



St. Thomas
UNIVERSITY

**Policy on
Non-Academic Misconduct**

February 2019

Policy on Non-Academic Misconduct

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Office of Administrative Responsibility	Director of Student Services and Residence Life
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General

1. Policy Statement:

The University endeavors to create and maintain a positive and productive learning environment, an environment in which there is: respect for the dignity of all, fair treatment of individuals, and respect for University resources and the property of individuals.

2. Scope and Nexus to University

1. This policy applies to all students.
2. This policy applies to student non-academic misconduct that occurs:
 - a. on University premises;
 - b. in a course or course of study;
 - c. as part of an activity offered by the University; and/or
 - d. where a Student is representing the University, including, but not limited to circumstances where a Student is:
 - i. participating in, or travelling as a part of, a University program;
 - ii. studying abroad as part of a program of the University or an exchange program between the University and an institution in another country;
 - iii. participating in an internship, co-op placement or practicum;
 - iv. participating in a University club or organization, or a student club or organization, including student clubs or organizations sanctioned by the Students' Union; and/or at a University club or organization event, or a student club or organization event, including those sanctioned by the Students' Union.
3. The University reserves the right to take necessary and appropriate action where there is a real and substantial link to the University or the university community, regardless of physical location.

3. Relationship to Other Policies

Policy on Sexual Violence: the Policy on Sexual Violence details prohibited conduct. Complaints about sexual violence (reports) will follow the procedures in this (Non-Academic Misconduct) policy.

Residence Agreement: the Residence Agreement is part of the lease agreement between student tenants and the University as Landlord. Violations of the Residence Agreement as well as Residence Community Standards will normally be addressed through those policies within the residence system. When alleged misconduct is of a serious nature, or involves sexual violence, the matter will be referred to this (Non-Academic Misconduct) policy.

Athletics Code of Conduct: While all allegations of non-academic student misconduct will be dealt with through this (Non-Academic Misconduct) policy, student-athletes are also subject to the Athletics Code of Conduct. Sanctions applied through the Athletics Code of Conduct are in addition to those applied through the Non-Academic Misconduct policy. The Athletics Code of Conduct does not replace this (Non-Academic Misconduct) policy.

Professional Schools' Codes of Conduct (Social Work and Education): While all allegations of non-academic student misconduct will be dealt with through this (Non-Academic Misconduct) policy, the Schools of Social

Work and Education have their own respective Professional Codes of Conduct to which students must also adhere. Violations of those codes will be handled by the relevant Director and faculty. Schools can use determinations of violations from this (Non-Academic Misconduct) policy as part of their processes.

4. Rights of the Complainant

Throughout all procedures listed in this policy, complainants have the right to:

- be fully informed about the process and various options available;
- be treated with dignity, respect, and offered support throughout the process;
- an investigation and decision process that is closed to the public;
- pursue criminal or other charges regardless of the status of the complaint within this policy;
- present their story and any relevant/supporting information;
- a support person during investigation, decision, and appeal meetings. The support person can be any person of the respondent's choosing. As an internal administrative process, support persons have no standing, legal or otherwise, to act as representatives in investigation, decision, or appeal meetings;
- confidentiality within the process (see section 7);
- withdraw the complaint at any time;
- have a support person assist in the writing or transmission of a complaint, especially in cases involving trauma; and
- know the outcome of the process.

5. Rights of the Respondent

Throughout all procedures listed in this policy, respondents have the right to:

- a fair and impartial process, and to be fully informed about the process at the outset;
- be made aware of the allegations against them, any supporting information from witnesses, and to be able to prepare a defense against those allegations;
- a support person during investigation, decision, and appeal meetings. The support person can be any person of the respondent's choosing. As an internal administrative process, support persons have no standing, legal or otherwise, to act as representatives in investigation, decision, or appeal meetings;
- suggest witnesses of their own;
- reasonable timelines of the process as outlined in this policy;
- confidentiality within the process (see section 7);
- know the outcome of the process; and
- appeal decisions of the Director of Student Services and Residence Life, as per section 3 of this policy.

6. Parallel Proceedings

- A Student may be subject to an investigation pursuant to this Policy regardless of any parallel action by civil, administrative, or criminal authorities against the Student relating to the same or similar conduct.
- Nothing in this Policy prevents anyone, including professional licensing bodies, from proceeding with civil, administrative or criminal actions independent of any University action.
- Nothing in this Policy prevents Professional Programs at the University from investigating, reviewing and resolving conduct that is a violation of their professional codes.
- Nothing in this policy prohibits anyone from launching a complaint about the same or similar conduct with the New Brunswick Human Rights Commission at the same time as a complaint under this policy.

