academic Hearing Panel**

38. Once a matter has been referred to the Secretary, he or she shall convene an AHP to hear the matter. Thereafter, the Secretary shall be responsible for all communications with the parties.
39. A hearing shall be convened as soon as possible after the receipt by the Secretary of the notification and normally within fifteen (15) days. Once a hearing date is fixed by the Secretary, both parties shall submit any documentation they wish considered to the Secretary no later than ten (10) days before the scheduled hearing date. Such documentation shall include all supporting documents, including any submitted during the interview process, and a list of the witnesses, if any, that will appear. The Secretary shall transmit the documentation, together with a list of the Panel members selected for the case, to the parties no later than five (5) days before the scheduled hearing date.
40. When not already evident from the case file, the Secretary shall inform the student of his or her right to consult any person and to be accompanied or represented by a student advocate from the Student Advocate Program, the CSU Student Advocacy Centre or any other member of the University community.
41. Either party may object to the participation of a Panel member on the grounds of potential bias. A reasoned objection shall be filed with the Secretary in writing at least three (3) days prior to the hearing date. The Secretary shall arrange for an alternate Panel member to serve if he or she 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 AHP who shall render a final decision in this regard.
42. When the offence involves more than one student, either the students(s) or the Dean(s) may request that the Secretary schedule a joint hearing. If the request is initiated by the student(s), it shall be made at the time of his or her initial hearing request. A request from the Dean(s) shall be made following receipt of the student's hearing request notification. The consent of the other party and each of the students called upon to participate shall be obtained prior to proceeding with a Joint Hearing. The AHP has the discretion to uphold or dismiss the charge against each student and to apply the appropriate individual sanction.
43. If a student wishes to withdraw his or her request for a hearing, normally the student shall notify the Secretary of the withdrawal at least seven (7) days prior to the hearing date. Following such a withdrawal, the Dean shall file a report with the Registrar, according to article 34, and include the information that the student withdrew his or her request for a hearing.

### **The Hearing**

44. The AHP shall establish its own rules of procedure. Minimally, these rules shall provide for opening statements by the parties, evidence and witnesses called by the parties (expert or otherwise), the right of cross-examination, questioning by members of the AHP, representations with respect to desired sanctions and closing statements. Hearings shall be recorded and the cassettes kept as part of the permanent record of the proceedings for a period of not less than five (5) years.
45. The role of the Chair shall be to preside over the proceedings, keep order and ensure fairness. The Chair shall, as well, preside over the deliberations of the AHP but shall not vote. Decisions shall be by majority vote. The hearing shall be closed unless both parties have consented in writing to the attendance of members of the University community.
46. The instructor in the course in which the offence took place, if applicable, may be present throughout the hearing or may be called as a witness by either of the parties.
47. If the student fails to attend the hearing, the hearing may proceed in the student's absence or, at the Chair's discretion the start of the hearing may be postponed. If the hearing proceeds in the student's absence, all rights contingent on the student's presence, with the exception of the right to have an advocate present to plead for postponement, are forfeited. In such a case, a student's right of appeal is limited to a consideration of the reasonableness of his or her excuse for not appearing. If an Appeals Panel finds that the excuse is reasonable, it shall order a new hearing by a new AHP with the student present. The decision of the new hearing with the student present is appealable as if it were a first hearing.
48. At a hearing for a student charged with a repeat offence, other than the fact that a previous charge has been upheld and is, therefore, relevant in relation to article 52, any and all other information concerning the charge(s) shall be excluded, including the nature of the offence(s) and the sanction(s) imposed.
49. The decision of the AHP shall be signed, dated and reasoned. The standard of proof to be relied upon by the AHP shall be one of a "preponderance of evidence". A "preponderance of evidence" standard means that the Dean must establish that his or her version of the facts is significantly more probable.

