

Academic Council Policy

Non-Academic Misconduct Policy

3003

Description: This policy seeks to demonstrate the University's concern with non-academic misconduct and to guarantee a fair procedure for resolving complaints of non-academic misconduct.

Approvals

Approved by OCA Governing Council May 1994; revised 1998, 2004

Approved by Policy & Planning Committee: February 10, 2009

Approved by Academic Council: February 23, 2009

Approved by Board of Governors: June 1, 2009

Date Effective: June 1, 2009

Approval Authority: Board of Governors

Signature: J. Anthony Caldwell

Policy attached.

NON-ACADEMIC MISCONDUCT POLICY

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SECTION I: PREAMBLE

As a community, the Ontario College of Art & Design (“OCAD”) is dedicated to ensuring an environment conducive to effective teaching and learning. As a consequence, OCAD affirms the dignity, worth and autonomy of all its members. Any action by any member of the University Community which is not consistent with these principles is unacceptable.

The purpose of the Non-Academic Misconduct Policy is to bring together in a single document the basic regulations developed at the University regarding student conduct. The Non-Academic Misconduct Policy is meant to guide students regarding behaviour that is appropriate in the University Community, and to outline the procedures to be followed in the event of alleged inappropriate behaviour. It is intended by the Ontario College of Art & Design that this Non-Academic Misconduct Policy be understood and applied in a policy framework designed to ensure that students participate fully in the opportunities afforded to them by virtue of their membership in the University Community.

Definitions

When used in this Non-Academic Misconduct Policy:

“Appeals” means that students have the right to appeal a sanction or sanctions imposed by the Dean of Faculty which may result in a review or a rehearing of their case. Appeals are submitted to the Student Conduct Committee and are subject to policies and procedures outlined in this Non-Academic Misconduct Policy.

“Bullying” is a form of repeated, persistent and aggressive behaviour that is directed at an individual or individuals that is intended to cause (or should be known to cause) fear and distress and/or harm to another person’s body, feelings, self-esteem, or reputation. Bullying occurs in the context where there is a real or perceived power imbalance.

“Explosive Substance” includes anything used to create an explosive device or is capable of causing an explosion.

“Extortion” using threats, accusations or violence or threats of violence to induce any person to do anything or cause anything to be done.

“Firearm” any barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing serious bodily injury or death to a person.

“Harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

“Hate Material” includes literature, leaflets, posters, graffiti, distributed (or sent by electronic means) to incite violence or hatred against an identifiable group and/or their property. The incitement of hatred or bias-motivated incidents against an identifiable group may include persons distinguished by their race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation or other similar factor.

“Physical Assault” the intentional application of force, directly or indirectly, in any degree at all, to a person without the person’s consent.

“Physical Assault Causing Bodily Harm” physical assault is the intentional application of force, in any degree at all, to a person without that person’s consent. Bodily harm refers to any hurt or injury that is more than merely transient or trifling in nature which interferes with the health or comfort of the person, and includes, but is not limited to, injuries that receive medical attention.

Any cut that requires stitches or any broken or fractured bone should be considered a serious injury. Serious injury could also include multiple minor injuries.

“Robbery” a robbery occurs where a person uses violence or threats of violence to steal money or other property from a victim.

“Sexual Assault” a sexual assault occurs where a person, without consent, intentionally applies force to another person in circumstances of a sexual nature such as to violate the sexual integrity of the victim.

“Student” means any person taking one or more courses at the University, either full-time or part-time, in any Faculty of study.

“Student Conduct Committee” hears cases regarding alleged non-academic infractions of the Non-Academic Misconduct Policy and makes decisions regarding responsibility and sanctioning. The Committee’s decision is final.

“Threat” a “threat” is the expression of intent to cause physical or mental harm. Such an expression constitutes a threat without regard to whether the person communicating the threat has the ability to carry it out, and without regard to whether the threat is made on a present, conditional or future basis. In determining whether the conduct constitutes a threat, including whether the action caused a reasonable apprehension of harm, the University will consider the totality of the circumstances.

“Threat of Harm” a knowing and wilful statement or course of conduct that would cause a reasonable person to believe that he or she is under threat of death or serious bodily injury. A course of conduct is any series of acts over a period of time, however short, that evidences a continuity of purpose, such as following or stalking an individual to/from work/campus, telephone calls, correspondence or contact through any venue.