7. Confidentiality

The University seeks to respect the privacy of all those involved in complaint processes. During the investigation, process participants are directed not to discuss the process with others, and the University will not share information about ongoing cases. This does not limit students from seeking support or sharing their story, but rather is intended to respect the dignity and rights of all individuals involved in the process, as well as the integrity of the process until it is concluded. Consistent with the University's policy on Release of Information About Students, information regarding the outcome of the process will be shared only with those who have a legitimate need for the information.

8. Records

Records of all complaints, decisions, sanctions, and appeals will be maintained as confidential records of the Student Services Office until one year after the Student (Respondent) graduates from the University, at which time they will be destroyed. Copies of Decision Letters will be held by the Registrar's Office indefinitely.

Procedures

9. Filing a Complaint

1. Any individual, including all members of the University community or public, who believes that a student may have committed a violation of the Policy on Non-Academic Misconduct may file a complaint under this procedure.
2. All complaints should be brought to the attention of the Director of Student Services and Residence Life (director.studentlife@stu.ca or Student Services central phone: 506-453-7213)
3. Complaints should include the following information when possible:
 - name and contact information for the complainant
 - a description of the incident
 - name of the alleged respondent
 - names of potential witnesses.
4. Complainants are encouraged to submit their complaints in a timely manner. Complaints for most offences will only be pursued if they are received within 3 months of the alleged conduct. This timeframe does not apply to allegations of sexual violence or other serious offences.
5. The Director will advise the complainant on relevant support services available and explore options and potential routes for the complaint.
6. Third-party complaints, from witnesses to an event, may be accepted at the discretion of the Director, but consideration will be given to the desires of the person(s) directly harmed by the incident.
7. Anonymous complaints will not be taken forward, but those wishing to make anonymous disclosures will be offered support services and information about all available options.
8. If, during the course of filing a complaint, the complainant discloses that they potentially violated University policies related to alcohol or substance use at the time of the incident, that information will not be used to pursue discipline towards the complainant. The immunity afforded is intended to encourage students to communicate openly.
9. The Director, in consultation with the Complainant, will then decide on a path forward, which may include:
 - a. Investigation: an investigation will occur when the complaint, when taken at face value, may

- constitute a violation of this policy.
- b. Referral to another procedure: when the complaint is not relevant to this policy, or another policy or organization (on or off campus) would be better suited to handling the complaint.
- c. Informal resolutions: if both the complainant and respondent agree to participate, informal resolutions such as mediation may be sought. Informal resolutions may be attempted, and if unsuccessful, an investigation may commence.
- d. Dismissal: a complaint will be dismissed when it appears on face value to not constitute a violation of this policy. If an investigation does not go forward, the complainant may request written reasons for the decision.

10. Interim Measures

In the event that the Director determines that there are concerns for the well-being of anyone involved in the process, non-punitive interim measures may be assigned. These measures include but are not limited to: no-contact orders, trespasses (from certain areas or all of campus), switching sections of a course, moving a residence student, etc. These measures do not presume guilt and exist only until the conclusion of the conduct process. Interim measures may be imposed immediately upon receipt of the complaint, or at any time during the investigation process.

11. The Investigation Process

The purpose of the investigation is to gather facts and statements relevant to the behavior or incident in question. All parties have the opportunity to make submissions, and witnesses (if applicable) will also be interviewed. There is a presumption of innocence during the investigation process.

1. Investigations will be completed by a Conduct Officer, normally the Director of Student Services and Residence Life, but may be referred to the Associate Vice-President (Enrolment Management), the Manager of Residence Life, or when appropriate (due to complexity, potential conflicts, etc.) an external Conduct Officer. The Conduct Officer will be trained and experienced in investigations, including Trauma informed approaches.
2. During the investigation, the complainant will have the opportunity to submit any supporting evidence to their complaint, and suggest any witnesses to the Conduct Officer.
3. The Conduct Officer will meet (in person, phone, or electronically) with witnesses, who may be suggested by both the complainant and respondent.
4. The Conduct Officer will contact the respondent, providing them with notice that a complaint has been made, information about this process and their rights within it, and all relevant information about the complaint and information gathered to that point in the investigation. This will normally occur within ten (10) business days of receiving the complaint. The Conduct Officer will then arrange a meeting with the respondent.
5. During the investigative meeting, the respondent will have the opportunity to make a submission regarding the events in question, to bring forth any evidence of their own, or suggest witnesses of their own. During this meeting, the respondent may be accompanied by a support person. The support person can be any person of the respondent's choosing. As an internal administrative process, support persons have no standing, legal or otherwise, to act as representatives in investigation, decision, or appeal meetings.
6. If the respondent fails to cooperate with the investigation or to be reasonably available for a meeting, the Conduct Officer may proceed without the input of the respondent.
7. After meeting with the complainant, respondent, and witnesses, the Conduct Officer may contact those

parties again to request further relevant information, to clarify information previously given, or to allow the respondent an opportunity to respond to information that comes to the investigation after the initial meeting.

