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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: [concordia.ca/students/academic-integrity](http://concordia.ca/students/academic-integrity).

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. Concordia University places the principle of academic integrity, that is, honesty, responsibility and fairness in all aspects of academic life as one of its highest values. This understanding of academic integrity directs our conduct in all academic matters, especially to the submission of work for academic evaluation and to student-professor and student-staff relationships. Instructors, students and administrators are expected to be honest and responsible in their academic conduct and fair in their assessment of academic matters.

The university community strives to provide a teaching and learning environment in which academic integrity is reflected in the student’s dealings with faculty and staff and in their academic work and processes, where instructors foster academic integrity with their students, in their review of students’ academic work, and in their exercise of academic processes, and where administrators promote academic integrity in initiating and implementing academic regulations and processes. Academic integrity is anchored in the shared responsibility of all members of the community. Instructors are responsible for clearly communicating course requirements and students are responsible for knowing and following such requirements.

The Academic Code of Conduct sets out for students, instructors and administrators both the process and the expectations involved when a charge of academic misconduct occurs. The regulations are presented within the context of an academic community which seeks to support student learning at Concordia University.

#### Jurisdiction

2. For the purposes of this Academic Code of Conduct, the student need only have been a student at the time of the alleged offence. For the sake of clarity, any former student accused of having committed academic misconduct is subject to this Academic Code of Conduct.
3. If, prior to the initiation of any proceedings under this Academic Code of Conduct, the student has graduated, the proceedings will nonetheless take place.
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 or her department shall affect the filing of an Incident Report or any process provided for under this Academic Code of Conduct.

#### Ambiguity

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

### II. Definitions

#### Academic Hearing Panel or AHP

6. An Academic Hearing Panel or AHP is the body set forth at Article 49 of the present Academic Code of Conduct.

#### Appeals Authorization Panel

7. An Appeals Authorization Panel is the body set forth at Article 69 of the present Academic Code of Conduct.

#### Appeals Panel

8. An Appeals Panel is the body set forth at Article 74 of the present Academic Code of Conduct.

**Administrator**

9. Administrator, as allowed for in Article 29 and 31, 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, Department Chairs or Heads, re-evaluators (see Academic Re-evaluation Procedures), invigilators and academic department staff.

**Advocate**

10. Advocate means a member of the University community who may assist the student or Dean throughout the proceedings and procedures associated with the Academic Code of Conduct.

**Days**

11. 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**

12. Dean is defined as:
- the Dean of the Faculty or School offering the program in which the student is registered; or
  - 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
  - if the student is a graduate student, the Dean of Graduate Studies.
- The Dean may designate a delegate to fulfill any of his or her obligations under this Academic Code of Conduct in which case they shall be termed the "Dean" for the purposes of this Academic Code of Conduct. Such delegate may be an Academic Code Administrator, an Associate Dean or any other personnel that the Dean deems appropriate.
- If the course concerned is taught by the Dean, the Provost and Vice-President, Academic shall assume all of the duties imposed on the Dean in this Academic Code of Conduct.

**Invigilator**

13. Invigilator means an instructor or any other person who is charged with supervising an examination.

**Secretary of the Tribunals**

14. A Secretary of the Tribunals shall be named and shall be responsible for the administrative functioning of the AHPs, of the Appeals Authorization Panels and of the Appeals Panels, including maintaining the confidential files and recordings of proceedings of the AHPs, of the Appeals Authorization Panels and of the Appeals Panels.

**Student**

15. Student, for the purposes of this Academic Code of Conduct, is defined as any person who has been accepted to study at the University at any point in time.

**Student Record**

16. The student record is a comprehensive, internal report of a student's academic history at the University. It is a complete academic record and includes all courses followed at Concordia. It is available to the student and to authorized University staff and faculty.

**Student Transcript**

17. The student transcript is a version of a student's record intended for the use of external institutions, organizations, and employers. It is a complete academic record and includes all undergraduate and/or graduate courses followed at the University.

**III. Offences**

18. Any form of cheating, or plagiarism, as well as any other form of dishonest behaviour, intentional or not, related to the obtention of gain, academic or otherwise, or the interference in evaluative exercises committed by a student is an offence under this Academic Code of Conduct. Any attempt at or participation related in any way to an offence by a student is also an offence.
19. Without limiting, or restricting, the generality of Article 18 above and with the understanding that Articles 19 a) to l) are to be considered examples only, academic offences include, the carrying out, or attempting to carry out or participating in:
- a. plagiarism — the presentation of the work of another person, in whatever form, as one's own or without proper acknowledgement;
  - b. 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;
  - c. unauthorized collaboration between students;
  - d. tearing or mutilating an examination booklet or an examination paper, including, but not limited to, inserting pages into a booklet or taking a booklet or a portion of the booklet or examination paper from the examination room;
  - e. 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;

- f. the obtention by theft or any other means or use of the questions and/or answers of an examination or of any other resource that one is not authorized to possess;
- g. the possession or use during an examination of any non-authorized documents or materials or resource or possessing a device allowing access to or use of any non-authorized documents or materials;
- h. the use of another person's examination during an examination;
- i. communication with anyone other than an invigilator during an examination or the obtention of any non-authorized assistance during an examination;
- j. impersonation — assuming the identity of another person or having another person assume one's own identity;
- k. 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;
- l. the falsification or fabrication of a fact or data or a reference to a source in a work.

#### **Standard of Proof**

- 20. The standard of proof which must be met in order for any offence to be upheld under the present Academic Code of Conduct is that of the "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 than the alternative(s).

#### **Sanctions**

- 21. If a charge is upheld against a student by the Dean pursuant to Article 42, and the Dean does not refer the case directly to an AHP, the Dean must impose one or more of the following sanctions:
  - a. Reprimand the student;
  - b. Direct that a piece of work be re-submitted;
  - c. Direct that the examination be taken anew;
  - d. Enter a grade reduction for the piece of work in question or enter a grade of "0" for the piece of work in question;
  - e. Enter a grade reduction in the course or 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, as specified by the Dean, in addition to the total number of credits required for the student's program. 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.
- 22. If a charge is upheld by an AHP pursuant to Article 62, the AHP must impose one or more of the following sanctions:
  - a. Any or all of the sanctions listed at Article 21;
  - b. 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;
  - c. Expulsion from the University. Expulsion entails the permanent termination of all University privileges.
- 23. 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/she has been found guilty of academic misconduct; or ii) a recommendation to Senate for the revocation of the degree obtained.
- 24. A sanction of suspension or expulsion is subject to confirmation by the Provost and Vice-President, Academic, who shall also determine the effective date.
- 25. Any student found to have committed a second offence shall normally be suspended or expelled from the University subject to confirmation by the Provost and Vice-President, Academic.