“Trafficking in Drugs and/or Harmful Substances” means to sell, administer, transfer, transport, send or deliver any harmful substance, illicit drug or narcotic as set out in the *Controlled Drugs and Substances Act*.

“University” means the Ontario College of Art & Design.

“University Community” means staff, students, faculty of the Ontario College of Art & Design.

“University Premises” include lands, grounds, buildings, rooms, or offices of the University, or other places or facilities used for the provision of the University’s programs or services or for University-approved events and activities.

“Weapon” means anything used, designed to be used, or intended for use:

- (i) in causing death or injury to any person; or
- (ii) for the purpose of threatening or intimidating any person.

Objects such as a pen, or a screwdriver, if displayed to threaten or intimidate, become weapons under this definition. Weapon includes a firearm and any device that is designed or intended to exactly resemble, with near precision, a firearm.

“Working day(s)” means Mondays to Fridays, excluding Saturdays, Sundays and paid holidays observed by the University.

Student Rights and Responsibilities

Students are expected to conduct themselves in a manner consistent with generally accepted standards of behaviour, in accordance with the law, and in accordance with student-related and published University policies, procedures and regulations.

Students may think, speak, write, create, study, learn, pursue social, cultural and other interests and associate together for these purposes subject to the principles of mutual respect for the dignity, worth and rights of others as outlined by the Ontario Human Rights Code. All members of the University community, as members of society at large, are responsible to abide by federal, provincial and municipal laws in addition to University regulations. Every student has the right to a hearing by an impartial tribunal of any disciplinary charges brought against him or her under University regulations. Every student who is charged with a disciplinary offense has a right to present a defense. In particular, every student has a right:

- a) To be promptly informed in writing of the nature of the charge;
- b) To refuse to answer incriminating questions;
- c) To present and examine witnesses, and to cross-examine witnesses present who testify against him or her;
- d) To be accompanied by an adviser and/or support person from the OCAD community.

The Non-Academic Misconduct Policy is intended to guide students regarding behaviour which the University considers to be appropriate, to outline procedures to respond to inappropriate behaviour and to indicate the possible consequences of such behaviour.

Students are responsible for knowing this Non-Academic Misconduct Policy, all related rules and regulations, and their rights and responsibilities. Students are also required to abide by all university policies, including, but not limited to:

1. Academic Misconduct Policy
2. Fire & Flame Policy
3. Temporary Installation of Student Work in OCAD Public Spaces Policy
4. Academic Computing Rules
5. Acceptable Use Policy
6. Wireless Networking Policy
7. Web Technologies Policy
8. E-mail Policy (in preparation)
9. Response to Threatening or Disturbing Behaviour Policy (in preparation)
10. Weapons on Campus Policy (in preparation)

The University upholds and will take reasonable steps to ensure students of the following privileges:

1. **Participation in University and Student Government:** Students may participate in formulation and application of institutional policy affecting academic, extra-curricular and Student union affairs.
2. **Freedom of Discussion:** Traditional privileges of a university of freedom of inquiry and freedom of expression can be assured only if all members of the community share the responsibility of granting these freedoms to others and accept the obligation for a standard of behaviour which respects the rights of others.
3. **Assembly:** Peaceful assemblies, demonstrations and lawful picketing are allowed within established laws to the extent that they do not interfere with the rights and privileges of others or with the normal functions of the University.
4. **Fairness:** Consistency and fairness are ensured by the procedures outlined in the process and procedures below.
5. **Confidentiality:** Confidentiality of University records relating to each student is protected.
6. **Safety:** The University is committed to promoting safe conditions of living, learning and studying.
7. **Access to Facilities and Services:** Access to buildings and facilities is governed by regulations that are necessary for the safety and security of students. The University accepts the obligation to provide adequate access to persons with disabilities and to remove barriers identified in the University's Accessibility Plan.

Application of this Policy:

This Policy applies to students and student groups, and all references to "student" include "students" and "student groups." Students are responsible for the conduct of their guests and the University expects and requires that they discourage inappropriate behaviour.