12. Determination

1. Upon conclusion of the Investigation, the Conduct Officer shall, given the evidence found in the course of the investigation, make a determination on a balance of probabilities whether or not a violation occurred.
2. If it is found that no violation occurred, both the complainant and respondent will be notified within 10 days of the conclusion of the investigation.

13. Sanctions

1. If a determination that a violation of this policy has occurred, the Conduct Officer will then determine a sanction based on the criteria below. In cases where an external investigator has acted as conduct officer, the decision for sanction will be made by the Associate Vice-President Enrolment Management or Registrar. Criteria include:
 - a. seriousness of the offence and impact on members of the campus community;
 - b. whether the respondent has a history of violations of the policy; and
 - c. other mitigating or aggravating factors.
2. One or more of the following sanctions may be imposed by the Conduct Officer:
 - a. written warning;
 - b. written reprimand;
 - c. discretionary sanction – work assignments, educational assignments, restorative measures, service to the University or other discretionary assignments that are considered appropriate;
 - d. letter of behavioral expectations – an undertaking not to engage in certain behaviour and setting out the consequences if the requirements set out in the letter are not followed, monetary compensation for loss, damage or injury or replacement of damaged or destroyed property;
 - e. monetary fine;
 - f. trespass from campus;
 - g. loss of privileges – denial of specified privileges for a designated period of time;
 - h. withdrawal from one or more courses;
 - i. restrictions on participating in a University club or organization or in certain activities of a University club or organization; and/or
 - j. other appropriate sanction as determined by the Conduct Officer.
3. The following sanctions may be imposed by the Director upon approval of the Associate Vice-President (Enrolment Management) or Registrar:
 - a. suspension of the Student from the University for a specified period of time, after which the Student is eligible to return. Conditions for readmission may be specified; and/or
 - b. expulsion – permanent separation of the Student from the University;
4. In the event that a student does not adhere to a sanction, the Director may impose an additional sanction.

14. Decision Letter

1. Within ten (10) business days of the conclusion of an investigation process, the Conduct Officer will issue the respondent a Decision Letter, which will include:
 - a. An overview of the complaint and investigation process;
 - b. The determination of whether or not (on a balance of probabilities) a violation occurred;
 - c. Details of sanction(s) if applicable; and
 - d. Information on appeal procedures.
2. The decision letter will be emailed to the respondent, and copied to the Registrar and other relevant offices as necessary including but not limited to Residence life, Campus Security, Program Director, Chair, or Dean.
3. The complainant will be notified of the process status and determination.

15. Appeal Process

1. A Respondent who has been found responsible for Student Non-Academic Misconduct may appeal the decision of the Conduct Officer to the Vice- President (Academic and Research) within ten (10) Business Days of receiving the decision. If the Vice-President (Academic and Research) is unavailable, the Registrar will act in their place.
2. A Respondent may appeal the decision of the Conduct Officer on the following grounds:
 - a. relevant evidence has emerged that was not available at the time of the original decision;
 - b. the Student Non-Academic Misconduct Policy was not followed and the outcome of the case might have been substantially affected by this failure; or
 - c. the severity of the sanction imposed exceeds the nature of the misconduct for reasons identified by the Respondent.
3. To file an appeal, a Respondent shall be required to submit the following information, in writing, to the Vice-President (Academic and Research):
 - a. a copy of the decision;
 - b. a statement of the grounds for appeal;
 - c. a statement of facts relevant to the basis of appeal;
 - d. a statement of the remedy sought; and
 - e. any supporting documentation that the Respondent intends to refer to at the appeal hearing.
4. If the respondent fails to provide proper documentation as noted above or the grounds for appeal are not consistent with the above, the Vice-President may reject the appeal without a hearing. Written notice of such a decision would be provided.
5. An Appeal Hearing before the Vice-President (Academic and Research) will be scheduled within ten (10) Business Days of the Respondent filing the appeal. Timelines may be extended by mutual agreement of the Respondent and the Vice-President (Academic and Research) or in extenuating circumstances by the Vice-President (Academic and Research) with notice to the Respondent. The Appeal Hearing will not be open to the public and will be kept confidential.
6. The appellant may be accompanied by a support person. The support person can be any person of the appellant's choosing. As an internal administrative process, support persons have no standing, legal or otherwise, to act as representatives in investigation, decision, or appeal meetings.
7. If deemed necessary, at the sole discretion of the Vice President (Academic and Research), Appeal Hearings may be adjourned to ensure that essential information can be obtained. If an Appeal Hearing has been adjourned, it will be reconvened within five (5) Business Days.
8. The appellant will be provided with written notice of the outcome of the Appeal Hearing within ten (10) Business Days of the conclusion of the Appeal Hearing. Timelines may be extended in extenuating

circumstances by the Vice- President (Academic and Research) with notice to the Respondent.