### **Sanctions**

50. Within ten (10) days from the conclusion of the hearing, the AHP shall write to the student and the Dean, with a copy to the Registrar, indicating its decision to dismiss the charge against the student or, in the case of upholding the charge, to impose one or more of the following sanctions:
  - a. Reprimand the student;
  - b. Direct that a piece of work be resubmitted;
  - c. Enter a grade of "0" for the piece of work in question;
  - d. Enter a grade reduction in the course;
  - e. Enter a failing grade for the course;
  - f. Enter a failing grade and ineligibility for a supplemental examination or any other evaluative exercise for the course;
  - g. Impose the obligation to take and pass courses of up to twenty-four (24) credits in addition to the total number of credits required for the student's program as specified by the Dean. If the student is registered as an Independent student, the sanction will be imposed only if he or she applies and is accepted into a program;
  - h. Impose a suspension for a period not to exceed six (6) academic terms. Suspensions shall entail the withdrawal of all University privileges, including the right to enter and be upon University premises;
  - i. Expulsion from the University. Expulsion entails the permanent termination of all University privileges.In the case of a student who has graduated, the only two available sanctions are i) a notation on the student's academic record that he or she has been found guilty of academic misconduct; or ii) a recommendation to Senate for the revocation of the degree obtained.
51. A sanction of suspension or expulsion is subject to confirmation by the Provost and Vice-President, Academic Affairs, who shall also determine the effective date.
52. Any student found to have committed a second academic offence shall be expelled from the University subject to confirmation by the Provost and Vice-President, Academic Affairs.
53. The decision of the AHP shall inform the parties of their right to seek an appeal from an Appeals Panel within fifteen (15) days after the date of transmission of the AHP decision.
54. Where neither the Dean nor the student has sought an appeal from an Appeals Panel within the stipulated delay, the Secretary shall so inform the Registrar including a statement to the effect that the Dean and the student concerned were notified in writing of the action taken and of their right to seek an appeal from an Appeals Panel. Such report shall form a part of the student's permanent file maintained by the Registrar. This notification shall be sent to the Dean and the student.
55. The execution of any sanctions by an AHP shall be suspended until the expiry of the delay to seek an appeal or until the rendering of the decision by an Appeals Panel if an appeal is heard. In such cases, the imposition of the sanction of a failing grade shall not be taken into account when calculating the student's grade point average.

### **Appeals**

56. Should either the student or the Dean wish to seek an appeal from a decision or sanction of an AHP, he or she shall apply in writing to the Secretary for the authorization to seek an appeal within fifteen (15) days after the date of transmission of the AHP decision. An Appeals Panel shall decide whether an appeal shall be heard having regard to the circumstances of each case.
57. Such request for authorization to appeal may be based only on the grounds of discovery of new evidence following the rendering of the decision of the AHP or on the presence of serious and prejudicial procedural defects of the AHP. The request shall state in clear and precise terms the grounds on which the appeal is based. The Appeals Panel shall be provided with the complete file of the AHP and its decision shall be based on the written record only.

58. An Appeals Panel of three (3) members, as well as a non-voting Chair, shall be selected by the Secretary for a given appeal. The Appeals Panel shall be composed of two (2) faculty members drawn from the Faculty Tribunal Pool and one (1) student drawn from the Student Tribunal Pool. Every attempt will be made to select the student member from the student's constituency (undergraduate or graduate status).
59. An Appeals Panel shall be convened as soon as possible after receipt of the authorization request by the Secretary and normally within fifteen (15) days. It shall normally render its decision with respect to the request within five (5) days of its consideration of the request.
60. If the authorization to appeal is granted, the appeal shall normally be heard within fifteen (15) days of the decision to authorize the appeal. Notification of such shall be sent to both parties.
61. The Appeals Panel has the authority to confirm, reverse or modify the decision being appealed. Further, should the appeal be based on the production of new evidence, the Appeals Panel may order a new hearing of the case by a new AHP.
62. The Appeals Panel shall normally render its decision within ten (10) days of the hearing. The decision of the Appeals Panel shall be signed, dated and reasoned and shall be sent to both parties and the Registrar.
63. The decision of the Appeals Panel shall be final.
64. In the case of the denial of an appeal where the sanction imposed by the AHP was suspension or expulsion, the suspension or expulsion shall take effect on a date to be determined by the Provost and Vice-President, Academic Affairs.

## **V. Miscellaneous Provisions**

### **Delays and Language**

65. In the calculation of any delay set out in the Code, the months of July and August shall not be taken into account. In the case of a hearing before an AHP or an Appeals Panel that commenced before July 1, the regular delays set out in this Code shall apply.
66. Students may participate in interviews conducted under article 29 in either English or French. Further, any party or witness participating in a hearing before an AHP or an Appeals Panel may make their presentation in either English or French. If an interpreter is required to satisfy the preceding, the request shall be made at the same time as the initial AHP request made in accordance with article 33.

### **Notices**

67. Any written notice addressed to a student under this Code shall be sent by courier to the last address provided by the student to the University and shall be deemed to be received one (1) day after delivery.