This Policy applies to:

- (a) Conduct on University premises or conduct using University-owned or operated property or equipment;
- (b) Conduct not on University premises but which has a real and substantial link to the University. Examples of such a link would be events where students are acting as delegates or designated representatives of the University, events held off-campus by a recognized student group, or events held off-campus by an unrecognized student group that is readily identifiable with the University or any part of it, conduct that has, or might reasonably be seen to have an adverse effect on the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environment;
- (c) Conduct that would otherwise constitute an offence under this Policy that is conducted online may be addressed under this Policy.

The University reserves the right to determine if a matter should be addressed under this Policy regardless of the actions of external agencies, such as the police, and may use information provided by such agencies.

Types of Student Misconduct

The range of possible inappropriate behaviour generally falls into one of two categories: academic misconduct and non-academic misconduct. Academic misconduct is behaviour which violates the basic principles of academic, scholastic and artistic integrity. Non-academic misconduct violates generally accepted standards of behaviour and/or University policies, procedures and regulations related to non-academic behaviour.

SECTION II: NON-ACADEMIC MISCONDUCT

A. Definition of Non-Academic Misconduct

The University expects its students to conduct themselves appropriately and reflect the highest standards of integrity in non-academic as well as academic behaviour. Non-academic misconduct pertains to conduct which may impair the University in its capacity to carry out effectively its educational and legal responsibilities and to serve all students fairly.

Members of the University Community must obey all the laws of Canada, the Province of Ontario and the by-laws of the City of Toronto as they relate to the University. In addition, the University has the authority to define standards of student behaviour and make provisions for student discipline with respect to conduct that jeopardizes the good order and proper functioning of the non-academic and academic programs and activities of the University, that endangers the health, safety, rights or property of its members or visitors, or that adversely affects the property of the University or bodies related to it, where such conduct is not, for the University's defined purposes, adequately regulated by civil and criminal law.

Membership in the University Community implies acceptance by every student of the principle of mutual respect for the rights, responsibilities, dignity and well being of others and a readiness to support an environment conducive to the intellectual and personal growth of all who study, work and live within it.

Any conduct on the part of a student that has, or might reasonably be seen to have, an adverse effect on the reputation or the proper functioning of the University, or the health, safety, rights or property of the University, its members or visitors, is subject to discipline under this Policy. Without limiting the generality of the foregoing, the following list sets out specific examples of prohibited conduct. *This list is illustrative only and is not intended to define misconduct in exhaustive or exclusive terms.*

Examples

1. Disruptive Behaviour

Conduct that materially and substantially interferes with or obstructs teaching, learning and work in the context of the OCAD environment. By action, threat, written material, or by any means whatsoever, disrupting or obstructing any University activities, or other authorized activities on premises of the University, or the right of another person to carry on his/her legitimate activities, or to speak or to associate with others. University activities include, but are not limited to, teaching, research, studying, administration and meetings.

2. Misconduct Against Persons and Dangerous Activity

- (a) Harassment, intimidation, threats, bullying, robbery or extortion.
- (b) Conduct that threatens or endangers the health or safety of any person, such as a threat of harm on another person.

- (c) Contravention of the University's *Harassment Policy*.
- (d) Knowingly (which includes when one should reasonably have known) creating a condition that endangers the health, safety, or well-being of any person.
- (e) Coercing, enticing or inciting a person to commit an act that is humiliating or demeaning to that person or to others.
- (f) Distribution of hate-material and/or hate-motivated violence.
- (g) Any physical assault, including physical assault causing bodily harm or sexual assault.

3. Misconduct Involving Property

- (a) Entry and/or presence on any premises of the University contrary to University regulations, or without express or implied authority, or contrary to an express instruction or direction from an authorized University official.
- (b) Misappropriation, damage, unauthorized possession, defacement and/or destruction of premises or property of the University, or the property of others.
- (c) Use of University facilities, equipment or services contrary to express instruction or without proper authority.
- (d) Misuse of University supplies and documents, including equipment, library and computer resources, keys, records, transcripts and permits.
- (e) Tampering with emergency telephones, fire protection equipment or emergency facilities (e.g., fire bells, fire extinguishers, fire hoses); disconnecting or blocking fire alarms; setting unauthorized fires, or raising a false fire alarm; blocking or wedging open fire and smoke doors on corridors or stairways.