#### **IV. Procedures**

##### **General Provisions Governing Evaluative Exercises**

- 26. It is the responsibility of members of the University to uphold academic integrity. As such, any member of the University who has reasonable grounds to believe that a student has committed an offence pursuant to this Academic Code of Conduct will promptly report his or her findings to the appropriate authority as defined in Articles 29 to 31 or 35 to 36 of this Academic Code of Conduct.
- 27. A member of the University who identifies the alleged academic misconduct may not, on his or her own authority, impose a sanction upon a student. Rather, alleged offences shall be handled only as set forth in this Academic Code of Conduct.
- 28. 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.
- 29. An instructor, supervisor, re-evaluator or administrator who, in the course of grading a student's work or through any other means, has reasonable grounds to believe that a student has committed an offence pursuant to this Academic Code of Conduct shall complete an Academic Code of Conduct Incident Report ("**Incident Report**"), see Appendix A. The instructor, supervisor, re-evaluator or administrator shall forward the Incident Report to the Dean.
- 30. A Teaching Assistant who, in the course of grading a student's work or through any other means, has reasonable grounds to believe that a student studying or working under his or her direction has committed an offence pursuant to this Academic Code of Conduct shall inform the instructor of the course within which the alleged offence occurred. If the instructor believes that there are reasonable grounds to support that such alleged offence occurred, the instructor shall forward the Incident Report to the Dean.
- 31. Should a person other than an instructor, a supervisor, a re-evaluator, an administrator, a Teaching Assistant or an invigilator of a centrally supervised examination have reasonable grounds to believe that a student has committed an 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.

### **Centrally Supervised Examinations**

32. 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.
33. 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, see Appendix A at [concordia.ca/content/dam/common/docs/policies/official-policies/IR-CentrallySupervisedExaminations.pdf](http://concordia.ca/content/dam/common/docs/policies/official-policies/IR-CentrallySupervisedExaminations.pdf):
  - 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. Normally the exam should be written at the University's next offered exam period after the final disposition of the case; 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.
34. 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.
35. The invigilator shall file an Incident Report with the Dean, as defined in Article 12 of this Academic Code of Conduct, 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**

36. 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 during an examination shall be so informed by the individual invigilating the examination and may be required to leave the examination area immediately. The procedures for completing and filing an Incident Report shall be those set forth at Articles 29 to 31 above.

### **Notification Letter and Pending Notation**

37. Upon receipt of an Incident Report, the Dean shall send a copy to the student, the Registrar and the Secretary of the Tribunals and shall indicate in a Notification Letter whether or not he or she intends to interview the student to inquire into the alleged offence or whether or not the Incident Report is being transmitted directly to an AHP. The Dean shall, as well, include a copy of this Academic Code of Conduct. Notwithstanding the above, the Dean may, in all cases including when a student does not respond to the Dean's request for an interview or when a student fails to attend or refuses to attend an interview, choose to not interview the student.
38. Upon receipt of an Incident Report, the Registrar shall note on the academic record that the grade is "pending" (PEND) until the outcome of the charge and, if applicable, the sanction(s) is(are) imposed and final. 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 and, if applicable, the sanction(s) is(are) imposed and final. No degree, diploma or certificate of the University shall be conferred or awarded from the time of the receipt by the Registrar of an Incident Report until the final disposition of the charge.

### **Interviews**

39. 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.
40. If the interview is for an alleged first offence, the purpose of such interview is for the Dean to ascertain whether or not an offence occurred and to obtain information regarding any and all circumstances and evidence that mitigate or aggravate such alleged offence. If the interview is for an alleged repeat offence, the purpose of such interview is for the Dean to ascertain whether or not an offence occurred.

In convening the interview with the student, the Dean shall inform the student that he or she may consult any person and be accompanied or be represented by an advocate during the interview.
41. 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 42 or cause the Dean to refer the case to an AHP or be the subject of testimony by both parties at any subsequent proceeding. Students may participate in interviews in either English or French.

### **Dean's Decision Letter**

42. Normally, within ten (10) days from the conclusion of the interview, the Dean shall write to the student indicating his or her decision to: (i.) dismiss the charge; or (ii.) uphold the charge. In the case of upholding the charge, the Dean must impose one or more of the sanctions listed at Article 21 or refer the case directly to an AHP. For all cases of repeat offences, the matter is to be referred directly to an AHP if the charge is upheld by the Dean.
43. If the Dean has decided not to interview the student, he or she shall transmit the decision letter directly to the student and to the Secretary of the Tribunals normally within fifteen (15) days of receipt of the Incident Report.
44. If the Dean has decided to dismiss the charge, a copy of the letter dismissing the charge shall be sent to the Secretary of the Tribunals, the Registrar, the instructor and the Department Chair, or equivalent, if applicable, and the Dean shall direct the instructor to submit a grade for the course in question, if applicable.

45. In the case of a sanction imposed by the Dean under Article 21, the letter to the student shall inform him or her of the right to obtain a hearing before an AHP by notifying the Secretary of the Tribunals, in writing, as per Article 51, 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 of the Tribunals, the Registrar, the instructor, the Graduate Program Director, and the Department Chair, or equivalent, if applicable.
46. Where the Dean has imposed a sanction under Article 21 and the student has not elected to have the case heard by an AHP under Article 45, the Secretary of the Tribunals 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 hearing before an AHP. Such report shall form a part of the student's permanent file maintained by the Registrar.
47. Upon receipt of the notification from the Secretary of the Tribunals pursuant to Article 46, the Dean shall direct the instructor to submit a grade for the course in question, if applicable.
48. When the student has elected to obtain a hearing under Article 45, the execution of any decision of the Dean relating to the Incident Report shall be suspended pending disposition by an AHP.

#### **The Academic Hearing Panel**

49. An AHP of five (5) members, as well as a non-voting Chair, shall be selected by the Secretary of the Tribunals 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).
50. With the consent of both parties, the AHP shall proceed with a reduced AHP. A reduced AHP shall be composed of the non-voting Chair as well as two (2) faculty members and one (1) student.
51. A hearing shall be convened as soon as possible after the receipt by the Secretary of the Tribunals of the notification. The Secretary of the Tribunals shall inform the parties of the academic term during which it is expected that the AHP will be held, within fifteen (15) days of the Secretary of the Tribunals' receipt of the notification, and shall inform the student that he or she may consult any person and to be accompanied or represented before the AHP by an advocate.
52. Once a hearing date is fixed by the Secretary of the Tribunals, both parties shall submit all documentation they wish considered by the AHP to the Secretary of the Tribunals no later than ten (10) days before the scheduled hearing date. Such documentation shall include all documents that a party wishes to use to support his or her case, and may include any documents submitted during the interview process, and a list of the witnesses, if any, that will appear. Any documentation or any names of witnesses submitted after the above deadline may be accepted by the AHP, at the discretion of the Chair of the AHP, further to representations made by the parties. In making the decision as to whether to accept additional documentation or witnesses after the deadline, along with other considerations, the Chair of the AHP may take into account when the documentation or name(s) of the witness(es) was submitted, the reasons for the late submission, and any prejudice that either party may suffer due to such late submission, or any other relevant motives.
53. The Secretary of the Tribunals shall transmit the documentation submitted by the parties, together with a list of the members of the AHP selected for the case, the present Academic Code of Conduct and the Procedures of the AHP, to the parties no later than five (5) days before the scheduled hearing date.
54. Either party may object to the participation of a panelist on the grounds of potential bias. A reasoned objection shall be filed with the Secretary of the Tribunals in writing at least three (3) days prior to the hearing date. The Secretary of the Tribunals shall arrange for an alternate member of the AHP to serve if he or she determines that the objection is well-founded. If 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.
55. When the offence involves more than one student, either the student(s) or the Dean(s) may request that the Secretary of the Tribunals schedule a joint hearing. 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(s).
56. If a student wishes to withdraw his or her request for a hearing, normally the student shall notify the Secretary of the Tribunals of the withdrawal at least twenty (20) days prior to the hearing date. Following such a withdrawal, the Secretary of the Tribunals shall inform the Dean of such withdrawal and the Dean shall file a report with the Registrar, according to Article 46, and include the information that the student withdrew his or her request for a hearing.
57. 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 recordings kept as part of the permanent record of the proceedings for a period of not less than five (5) years. Recordings shall be provided to a party to a hearing upon his or her written request to the Secretary of the Tribunals.
58. 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.
59. The hearing shall be closed unless both parties have consented in writing to the attendance of other people.
60. If either party fails to attend the hearing, the hearing may proceed in the other party's absence or, at the Chair's discretion the start of the hearing may be delayed. 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, 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.