### **Notations on Academic Record and Transcript**

68. When a charge of academic misconduct has been upheld, the charge and the sanctions shall be reflected on the student's academic record with the sanction appearing as the appropriate article (32 or 50) and the additional notation of "for academic and disciplinary reasons". When the sanction imposed is either 32 (g) or 50 (g), the number of extra credits imposed shall also be noted.
69. Sanctions of a failing grade in a course; a failing grade in a course and further ineligibility for a supplemental examination and the obligation to take extra courses shall be reflected on the student's academic transcript with no additional notations relating to academic misconduct. A grade obtained as a penalty for academic misconduct shall remain in the calculation of the Annual WGPA, the Cumulative GPA and the Final Graduation GPA, whether or not the course has been repeated.
70. Suspensions imposed under this Code shall be recorded on the academic record and the academic transcript as follows: "Required to withdraw for academic and disciplinary reasons. May not resume studies until [date]". At the date for resumption of studies, the notation shall be removed from the student's academic transcript but shall continue to appear on the student's academic record.
71. The President may, upon written request from a student and in cases where the President considers it appropriate, direct that a sanction, with the exception of expulsion, be removed from the student's academic record. Such written request can be made no sooner than five (5) years after the sanction has been imposed.
72. Any expulsion imposed under this Code shall be recorded on the academic record and the academic transcript as follows: "Required to withdraw for academic and disciplinary reasons. May not apply for readmission".
73. In cases where a sanction has been imposed but a student has requested either a full hearing before an AHP or has sought an appeal from an Appeals Panel which has not been disposed of, the Registrar shall note on the academic record that both the grade and the sanction are "pending" until both the hearing and appeal process have been completed.
74. Further to article 73, in the case of a sanction of suspension or expulsion, the Registrar shall note on the academic transcript that the sanction is "pending".
75. No degree, diploma or certificate of the University shall be conferred or awarded from the time of the alleged offence until the final disposition of the charge.

### **Records and Confidentiality**

76. The Registrar shall maintain a record in the student's official file with respect to all sanctions imposed under this Code.
77. In all cases where a charge of academic misconduct has been upheld, the responsibility for maintaining the complete file shall rest with the Dean.
78. All records shall be kept in strictest confidence and shall only be communicated to the student concerned and to other persons within the University having a legitimate interest or duty to take communication of them. In the event that a charge is dismissed at any level provided for in the Code, all information relating to the charge will be removed from the files held by the Faculty and the Registrar and will have no effect on a student's academic record or future

academic activities. However, in accordance with the legislation governing the keeping of records, a record of the charge and its dismissal will be kept in a confidential file by the Secretary and will be destroyed within the time-frame outlined by the University's archives retention rules.

79. Nothing contained in this section shall be interpreted as preventing the Registrar or any other University member from responding to a court order requiring the disclosure of information or statements obtained in the course of an interview or hearing conducted under this Code.

**Annual Report**

80. An annual report detailing the number of charges laid under this Code and their disposition shall be prepared by the Secretary and presented to Senate by September 30 of each year. The report shall be published in the University's newspaper. In no circumstances shall any mention be made of the names of the parties involved nor of any information, which might lead to their identification.

**Overall Responsibility for Code**

81. The overall responsibility for the implementation and recommended amendments to this Code shall rest with the Secretary-General. The Secretary-General shall transmit an information sheet to each Dean and Chair at the beginning of the Fall Term each year outlining the general framework of this Code.
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# **POLICY ON THE ESTABLISHMENT OF TRIBUNAL HEARING POOLS**

**Section 17.20**

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## **General**

1. This policy deals with the establishment of tribunal hearing pools for hearings, both first-level hearings as well as appeal hearings, provided for in the Code of Rights and Responsibilities, the Academic Code of Conduct (including cases heard under the previous Code of Conduct – Academic), the Academic Re-evaluation Procedures, the Graduate Academic Appeals Procedures and any other codes or policies which may be adopted that refer to the Tribunal Hearing Pools provided for under this policy.
2. In the event that a hearing or appeal panel cannot be convened from the membership of the Student Tribunal Pool, the Faculty Tribunal Pool, the Administrative and Support Staff Tribunal Pool or the Pool of Chairs, as outlined below, the Secretary-General shall designate the membership of the relevant hearing or appeal panel for a given case.