9. Decisions of the Vice President (Academic and Research) are final.

Prohibited Conduct

The general categories of prohibited conduct as set out in this section are deemed to include similar conduct using new technology and similar conduct occurring in new or novel situations.

16. Actions Against Persons

1. A Student shall not cause or threaten to cause harm to another individual, or endanger the safety of another individual. Prohibited conduct includes, but is not limited to:
 - a. stalking, bullying, or otherwise engaging in a pattern of behavior directed at a specific person or group of persons that would cause a reasonable individual to fear for their safety or suffer emotional distress;
 - b. assaulting another individual sexually, or threatening another individual with sexual assault or committing an act of sexual harassment toward another individual, or otherwise committing an act of sexual violence as defined in the University's Policy on Sexual Violence;
 - c. engaging in hazing or any act that harms, or could reasonably be expected to harm the mental or physical health or safety of another person, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization;
 - d. engaging in a course of vexatious conduct, bullying or other harassment that is directed at one or more persons and that is based on grounds protected by the New Brunswick Human Rights Act and the University's Harassment and Discrimination Policy; and
 - e. The creation of a condition (or conditions) which endangers or potentially endangers or threatens the health, safety, or well-being of other persons.

2. Harassment, for the purposes of this Policy, means engaging in a course of comment or conduct that is known or ought reasonably to be known to be unwelcome. This includes any unwelcome comments, conduct or gestures that provoke, irritate, threaten, annoy, insult, demean, or result in some other form of discomfort; words and actions that demean or cause humiliation, offense or embarrassment to another person and/or which adversely affects the employment, social or academic status of the individual. Harassment includes:
 - a. Discriminatory Harassment
 - b. Personal/Psychological Harassment
 - c. Sexual Harassment

3. Discrimination is defined as the act of treating a person or group unequally by imposing unequal burdens, obligations, disadvantages, or preferences on the basis of the person's race, colour, religion, national origin, ancestry, place of origin, age, physical disability, mental disability, marital status, sexual orientation, sex, gender identity, social condition, political belief or activity, or any other grounds covered by the New Brunswick Human Rights Act.

17. Actions Against Property

A Student shall not:

1. damage, deface, or destroy the property of another individual, corporation or other entity, including the University;
2. create a condition that unnecessarily endangers or threatens destruction of the property of another individual, corporation or other entity, including the University;
3. use University property, facilities, equipment or materials for an unauthorized purpose;
4. enter or remain in any University building or area without authorization when the building or area is officially closed or restricted for designated purposes or to designated individuals; or
5. misuse the University electronic communications system or otherwise violate the ITS Lab Policies.

18. Disruptions of University Functions, Activities, and Services

A Student shall not:

1. obstruct another individual or group of individuals from carrying on their legitimate activities, or from speaking or associating with others;
2. interfere with the functions, activities and services of the University or a student group or groups such that the function, activity, or service is obstructed or disrupted. Examples of functions, activities and services include but are not limited to:
 - a. social, cultural, academic and athletic events
 - b. field trips
 - c. computing services
 - d. registration services
 - e. library services
 - f. residence and food services
 - g. governance meetings and judicial hearings, or
3. attend class while intoxicated.

19. False Information and Identification:

A Student shall not:

1. knowingly provide false information to any office or individual acting on behalf of the University or student group;
2. alter or forge any University document or record, including identification materials, issued by the University;
3. allow any University document or record, including identification materials, issued for one's own use to be used by another;
4. use any University document or record other than for its authorized purpose; or
5. act for or on behalf of the University unless expressly authorized to do so.

20. Possession or Use of Dangerous Objects, Drugs, or Alcohol

A Student shall not:

1. possess, use, manufacture, sell, exchange or otherwise distribute firearms, explosives or other weapons in violation of any applicable law;
2. possess, use, manufacture, produce, sell, exchange or otherwise distribute any drug in violation of any

- applicable law; or
3. possess, consume, furnish, manufacture, sell, exchange or otherwise distribute any alcoholic beverages except as permitted by applicable law.

21. Aiding in the Commission of an Offence

Student shall not encourage or aid another Student in the commission of Student Non- Academic Misconduct.

22. Contravention of Other Laws and University Policies

A Student shall not:

1. contravene any provision of the Criminal Code of Canada or any other federal, provincial, or municipal law; or
2. contravene any University Policy or explicit order of an administrative office such as Campus Security, Residence Life, Facilities Management, etc. A contravention of other policies shall first be dealt with under those policies.

23. Failure to Comply with a Sanction

If a Student disregards or ignores a sanction imposed in accordance with the Student Non-Academic Misconduct Policy, the Student shall be deemed to have committed a breach of this Policy and such non-compliance shall constitute additional Prohibited Conduct.

Complaint Procedure Flowchart