61. 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 25, any and all other information concerning the charge(s), including the nature of the offence(s) and the sanction(s) imposed, shall be excluded unless the student chooses to have such information discussed.
62. Decisions of the AHP shall be by majority vote. In its deliberations, the AHP shall first decide whether to uphold or dismiss the charge based on the applicable standard of proof. If the AHP decides to uphold the charge, with the exception of cases of repeat academic offences wherein Article 25 shall apply, it shall subsequently impose one or more of the sanctions that appear at Article 22.
63. 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 and the instructor, indicating its decision. The decision of the AHP shall be signed, dated and reasoned. Furthermore, the decision of the AHP shall inform the parties of their right to submit a written request for authorization to appeal the decision of the AHP within fifteen (15) days after the date of transmission of the AHP decision.
64. The execution of any sanctions by an AHP shall be suspended, and the PEND notation shall remain on the student's record, until the expiry of the fifteen (15) day delay to request authorization to appeal or until the final rendering of the decision by an Appeals Authorization Panel and, if applicable, the Appeals Panel.

### **Appeals**

65. A request for authorization to appeal may be based only on the grounds of discovery of new evidence following the AHP or on the presence of serious and prejudicial procedural defects of the AHP. In his or her request for authorization to appeal, an appellant must set forth and explain in clear and precise terms, all grounds on which the appeal is based. Furthermore, if the appellant is requesting an appeal based on the grounds of discovery of new evidence following the rendering of the decision of the AHP, the appellant must provide such evidence as part of his or her request.
66. If neither the Dean nor the student has requested authorization to appeal within the fifteen (15) day delay stipulated at Article 63, the Secretary of the Tribunals shall so inform the Registrar including a statement to the effect that the Dean and the student concerned were notified in writing of the decision of the AHP and of their right to submit a request for authorization to appeal such decision. 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.
67. If the Dean or the student has requested authorization to appeal the decision of the AHP, the Secretary of the Tribunals shall forward such request to the other party, with a copy to the Registrar, soliciting his or her written response within ten (10) days. Any response received by the Secretary of the Tribunals within the ten (10) day period shall be forwarded to the appellant and, if the appellant wishes, he or she may submit a written rebuttal within a further ten (10) days.
68. An Appeals Authorization Panel shall be convened by the Secretary of the Tribunals as soon as possible after the expiry of the delay to submit written input and normally within fifteen (15) days.
69. The Appeals Authorization Panel shall be selected by the Secretary of the Tribunals and shall be composed of three (3) members, as well as a non-voting Chair, none of whom may have sat as members of the AHP under appeal. The Appeals Authorization 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).
70. The Appeals Authorization Panel must decide whether authorization to appeal the decision of an AHP will be granted having regard to the allowable grounds of appeal and the circumstances of the case.
71. The Appeals Authorization Panel shall be provided with all written evidence provided to the AHP, the decision of the AHP, the recording of the AHP, the request for authorization to appeal, and all written input received within the twenty (20) day period set forth at Article 67. The decision of the Appeals Authorization Panel shall be based solely upon the documents and recording listed in the present Article. Neither party is permitted to attend or make oral representations before the Appeals Authorization Panel.
72. The Appeals Authorization Panel shall have the authority to grant or deny authorization to appeal based only on the grounds for appeal set forth in the present Academic Code of Conduct. If it grants authorization to appeal based on the grounds of discovery of new evidence following the rendering of the decision of the AHP or the reasonableness of the student's excuse for not appearing before the AHP pursuant to Article 60, the Appeals Authorization Panel may order a new hearing of the case by a new AHP or may forward the file to an Appeals Panel. If it grants authorization to appeal based on the grounds of presence of serious and prejudicial procedural defects of the AHP, it shall forward the file before an Appeals Panel.
73. The Appeals Authorization Panel shall normally render its decision within ten (10) days of its consideration of the request. The decision of the Appeals Authorization Panel shall be signed, dated and reasoned and shall be sent to both parties and the Registrar.
74. If a file is forwarded to an Appeals Panel, a panel of three (3) members, as well as a non-voting Chair, shall be composed by the Secretary of the Tribunals. 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).
75. If the authorization to appeal is granted, the Appeals Panel shall normally take place within twenty (20) days of the decision to authorize the appeal. Notification of the scheduling of the Appeals Panel shall be sent to both parties.
76. The Secretary of the Tribunals shall transmit the documentation listed at Article 71 as well as the decision of Appeals Authorization Panel, together with a list of the panel members selected for the Appeals Panel and the present Academic Code of Conduct, to the parties no later than five (5) days before the scheduled hearing date.
77. If either party fails to attend the Appeals Panel, the hearing may proceed in the other party's absence or, at the Chair's discretion the start of the hearing may be delayed.
78. The Appeals Panel shall establish its own rules of procedure. All representations before the Appeals Panel shall be limited to representations as to the grounds further to which authorization to appeal was granted by the Appeals Authorization Panel.

79. 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.
80. 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, the Registrar and the instructor.
81. The decision of the Appeals Authorization Panel and, if an appeal is authorized, the Appeals Panel shall be final.

## **V. Miscellaneous Provisions**

### **Delays and Language**

82. In the calculation of any delay set out in the Academic Code of Conduct, the final examination period for the fall and winter academic terms and 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 Academic Code of Conduct shall apply.
83. 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 45.

### **Notices**

84. Any written notice addressed to a student pursuant to this Academic Code of Conduct shall be sent by registered mail, with a copy sent by email, to the address of residence and the email address most recently provided by the student to the University, through his or her MyConcordia Portal. All written notices shall be deemed to be received one (1) day after delivery.