## **Student Tribunal Pool**

3. In June of each year, the Concordia Student Union Inc. shall be asked to nominate up to a maximum of fifteen (15) undergraduate students and the Graduate Student Association shall be asked to nominate up to a maximum of ten (10) graduate students to form the Student Tribunal Pool (STP).
4. In order to be eligible, students shall be registered in an undergraduate or graduate program and be in good standing. Students who are in failed standing, in conditional standing or on academic probation or who have been sanctioned under the Code of Rights and Responsibilities, or the Academic Code of Conduct (including cases heard under the previous Code of Conduct – Academic) within the three (3) years previous to their nomination are not eligible.  
The status and standing of student nominees shall be confirmed by the University Registrar in September prior to the submission of the list of nominees for approval to Senate by the Secretary of Senate. In addition, the status and standing of members of the STP shall be confirmed by the University Registrar each September for as long as the member remains in office.
5. The term of office of members of the STP shall be for two (2) years, from September 1 to August 31, and shall be renewable. Members remain in office until replaced.

## **Faculty Tribunal Pool**

6. The Council of the Faculty of Arts and Science shall nominate thirteen (13) faculty members, the Council of the John Molson School of Business shall nominate six (6) faculty members, the Council of the Faculty of Engineering and Computer Science shall nominate five (5) faculty members, the Council of the Faculty of Fine Arts shall nominate three (3) faculty members and the Council of the School of Graduate Studies shall nominate eight (8) faculty members, for a total of thirty-five (35) faculty members, to comprise the Faculty Tribunal Pool (FTP).
7. The term of office of members of the FTP shall be for two (2) years, from September 1 to August 31, and shall be renewable. Members remain in office until replaced.
8. The Secretary of each Faculty Council and the Council of the School of Graduate Studies shall forward a list of nominees to the Secretary of Senate prior to its September meeting for approval.

## **Administrative and Support Staff Tribunal Pool**

9. The Administrative and Support Staff Tribunal Pool (AaSSTP) shall be comprised of five (5) members nominated in accordance with the Electoral College Policy.  
Administrative and support staff members from the Office of the Secretary-General, the Office of the General Counsel, the Office of Student Tribunals, the Ombuds Office and the Office of Rights and Responsibilities shall not be eligible for membership on the AaSSTP.
10. The term of office of members of the AaSSTP shall be for two (2) years, from September 1 to August 31, and shall be renewable. Members remain in office until replaced.
11. The Department of Human Resources shall forward a list of nominees to the Secretary of the Board of Governors prior to its September meeting for approval.

## **Chairs**

12. In addition to the members of the STP and FTP appointed by Senate, and the members of the AaSSTP appointed by the Board, Senate shall appoint as many individuals as necessary to serve as non-voting Chairs of the various tribunal panels dealt with under this policy.
13. The role of the Chairs shall be to preside over the various tribunal panels, keep order and ensure fairness. The Chairs shall, as well, preside over the deliberations of the various tribunal panels but shall not vote.

14. Because the role of the Chairs of the various tribunal panels requires impartiality and particular skills which take time to develop and cannot easily be acquired by lay persons during a brief term of office, the Chairs shall normally be selected from qualified alumni or emeriti who have training in law or tribunal procedures as well as some knowledge of the University environment.
15. The term of office for Chairs shall be for two (2) years, from September 1 to August 31, and shall be renewable.
16. The candidates for the Chairs shall be recommended to Senate by the University General Counsel in consultation with the secretaries of the tribunal panels dealt with under this policy. Curriculum vitae of the candidates shall accompany the recommendation.

**Training**

17. All members of the STP, FTP and AaSSTP, and all Chairs shall receive training, prepared and conducted jointly by the secretaries of the tribunal panels dealt with under this policy under the supervision of the University General Counsel.
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*Director and Senior Advisor, Rights and Responsibilities*  
LOUISE J. SHILLER

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### Location

*Sir George Williams Campus*  
Office of Rights and Responsibilities  
GM Building, Room: 1005.00  
514-848-2424, ext. 8659  
rights@concordia.ca

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## CODE OF RIGHTS AND RESPONSIBILITIES

### 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.

#### 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 party, the Academic Code of Conduct, the University Calendars or other University policies or procedures.

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## 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 endeavour 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 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.

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## 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.

"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 readmission 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 readmission 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.

“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.

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### **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 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.

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### **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:
- a) Harassment
 

“Harassment” means:

    - i. 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
    - ii. which may or may not be based upon one of the prohibited grounds specified in the Quebec 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
    - iii. 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.

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 Quebec 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 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 Quebec 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;
- 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;
- 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.