### **Notations on Student Record and Student Transcript**

85. When a charge of academic misconduct has been upheld, the charge and the sanctions shall be reflected on the student's Student Record with the sanction appearing as the appropriate Article (21 or 22) and the additional notation of "for academic and disciplinary reasons." When the sanction imposed is the one set forth at Article 21 g), the number of extra credits imposed shall also be noted.
86. 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 Student Transcript with no additional notations relating to academic misconduct. A grade obtained as the result of a penalty for academic misconduct shall remain in the calculation of all of the student's GPAs, whether or not the course has been repeated.
87. Suspensions imposed under this Academic Code of Conduct shall be recorded on the Student Record and the Student 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 Student Transcript but shall continue to appear on the student's Student Record.
88. The Provost may, upon written request from a student and in cases where the Provost considers it appropriate, direct that a notation of a sanction as stated at Article 85, with the exception of expulsion, be removed from the student's Student Record.
89. Any expulsion imposed under this Academic Code of Conduct shall be recorded on the Student Record and the Student Transcript as follows: "Required to withdraw for academic and disciplinary reasons. May not apply for readmission."

### **Records and Confidentiality**

90. The Registrar shall maintain a record in the student's official file with respect to all sanctions imposed under this Academic Code of Conduct.
91. In all cases where a charge of academic misconduct has been upheld, the responsibility for maintaining the complete file shall rest with the Dean.
92. 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 Academic Code of Conduct, all information relating to the charge will be removed from the files held by the Dean 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 of the Tribunals and will be destroyed within the time-frame outlined by the University's archives retention rules.
93. 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 Academic Code of Conduct.

### **Annual Report**

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

### **Overall Responsibility for the Academic Code of Conduct**

95. The overall responsibility for the implementation and recommended amendments to this Academic Code of Conduct shall rest with the Secretary-General.



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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 Gina Cody School 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, Rights and Responsibilities  
LISA WHITE

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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 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. Other University policies such as the *Policy regarding Sexual Violence* (PRVPAA-3), the *Policy on Student Involuntary Leave of Absence* (PRVPAA-15) and other University policies may also be applied.

#### 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 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.
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 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 their 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 December 15 of each year covering the previous academic year. The report shall detail the activities of the Office, including statistics on complaints received, and make recommendations, as necessary, with regard to either the Code or the operations of the Office. The report shall be made available by way of the University's publications 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, that Member may submit a written complaint within twenty (20) Days, detailing the alleged procedural failure, to the Secretary-General. The written complaint shall be investigated and the Member will be informed of the results of the investigation, normally within twenty (20) 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 (5) 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:

“Advisor” means the Director of the Office or designate.

“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.

“Complainant” means:

- a Member who is directly affected by the conduct of another Member and who files a complaint against that other Member under this Code.
- the University when, through its Disciplinary Officers, except for the Secretary-General, or a person designated by a Disciplinary Officer, it files a complaint under this Code against a Member in relation to conduct against another Member or non-Member.

“Days” means, subject to article 163, all working days, which excludes weekends, holidays and other days during which the University is closed.

“Disciplinary Officer” means any of the following individuals, who 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 Deputy Provost;
- d) the Secretary-General.

“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 to be considered for readmission after a period of five (5) years from the date of the expulsion.

“Hearing Panel” means a hearing panel composed pursuant to this Code further to a formal complaint against a Student.

“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 137 of the Code.

“Member” means faculty members, employees, administrative and support staff, postdoctoral fellows, members of the administration, Students and interns, stagiaires or researchers.

“Office” means the Office of Rights and Responsibilities.

“Respondent” means any Member against whom a complaint under the Code is made.

“Secretary” means the Secretary of the Hearing and Appeal Panels, who shall form part of the Office of Student Tribunals, and who shall be designated by the Secretary-General.

“Student” means:

- any person registered in any academic program on a full-time or part-time basis
- any person admitted as an independent student
- any person registered in a non-credit course
- any person registered as an auditor in a credit or non-credit course
- any person registered as a student at another university who has written approval from their home university to take courses at the University, including exchange students and visiting students.

A person ceases to be a Student:

- upon graduation; or
- three (3) consecutive semesters after they were last registered in at least one (1) for-credit or non-credit 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 Provost and Vice-President Academic or delegate 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 and of the Registrar’s Office. The maximum length of a Suspension shall be two (2) years, after which the Student may resume their studies at the next possible term, providing that all imposed conditions (if any) have been fulfilled.

“University” means the registered not-for-profit corporation named Concordia University, located in Montreal, Quebec, Canada.

#### **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. An alleged violation set forth in a Complainant’s complaint must have taken place:
  - a. on University premises, either rented or owned,
  - b. on other premises in the course of any University-sponsored activity or event, or
  - c. in the context where activities or events have a real and substantive link to the University.In the present article 22, by way of example only, “real and substantive link to the University” does not include allegations related to matters arising from or solely pertaining to student associations or fee-levy groups.

### **Complaints against Former Students**

23. In the case of claims under this Code involving a Student's conduct, the Respondent need only have been a Student at the time of the alleged violation of the Code. Subject to article 24, if any proceedings under the Code cannot be initiated or completed because a Student Respondent 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 Respondent registers again or, in the case of a Respondent who has graduated, if the alleged offence, if proven, would impugn the validity of the degree conferred.
24. In the case of claims under this Code made by a Student Complainant against a Student Respondent, the Complainant need only have been a Student at the time of the alleged violation of the Code. Subject to article 23, if any proceedings under the Code cannot be initiated or completed because a Student Complainant has graduated or ceases to be a Student in accordance with the definition contained in Section III of the Code, the proceedings shall resume if the Complainant registers again.
25. Subject to article 96, if a complaint has been upheld by a Hearing Panel 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 their academic record only indicating the sanction under the Code and that they cannot pursue further studies at the University until such time as the sanction imposed has been fulfilled, or until they have made suitable arrangements with the Dean of Students to fulfill the sanction.

### **Contractors, their Employees, Alumni and Visitors**

26. Contractors, their employees and representatives, and visitors to the University as well as any other persons associated with 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 appropriate Vice-President or delegate, and any other person designated by the appropriate Vice-President or delegate, 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**

27. 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.
28. 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. Members may also be charged under articles 30 to 51, as applicable, for any alleged reprisals.
29. The following articles 30 to 51 represent the core behaviours the Code wishes to address and are prohibited under this Code:
30. Threatening or Violent Conduct  
"Threatening or violent conduct" means:
  - a) assaulting another Member; or
  - b) 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
  - c) 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.
31. Sexual Violence and Sexual Assault
  - a) "Sexual violence" means any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This includes, but is not limited to sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, degrading sexual imagery, distribution of sexual images or video of a Member without their consent, and cyber harassment or cyber stalking of a sexual nature or related to a Member's sexual orientation, gender identity or presentation;
  - b) "Sexual assault" is any unwanted act of a sexual nature imposed by one person upon another and includes such activities as kissing, fondling, oral or anal sex, intercourse, or other forms of penetration, without consent.
32. Harassment  
"Harassment" means:
  - a) all forms of repeated or ongoing unwelcome, vexatious conduct directed towards a Member or a group of Members; and
  - b) which may 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, disability or the use of a means to palliate a disability; and
  - c) when such conduct has the effect or purpose of unreasonably interfering with a Member's right to pursue their 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.
33. Sexual Harassment  
"Sexual harassment" means a form of harassment which involves conduct, behaviour or communications of a sexual nature such as, but not limited to, 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, appearance, gender, gender identity, sexual orientation or sex life, when:

- a) submission to such conduct is made, whether explicitly or implicitly, a term or condition of the Member's employment, educational progress or involvement in the University community; or
- b) submission to or rejection of such conduct is used as the basis for an employment or academic decision affecting that Member; or
- c) such conduct has the effect or purpose of unreasonably interfering with a Member's right to pursue their 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.

34. 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:

- a) are hostile or unwanted; and
- b) affect the Member's dignity or psychological or physical integrity; and
- c) 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.

35. Discrimination

"Discrimination" means:

- a) treatment which has the effect or purpose of imposing burdens, barriers, obligations or disadvantages on a Member or group of Members; and
- b) for which there is no bona fide and reasonable justification; and
- c) 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 or expression, pregnancy, sexual orientation, civil status, age, religion, political convictions, language, social condition, handicap/disability or the use of a means to palliate a handicap/disability.

36. Communication of Discriminatory Matter

It is an offence 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.

37. "Offences against property" means willfully or recklessly taking or having unauthorized possession of, theft of, damaging or destroying any property belonging:

- a) to the University; or
- b) 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; or threatening to do any of the above;

38. Knowingly furnishing false information, knowingly making a false accusation or knowingly reporting a false emergency to any University Official or Office;

39. Maliciously activating fire alarms;

40. Bomb threats;

41. 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;

42. Unauthorized entry into any University property;

43. 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;

44. Camping or lodging on University property other than in authorized facilities;

45. Forging or, without authority, knowingly altering, using, receiving or possessing University supplies or documents or documents supplied to the University (including without limitation, records, keys, electronic devices, letterheads, reference letters, degrees, diplomas, certificates or identifications);

46. 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;
  47. Unlawful manufacture, distribution, possession, use, threatened use, storage, sale or the attempted manufacture, distribution, or sale of controlled substances, except as expressly authorized by law or University regulations;
  48. Unlawful manufacture, distribution, possession, use, threatened use, storage, sale or the attempted manufacture, distribution, or sale of explosives, firebombs, or other destructive devices, except as expressly authorized by law or University regulations;
  49. Possession, use, threatened use, or manufacture of firearms, ammunition, dangerous chemicals, dangerous biological materials, explosives, other weapons or other materials deemed dangerous pursuant to applicable law, except as expressly authorized by law or University regulations;
  50. Unauthorized use or duplication of the University's name, trademarks, logos or seals; and
  51. 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: Consultation with the Advisor**

52. The Advisor shall be impartial in the exercise of functions and shall respect the confidentiality of all parties.
  53. 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, including informal resolution.
  54. Normally, a complaint should be filed with the Advisor within three (3) months of the alleged violation. If the complaint is under article 34, the complaint should be filed with the Advisor within 90 calendar days from the last incident. This period may be extended at the discretion of the Advisor when, in the Advisor's opinion, there are serious and compelling reasons to grant the extension. Cases or consultations with no contact or notifications from any party involved in a complaint for three (3) months will be considered withdrawn and the file closed. If after three (3) months there is additional follow up or new information on the same issue, or if there are extenuating circumstances, the file may be reopened. If 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.
  55. 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 accordance with article 22, in which case the Advisor shall, if appropriate, re-direct the Complainant to the relevant channels for redress, or it is not within the allowed time delays in accordance with article 54; 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.
  56. In the case of a complaint against a Student, 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.
  57. If the Advisor does not make a determination under article 55, 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.
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## **Section VII: Procedures for Informal Resolution**

58. If the Complainant opts to proceed with informal conflict resolution, the Complainant 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 (e.g., shuttle diplomacy), raising awareness of the impact of certain conduct (e.g., impact statements), reconciling differences (e.g., apology letters) or sorting out misunderstandings. The parties may be brought together or communication may be effected through the Advisor.
59. 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.
60. Any informal resolution agreement reached between the parties through informal conflict resolution is entirely voluntary. Conditions agreed upon by the parties are binding.



61. 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 it is determined by the Advisor that no useful purpose will be achieved by continuing.
62. Normally, attempts at informal resolution shall not last longer than three (3) months.

#### **Referral to the Dean of Students**

63. Where a concern has been raised about a Student's or a group of Students' conduct, and, in the opinion of the Advisor, it cannot be adequately addressed using the range of informal options described in article 58 or the formal option described in article 67 or should it not be in the jurisdiction of this Code, the Advisor may, with the agreement of the complaining party, refer the matter to the Dean of Students for disposition.
64. The Advisor shall forward the details of the matter, in writing, to the Dean of Students, who shall meet with the relevant parties, should they so wish.  
The Dean of Students may seek a response to the concern, which is instructive for the parties and which is intended to help prevent further problems of behaviour.
65. The Dean of Students will maintain a file on the matter and will provide a written summary of the outcome to the parties, with a copy to the Advisor.
66. Nothing in this Code shall limit the roles and responsibilities of the Dean of Students set out in any other University policy.

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### **Section VIII: Procedures for Adjudicating Formal Complaints Against Students**

#### **Initiating a Formal Complaint**

67. 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 by either the Complainant or the Respondent should a formal complaint be initiated and no reference may be made, including before a Hearing Panel, to the fact that informal conflict resolution was attempted. Nothing herein shall prevent any disclosures required by law.
68. Prior to a hearing by a Hearing Panel, a settlement may be agreed to by the parties at any time. 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 initiate or resume the formal procedure. No settlement may be imposed by either party without the full agreement of the other.  
Any informal resolution agreement (e.g., settlement) which is agreed upon by the parties shall be signed and dated by the parties and, should any condition set forth in that agreement be breached, the settlement agreement may be submitted into evidence before a Hearing Panel by either party but shall be considered to be solely relevant as to the decision with respect to sanction.
69. 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 deemed to be at risk, the Advisor may take temporary measures with respect to the Complainant's safety and security such as, for example, a non-contact order, as deemed necessary.
70. The Complainant may withdraw their own complaint at any time.
71. 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) information with respect to 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 their case, and to be accompanied or represented before a Hearing Panel by any Member. If the Complainant is a Student, they also have the option of obtaining a student advocate through the services of the Office of Student Advocacy or a student advocacy service offered by a student association; and
  - d) the right of appeal.
72. Upon receipt of the written complaint, the Advisor shall 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 71 b), c) and d).
73. 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, until the final decision of the Hearing Panel is rendered, the Secretary shall be responsible for all communications with the Complainant and the Respondent.
74. The Office of Student Tribunals shall be responsible for the administrative functioning of the Hearing Panels in cases against Students and shall maintain the confidential files and recordings of proceedings of the Hearing and Appeal Panels.
75. 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 who have been appointed pursuant to the *Policy on the Establishment of Tribunal Hearing Panels* (BD-6).
76. In all other cases, the Secretary shall select a Hearing Panel composed of the following individuals, all of whom have been appointed pursuant to the *Policy on the Establishment of Tribunal Hearing Panels* (BD-6):
  - 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 the definition of Complainant set forth at Section III of the Code), a member of the senior administration or the Security Department, the member shall be drawn from the Faculty Tribunal Pool.