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## 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.
- 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:
  - a) 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
  - b) it is trivial, frivolous, vexatious or made in bad faith; or
  - c) it is being dealt with, or has already been dealt with, by another University officer, policy or procedure; or
  - d) 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 panellists 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 panellist 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:
  - a) to proceed with informal conflict resolution; or
  - b) to proceed with a formal process under Section VII or Section VIII; or

- c) to take no further action; or
- d) to pursue any other course of action available at law, under a collective or employee agreement or under any other University policies or procedures.

#### **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:
  - 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;
  - 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 51b), 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 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 panellists selected for the case to the Respondent no later than ten (10) Days before the scheduled hearing date. The list of panellists 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 panellist on the grounds of potential bias. A reasoned objection shall be filed, no later than five (5) Days after having received the list of panellists, with the Secretary who shall arrange for an alternate panellist 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.

#### **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 panellists.
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:
  - 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 reregister until such time as he/she has fully complied with the sanction(s) imposed;
  - 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) Days of 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 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 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.
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.
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;
  - d) consult any University officer (representatives of the Department of Human Resources, the Office of the General Counsel, etc.) or outside counsellors 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 the 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 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.

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## **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") (see [concordia.ca/content/dam/common/docs/policies/official-policies/BD-3\\_Protocol.pdf](http://concordia.ca/content/dam/common/docs/policies/official-policies/BD-3_Protocol.pdf)).
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.

### **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.

#### **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.
128. In the event that the Hearing Panel determines that the original complaint was unfounded, that decision shall not invalidate the President's 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.

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### **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.

**Notices**

134. Any written notice to any person shall be sent by courier, email 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.

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*Ombudsperson*  
KRISTEN ROBILLARD

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### Location

*Sir George Williams Campus*  
Ombuds Office  
GM Building, Room: 1005.00  
514-848-2424, ext. 8658

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## TERMS OF REFERENCE OF THE OMBUDS OFFICE

### Scope

1. The Ombuds Office shall be independent of all existing administrative structures of the University.
2. For the purposes of these Terms of Reference:  
“Member” means faculty members, employees, administrative and support staff, postdoctoral fellows, members of the administration, students, student applicants, interns, academic visitors, stagiaires or researchers including but not limited to exchange students and visiting students.
3. The Ombudsperson shall provide an impartial and confidential service to Members who have been unable to resolve their concerns about the application of any policy, rule or procedure.
4. The Ombudsperson may not inquire into the application or interpretation of a collective or employee agreement nor into the alleged violation of the duty of fair representation against a certified union.
5. The Ombudsperson shall have no actual authority to impose remedies or sanctions, or to enforce any policy, rule or procedure. However, he/she may make any recommendations that he/she deems appropriate with regard to resolving complaints or improving policies, rules or procedures.

### Functions of the Ombuds Office

6. Specifically, the Ombudsperson shall:
  - a. actively promote these Terms of Reference and the services offered;
  - b. inform Members about existing policies, rules and procedures and advise them as to the appropriate channel of redress for any concern or complaint they may have;
  - c. assist Members to resolve complaints informally and quickly;
  - d. at his/her discretion, conduct an independent and objective inquiry into complaints when normal channels of recourse have been exhausted;
  - e. at his/her discretion, conduct an independent and objective inquiry into the application of any policy, rule or procedure of the University;
  - f. explain decisions taken by University authorities when complaints are not substantiated;
  - g. at his/her discretion, recommend solutions to help resolve complaints;
  - h. bring to the attention of University authorities any policies, rules or procedures which appear unclear or inequitable or which might jeopardize the rights or freedoms of any Member. The Ombudsperson may suggest changes to the existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures.

### Special Concerns of the Ombuds Office

7. In dealing with complaints, the Ombudsperson shall be concerned that all Members are dealt with and deal with others fairly and more specifically that:
  - a. decisions affecting Members are made with reasonable promptness;
  - b. procedures used to reach decisions are adequate and the criteria and rules upon which such decisions are based are appropriate;
  - c. procedures and criteria used in making decisions are clearly communicated to those affected.

### Complaints

8. In dealing with complaints, the Ombudsperson shall act in an impartial fashion, acting neither as an advocate for the Member making a complaint (“the Applicant”) nor as a defender of the University but rather he/she shall seek to promote procedural fairness and a reasonable outcome. In so doing, he/she shall endeavour to maintain harmonious relations with all Members using tact, diplomacy and sensitivity.
9. The Ombudsperson shall have prompt access to such University records, reports or documents as are required to fulfill his/her functions. Requests for such access shall receive priority from all Members.