77. Following receipt of the notification by the Secretary, if the Secretary determines that complaint(s) made by multiple Complainants are substantively identical or pertain to the same incident, the Secretary may join such complaints together so that they are heard by one (1) Hearing Panel. Any Complainant may object to the joining of their complaint, in which case their own complaint(s) will be handled separately.
78. Following receipt of the notification by the Secretary, if the Secretary determines that complaint(s) made against multiple Respondents are substantively identical or pertain to the same incident, the Secretary may join such complaints together so that they are heard by one (1) Hearing Panel. Any Respondent may object to the joining of the complaint(s) against them to the complaint(s) against other Respondents, in which case the complaint(s) against that Respondent will be handled separately.
79. A Hearing Panel shall be convened as soon as possible after receipt of the notification by the Secretary. The Secretary shall inform the parties of the academic term during which it is expected that the Hearing Panel will be held, within fifteen (15) Days of the Secretary's receipt of the notification.
80. Once a hearing date is fixed by the Secretary, the Complainant shall submit all documentation for the Hearing Panel's consideration to the Secretary no later than twenty (20) Days before the scheduled hearing date. Such documentation shall include any supporting documents and a list of the witnesses that will appear on behalf of the Complainant, if any, and written statements, if any, made by witnesses regarding the complaint.
81. The Secretary shall forward such documentation along with a list of panellists selected for the case to the Respondent no later than fifteen (15) Days before the scheduled hearing. The list of panellists shall also be sent to the Respondent.
82. The Respondent shall submit all documentation for the Hearing Panel's consideration to the Secretary no later than ten (10) Days before the scheduled hearing date. Such documentation shall include any supporting documents and a list of the witnesses that will appear on behalf of the Respondent, if any, and written statements, if any, made by witnesses regarding the complaint.
83. Any documentation or any names of witnesses submitted after the above deadlines may be accepted by the Hearing Panel, at the discretion of the Chair of the Hearing Panel, further to representations made by the parties. In making the decision as to whether to accept additional documentation or witnesses after the deadline, along with other considerations, the Chair of the Hearing Panel may take into account when the documentation or name(s) of the witness(es) was submitted, the reasons for the late submission, and any prejudice that any party may suffer due to such late submission, or any other relevant motives.
84. The Secretary shall transmit the documentation submitted by the parties, the present Code and the Procedures of the Hearing Panel, to the parties and to the Hearing Panel no later than five (5) Days before the scheduled hearing date. The Hearing Panel may limit the number of witnesses called by both parties taking into account their relevancy.
85. Any party may object to the participation of a panellist on the grounds of potential bias. A reasoned objection shall be filed with the Secretary, in writing no later than five (5) Days prior to the hearing date. The Secretary shall arrange for an alternate panellist to serve if the Secretary determines that the objection is well founded. If 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.

### **The Hearing**

86. The procedures established by the Hearing Panel shall include, at a minimum, opening statements by the parties, the presentation of evidence and witnesses (expert or otherwise), 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. Recordings shall be provided to a party to a Hearing Panel upon request to the Secretary.
87. 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. If the Hearing Panel decides to uphold the complaint it shall subsequently impose one or more of the sanctions that appear at article 91.
88. The hearing shall be closed and confidential unless both parties have consented in writing to the attendance of other people.
89. If the Respondent fails, without reasonable excuse, to attend the hearing, the hearing may proceed in the Respondent's 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, are forfeited. In such a case, a Respondent's right of appeal is limited to a consideration of the reasonableness of the Respondent's 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.
90. 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 their version of the facts is significantly more probable than the alternatives. This standard is less rigorous than the standard of "beyond a reasonable doubt" required under criminal law.

### **Sanctions**

91. If a complaint is upheld against a Student by the Hearing Panel, the Hearing Panel must impose one (1) or more of the following sanctions:
  - a) a written reprimand;
  - b) placing restricted access conditions (e.g., restricted access, non-contact/communication, space and time restrictions) on the Respondent while they are on University premises or at University events, the whole subject to the confirmation or modification by the appropriate unit at the University;

- c) payment as compensation to the Complainant for damage or loss of property or to otherwise rectify a situation which the Respondent created or helped to create;
  - d) relevant specified community service at the University or elsewhere of up to ten (10) hours per week for a specified period of time, which can be modified at the Dean of Student's sole discretion, not exceeding a total number of sixty (60) hours;
  - e) a fine not exceeding \$500 payable to student awards at the University when the Hearing Panel deems that other sanctions are not appropriate or practical;
  - f) a recommendation of Suspension, subject to confirmation by the Provost and Vice-President, Academic;
  - g) a recommendation of Expulsion, subject to confirmation by the Provost and Vice-President, Academic.
92. All monetary sanctions shall be payable within twenty (20) Days of the date of transmission of the Hearing Panel's decision or, in cases where a decision is appealed, within twenty (20) Days of the transmission of the final appeal decision. The execution of any sanction imposed by the Hearing Panel, with the exception of a sanction under article 91 b), shall be suspended by an appeal.
93. The decision of the Hearing Panel shall normally be rendered within ten (10) Days of the hearing and shall be communicated in writing to all parties and the Advisor and to the Dean of Students when they are responsible for the administration and monitoring of the sanctions pursuant to article 95, and, when relevant, to the Registrar.
94. Furthermore, the decision of the Hearing Panel shall inform the parties of their right to submit a written request for authorization to appeal the decision within fifteen (15) Days of the date of transmission of the Hearing Panel decision, as permitted pursuant to article 97.
95. 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 92 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 the Respondent to an interview and inform the Respondent of their right to be accompanied by a student advocate from the Student Advocacy Office 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 an explanation.
96. Following the interview, or, should the Student fail to attend the scheduled interview without a reasonable excuse, following the scheduled interview, the Dean of Students in consultation with the Office of Rights and Responsibilities and any other relevant units may require that the Respondent:
- a) not be permitted to re-register until such time as they have fully complied with the sanction(s) imposed;
  - b) subject to confirmation by the Provost and Vice-President, Academic, be Suspended, or given an additional Suspension if the original sanction was a Suspension;
  - c) subject to confirmation by the Provost and Vice-President, Academic, be Expelled if the Respondent has failed to respect the sanction imposed more than twice;
  - d) have a diploma or transcript withheld until such time as the Respondent has fully complied with the sanction(s) imposed.

### **Appeals**

97. 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.
98. Any request for authorization to appeal may be based only on the following grounds:
- a) the discovery of new evidence following the Hearing Panel;
  - b) the presence of serious and prejudicial procedural defects of the Hearing Panel; or
  - c) the decision of the Hearing Panel is patently unreasonable.
99. The request for authorization to appeal shall state in clear and precise terms the grounds on which the appeal is based. Furthermore, if the party submitting an appeal (the "Appellant") is requesting an appeal based on the grounds of discovery of new evidence, the Appellant must provide such evidence as part of their request. Upon receipt of the request for authorization to appeal, the Secretary shall provide the other party with a copy.
100. The execution of any sanctions by a Hearing Panel, except for sanctions further to the temporary exclusion of a Student pursuant to article 148 or the Suspension or exclusion of a Student pursuant to article 154, or a sanction pursuant to article 91 b), shall be Suspended until the expiry of the fifteen (15) Day delay to request authorization to appeal or until the final rendering of the decision with respect to the appeal.
101. If neither party has requested authorization to appeal within the fifteen (15) Day delay stipulated at article 97, the Secretary shall so inform the Advisor and the Dean of Students, when they are responsible for the administration and monitoring of the sanctions pursuant to article 95, and, when relevant the Registrar, including a statement to the effect that all the parties were notified in writing of the decision of the Hearing Panel and of their right to submit a request for authorization to appeal such decision. Such report shall form a part of the student's permanent file maintained by the Secretary. This notification shall be sent to the parties.
102. If an Appellant has requested authorization to appeal the decision of the Hearing Panel, the Secretary shall forward such request to the other party(ies), with a copy to the Advisor and, if appropriate, to the Dean of Students and the Registrar, soliciting the non-appealing party's (the "Respondent on Appeal") written response within ten (10) Days. Any response received by the Secretary within the ten (10) Day period shall be forwarded to the Appellant and, if the Appellant wishes, they may submit a written rebuttal within a further ten (10) Days.
103. An Appeals Authorization Panel shall be convened by the Secretary as soon as possible after the expiry of the delay to submit written input.

104. The Secretary shall select an Appeals Authorization Panel composed of the following individuals, all of whom have been appointed pursuant to the *Policy on the Establishment of Tribunal Hearing Panels* (BD-6):
  - a) one (1) non-voting chair;
  - b) two (2) graduate or undergraduate students drawn from Student Tribunal Pool;
  - c) one (1) faculty member drawn from the Faculty Tribunal Pool.
105. In no case shall a member of the Appeals Panel also have been a member of the Hearing Panel which conducted the original hearing.
106. The Appeals Authorization Panel shall decide whether an appeal shall be heard, having regard to the allowable grounds of appeal and the circumstances of each case.
107. The Appeals Authorization Panel shall be provided with all written evidence provided to the Hearing Panel, the decision of the Hearing Panel, the recording of the Hearing Panel, the request for authorization to appeal, and all written input received within the thirty (30) Day period set forth at article 102. The decision of the Appeals Authorization Panel shall be based solely upon the documents and recording listed in the present article. Neither party is permitted to attend or make oral representations before the Appeals Authorization Panel.
108. The Appeals Authorization Panel shall have the authority to grant or deny authorization to appeal based only on the grounds for appeal set forth in the present Code. If it grants authorization to appeal based on the grounds of discovery of new evidence following the rendering of the decision of the Hearing Panel, the patent lack of reasonableness of the decision of the Hearing Panel or the reasonableness of the student's excuse for not appearing before the Hearing Panel pursuant to article 89, the Appeals Authorization Panel may order a new hearing of the case by a new Hearing Panel or may forward the file to an Appeals Panel. If it grants authorization to appeal based on the grounds of presence of serious and prejudicial procedural defects of the Hearing Panel, it shall forward the file before an Appeals Panel.
109. The Appeals Panel shall normally render its decision with respect to the request for authorization, within ten (10) Days of its consideration of the request.
110. The Appeals Panel shall render its decision with respect to the request for authorization in writing, with brief reasons supporting its decision. Notification of such decision to authorize the appeal shall be sent to both parties and the Advisor and, if relevant, to the Dean of Students and the Registrar.
111. If the authorization to appeal is granted, it shall normally be heard by an Appeals Panel within twenty (20) Days of the decision to authorize the appeal. Notification of the scheduling of the Appeals Panel shall be sent to both parties and the Advisor.
112. If a file is forwarded to an Appeals Panel, a panel of three (3) Members, as well as a non-voting Chair, shall be composed by the Secretary. 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.
113. If either party fails to attend the Appeals Panel, the hearing may proceed in the other party's absence or, at the Chair's discretion the start of the hearing may be delayed.
114. During the hearing of the appeal, any procedures established by the Appeals Panel shall include, at a minimum, the opportunity for the Appellant and the Respondent on Appeal to make oral representations and all representations before the Appeals Panel shall be limited to representations as to the grounds further to which authorization to appeal was granted by the Appeals Authorization Panel.
115. 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 or patent unreasonableness of the Hearing Panel decision, the Appeals Panel may order a new hearing of the complaint by a new Hearing Panel.
116. 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 the parties and the Advisor and, if relevant, to the Dean of Students and the Registrar.
117. The decision of the Appeals Authorization Panel denying an appeal shall be final or, if an appeal is authorized, the decision of the Appeals Panel shall be final.
118. In extraordinary circumstances where it is determined 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**

119. 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 IX: Procedures for Responding to Formal Complaints Made Against Faculty, Administrative or Support Staff Members or Members of the Administration**

#### **General Rules**

120. The application of the present Section to a Respondent who is unionized or a member of an employee association or other employee group is subject to the provisions of their collective or employee agreement and to the provisions of articles 9, 10 and 11 of the Code.
121. In all cases governed by the present Section, the Advisor shall invite the Complainant to consider an informal resolution and shall advise the Complainant of their right to consult their respective union or association or the Department of Human Resources.

122. The Advisor shall terminate any attempt at informal resolution or formal resolution should a Complainant 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. Any attempt at informal resolution or formal resolution shall be suspended when the University is made aware of the institution of criminal proceedings, and such until the conclusion of the criminal proceedings.
123. 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**

124. 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 VII of the Code.
125. 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.
126. A Member who chooses not to advise their union or employee association of the matter should consult the Advisor concerning the possible consequences of such a decision.
127. Consulting the Advisor and/or 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**

128. 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.
129. 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.
130. The Advisor shall provide the Complainant with a copy of the 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 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 their complaint, and to be accompanied or represented by any Member during the process of resolution. If the Complainant is a Student, they 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, they may opt to be accompanied by a union or association representative.
131. 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) calendar days since the last incident in matters of psychological harassment complaints, as set out in the Quebec Labour Standards Act.
132. Upon receiving a formal complaint, the Advisor shall transmit the complaint and the relevant University policy, along with all the relevant information and documentation to the Authority to whom the complaint must be submitted under the terms of the Respondent's collective or employee agreement, with a copy to the Respondent's union or association. The Advisor shall notify the Department of Human Resources in writing of the existence of the complaint and of who has been named as the Authority. If there is no applicable union or association, the Advisor shall notify the Respondent directly.
133. 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 deemed to be at risk, the Authority may take such temporary measures permitted under the collective or employee agreement, relevant University policy and the law, as deemed necessary.

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

134. The Authority shall inform the Respondent of their right to consult any person in the preparation of their 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, they may be accompanied by a union or association representative.
135. 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.
136. More specifically, the Authority may:
  - a) meet with the Complainant and the Respondent on an individual basis;
  - b) subject to article 162, 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 their opinion, provide information relevant to the complaint;
  - d) consult any University officer (representatives of the Department of Human Resources, University Secretariat, etc.) or outside counsellors as may be required;
  - e) refer the matter to be investigated internally or externally.