10. A complaint should be brought to the attention of the Ombudsperson within six (6) months of the Applicant becoming aware of the situation giving rise to the complaint. This period may be extended at the discretion of the Ombudsperson.
11. If the Ombudsperson decides to inquire into a matter, he/she shall make every effort to consult the relevant parties and give such parties the opportunity to reply, should they so wish.
12. Upon the conclusion of an inquiry, the Ombudsperson shall advise all parties to a complaint of his/her findings and any recommendations that he/she has formulated.
13. In addition, the Ombudsperson may bring his/her findings to the attention of the University authorities and make whatever recommendations he/she deems appropriate and to whomever within the University he/she feels should receive them. Such recommendations may bear either on the actions or decision of an individual or a group, or on the policies, rules and procedures which gave rise to them. If, upon receipt of such findings or recommendations, a University authority proceeds to disciplinary action in order to resolve the matter, the procedure of any relevant University policy, collective or employee agreement shall be followed.
14. The Ombudsperson may refuse to take up any case where he/she judges his/her intervention would be inappropriate and may withdraw from a case if continued involvement is ill-advised. In such cases, the Ombudsperson shall inform the Applicant as to the appropriate channel of redress, if applicable.
15. If the Ombudsperson refuses to take up a case or withdraws from a case, he/she shall, upon request, provide the Applicant with a written statement of the reason.
16. The Ombudsperson shall not inquire into any matter that is before a court of law or is pending at or before any administrative tribunal outside the University. In addition, upon being informed that a legal claim or that a notice of a potential legal claim has been received by the University, the Ombudsperson shall immediately withdraw from a case and shall cease any communication with the Applicant.
17. Under no circumstances shall the mere fact of bringing a complaint to the attention of the Ombudsperson constitute a formal notification, for legal purposes, to the University.
18. The Ombudsperson shall avoid involvement in cases where there may be a conflict of interest.

#### **Confidentiality and Protection from Reprisals**

19. Should the pursuit of any inquiry necessitate the disclosure of details that identify an Applicant, the Applicant shall be informed. Any disclosure shall be limited to those who have a need to know.
20. Should an Applicant decide to withdraw an application in order to protect his/her anonymity, the Ombudsperson shall respect this decision.
21. The Ombudsperson shall respect the confidentiality of any confidential information or materials to which he/she has access.
22. Should the Ombudsperson consider that the response to his/her recommendation has been unsatisfactory, he/she shall be entitled to make the recommendation public, provided always that, subject to Article 19, the confidentiality of the Applicant is respected.
23. Notwithstanding articles 19-22, confidentiality rights are subject to disclosure required by law and specifically situations outlined in the *Policy on the Emergency Release of Personal Information (SG-5)*.
24. No Member who seeks the services of, files a complaint with, or cooperates in any manner with the Ombudsperson, 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.

#### **Files**

25. The Ombudsperson shall maintain suitable records of complaints, findings and recommendations which shall be accessible only to the staff of the Ombuds Office or as required by law. Such files shall be destroyed according to a retention schedule determined in accordance with provincial legislation.

#### **Appointment of Ombudsperson**

26. The Ombudsperson shall be appointed by the Board of Governors ("the Board") upon the recommendation of a representative advisory committee struck for this purpose by the Board. The Committee shall be composed of representatives of the University constituencies, including at least one (1) undergraduate and one (1) graduate student and shall be chaired by the Secretary-General.
27. The Secretary-General shall act as the link between the Board and the Ombudsperson for administrative purposes.
28. 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 Board shall appoint an appraisal committee, chaired by the Secretary-General, and 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 Ombudsperson.
 This review shall include, but shall not be limited to, consultations with the University community as well as an external appraisal.
29. The Ombudsperson shall submit an annual report to the Board by November 1 of each year covering the previous academic year. The report shall detail activities of the Ombuds Office, including statistics on the concerns and complaints received, and shall make recommendations, as necessary. The Secretary-General shall ensure that the appropriate University authorities consider and respond to the recommendations contained in the report.
30. The annual report shall be published in the University's newspaper and submitted, for information purposes, to the Senate.

**Complaints Relating to the Operations of the Ombuds Office**

31. If a Member considers that the Ombudsperson has committed a procedural or substantive violation of these Terms of Reference, with respect to any matter to which the Member has been a party, he/she may submit a written complaint, detailing the alleged violation, to the Secretary-General. The Secretary-General shall investigate the complaint and inform the Member of the results of the investigation.
  32. If the Member is not satisfied with the response of the Secretary-General, he/she may request, in writing, within fifteen (15) working days of receiving the response, that the Appeals Committee of the Board review the complaint against the Ombudsperson.
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