### Harassment Complaints

137. 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 or if provided for in the relevant collective or employee agreements, University policies or an Investigator agreed to by the University and the unions and/or employee association.
138. All information, whether in writing or in any other form, obtained by the Authority and/or the Investigator in the performance of the Authority's duties in relation to any complaint and harassment shall be strictly confidential except as provided for by law.
139. In cases where an Investigator is used, the mandate must be completed 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 the 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 the union or association, in accordance with the relevant collective or employee agreement.
140. 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.
141. When the matter has been decided by the Authority, the Authority shall notify the Complainant and the Advisor, in a timely fashion, of the general substance of the decision and any action that was taken as a result of the complaint.
142. 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.
143. 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

144. 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 applicable.

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## Section X: Urgent Situations

### Reporting and Responding to Urgent Situations

145. 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"). The *Policy on Student Involuntary Leave of Absence* (PRVPAA-15) and/or other University policies may apply.
146. 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, the *Policy on Student Involuntary Leave of Absence* (PRVPAA-15) and/or consult experts as necessary, and make recommendations as to any further action appropriate in the circumstances.
147. Any Member who is called to a team meeting under the Protocol or any other relevant policy shall respond promptly.

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

148. 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 five (5) Days, which may be renewed up to two (2) times, if based on personal knowledge and/or 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 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.
149. In a situation referred to in article 148, when a Disciplinary Officer is not available, the Advisor may require a Student to immediately leave and remain away from the University premises or a part thereof for a period not exceeding twenty-four (24) hours.
150. 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.
151. 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.
152. 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 to 51 of the Code.

### **Suspension of a Student by the Vice-President or Delegate**

153. A Vice-President or delegate 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.
154. In such a case, the Vice-President or delegate 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 Vice-President or delegate shall inform the Student of their right to consult a student advocate from the Student Advocacy Office 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. Should the Student Suspended from the University wish to meet an advocate on University premises, the Advisor may agree to make arrangements to allow such a meeting to take place.
155. In the case of a Suspended Student, the Vice-President or delegate 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 as soon as possible and normally within twenty (20) Days of the Suspension order. The Vice-President may designate another Member to represent the University at the hearing. The Hearing Panel shall render its decision and inform the parties within five (5) Days of the hearing.
156. Should the suspended Student be unable to attend the hearing within the prescribed delay, they shall notify the Secretary and the Secretary shall schedule the Hearing Panel when deemed appropriate, further to consultation with the Chair of the Hearing Panel.
157. In the event that the Hearing Panel dismisses the original complaint, that decision shall lift the Suspension. Notwithstanding the foregoing, the decision shall not invalidate the Vice-President or delegate'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 within the limits of what is allowed pursuant to the University's academic calendars and processes.
158. Upon the lifting of the Suspension, the Secretary shall notify the Registrar, the Dean of Students, the Provost and Vice-President, Academic, the Advisor and the Security Department.

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

159. 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.
160. 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 XI: Miscellaneous**

### **Confidential Nature of Files**

161. 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.
162. All individuals who hold information with respect to complaints under this Code, including, but not limited to, the Advisor, the Dean of Students, the Secretary, panel members and the Registrar, and the Department of Human Resources shall maintain the confidentiality of all information, files, documents, decisions, recordings and materials in relation to the complaint.

### **Delays**

163. In the calculation of any delay for a hearing set out in Section VIII of the Code, the months of July and August and final examination periods shall not be counted. 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**

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

### **Language**

165. 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. If an interpreter is required to satisfy the preceding, the request shall be made at the same time as the initial request for a Hearing Panel.

### **The Secretary-General**

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

*Ombudsperson*  
AMY FISH

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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 employees, students, student applicants, exchange students, visiting students, postdoctoral fellows, interns, academic visitors, stagiaires or researchers.
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 does not have jurisdiction regarding the application or interpretation of a collective or employee agreement nor into any alleged violation of the duty of fair representation against a certified union.
5. The Ombudsperson may not impose remedies or sanctions, or enforce any policy, rule or procedure. However, the Ombudsperson may make appropriate recommendations with regard to resolving complaints or improving policies, rules or procedures.

**Functions of the Ombuds Office**

6. Specifically, the Ombudsperson shall:
  - a. assist Members to resolve complaints informally and quickly and, when appropriate, recommend solutions to help resolve complaints;
  - b. explain decisions taken by University authorities when complaints are not substantiated;
  - c. 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;
  - d. when appropriate, conduct an independent and objective inquiry into complaints when normal recourses have been exhausted;
  - e. when appropriate, conduct an independent and objective inquiry into the application of any policy, rule or procedure of the University;
  - f. 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 existing policies, rules or procedures or offer advice on the development of new policies, rules or procedures;
  - g. actively promote these Terms of Reference and the services of the Office.

**The Role of the Ombuds Office**

7. The role of the Ombuds Office is to promote:
  - a. fairness;
  - b. reasonable promptness in decisions affecting Members;
  - c. decision-making that is based on adequate and appropriate procedures, criteria and rules;
  - d. clear communication, to those affected, of the procedures, criteria and rules used in making decisions.

**Complaints**

8. In dealing with complaints, the Ombudsperson shall act impartially, acting neither as an advocate for the Member seeking assistance nor as a defender of the University but rather, shall seek to promote procedural fairness and a reasonable outcome. In so doing, the Ombudsperson 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 each function. Requests for such access shall receive priority from all Members.
10. A complaint should be brought to the attention of the Ombudsperson within three (3) months of the Member seeking assistance 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, the Ombudsperson shall make every effort to consult the relevant parties and give such parties the opportunity to reply.
12. Upon the conclusion of an inquiry, the Ombudsperson shall advise the Member seeking assistance of any findings and any formulated recommendations.
13. In addition, the Ombudsperson may bring any such findings to the attention of the University authorities and make whatever recommendations deemed appropriate and to whomever within the University deemed appropriate. 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 shall use judgement as to the appropriateness of intervention and may refuse to take up a case or may withdraw from a case if continued involvement is ill-advised. In such cases, the Ombudsperson shall inform the Member seeking assistance as to the appropriate channel of redress, if applicable.
15. If the Ombudsperson refuses to take up a case or withdraws from a case, a written statement of the reason shall be provided, upon request, to the Member seeking assistance.
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 Member seeking assistance.
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 the Ombudsperson perceives there may be a conflict of interest.

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

19. The Member seeking assistance shall be informed that should the pursuit of any inquiry necessitate the disclosure of details, any disclosure shall be limited to those who, in the opinion of the Ombudsperson, have a need to know.
20. Should a Member seeking assistance decide to withdraw an application, the Ombudsperson shall respect this decision. The Ombudsperson's decision to proceed, notwithstanding the Member's withdrawal, shall only be taken in extraordinary circumstances such as but not limited to situations where the safety of a person and/or the community may be at risk.
21. The Ombudsperson shall respect the confidentiality of any confidential information or materials which is accessed or consulted.
22. Should the Ombudsperson consider that the response to a recommendation has been unsatisfactory, the Ombudsperson shall be entitled to make the recommendation public, provided that, subject to Article 19, the confidentiality of the parties 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 assistance of, files a complaint with, or cooperates in any manner with the Ombudsperson, shall be subject to any reprisals for so doing. The appropriate 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 news site 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, the Member 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, the Member 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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