4. False Information, I.D. Cards, Identification

- (a) Furnishing false information.
- (b) Forging, altering or misusing any document, record, card or instrument of identification.

5. Alcohol and Drug Use

- (a) Possession, use, distribution or trafficking of drugs and/or harmful substances.
- (b) Contravention of provincial liquor laws or the policies of the University governing the possession, distribution and/or consumption of alcoholic beverages on the premises of the University.

6. Improper Possession or Use of Dangerous Objects and Substances

Storage, possession or use of firearms, explosive substance, or other weapons, flammable solvents, biohazardous, volatile or poisonous materials, except in areas formally designated for that purpose by authorized University personnel and/or approved by a University Faculty member.

7. Possession of a Weapon

Possession and/or use of a weapon, including a firearm, to cause or threaten bodily harm.

8. Contravention of University Regulations

Violation of published University policies, rules or regulations.

9. Contravention of Other Laws

Contravention of any provision of the *Criminal Code* or any other federal or provincial statute or municipal by-law.

10. Other

- (a) Aiding or encouraging others in the commission of an act prohibited under this Policy or attempting to commit an act prohibited under this Policy.
- (b) Failure to comply with any sanction imposed by the University for misconduct under this Policy.
- (c) Any other conduct that has, or might reasonably be seen to have, an adverse effect on the reputation or the proper functioning of the University, or the health safety, rights or property of the University, its members or visitors.

B. Electronic Communications

The Ontario College of Art & Design is committed to building and maintaining a diverse and inclusive community where our students, staff, faculty and visitors can work and learn in an environment that supports the mission of the University, adheres to University policies, and respects the dignity and worth of members of the University Community. The means through which we express ourselves as members of this community continue to evolve with the advent of technology. The University is supportive of these types of community, as they can greatly enhance the social and learning experiences for people working and studying at OCAD. The use of such technologies comes with both rights and responsibilities.

Community members are reminded that images, postings, dialogues, and information about themselves or others posted on the internet (e.g. on social networking sites such as MySpace and Facebook) are open to public scrutiny. While University officials do not actively monitor these sites, content that is brought to the attention of the University which describes or documents behaviour that may constitute a breach of University policy will be the subject of a further investigation.

The University does not condone the inappropriate use of electronic and print communications. This is defined as the intentional use of an electronic device or communication media, such as, but not limited to, all features of a telephone, a mobile phone, digital camera, blackberry, e-mails, web-based communication sites and print materials, such as flyers, University newspapers and brochures, that negatively impacts on the well-being of another person or is directed at an individual or individuals causing fear or distress and/or harm to another person's body, feelings, self-esteem or reputation.

The University reserves the right to appropriately respond to these incidents, which may include disciplinary action, up to and including possible recommendation for expulsion.

C. Sanctions for Non-Academic Misconduct

A violation of the Non-Academic Misconduct Policy will normally result in a sanction. There may be cases in which an appropriate response is a warning or referral for counselling to external sources. The following sanctions may be imposed for a breach of the Policy. More than one sanction may be imposed concurrently for a single breach. When a sanction is being imposed, prior breaches of the Policy may be considered.

D. Sanctions

Sanctions that may be imposed by the University include:

- (a) reprimand;
- (b) an apology and/or statement of regret to the person making the complaint;
- (c) an apology and/or statement of regret to a larger community (e.g. team, classmates);
- (d) educative requirements, such as community service, reflective essay, or research on a specified topic;
- (e) restrictions on behaviour;
- (f) fines up to \$250;
- (g) a requirement for restitution rectification or the payment of damages for the replacement of stolen or damaged property;
- (h) denial of access to specified services, activities or facilities for a period of up to one year; and/or
- (i) Disciplinary probation which is an order that is designed to permit the students to attend classes. It will normally limit campus activities and may include specific terms and conditions. A student who is on disciplinary probation is subject to suspension or expulsion if there are any further breaches of the Non-Academic Misconduct Code, other university codes or policies.

E. Additional Sanctions that may be imposed by the Student Conduct Committee

In addition to the sanctions listed above, the Student Conduct Committee may impose the following sanctions:

- (a) fines up to \$1,000.00; Fines may be applied for the following purposes: to students for failure to complete an assigned sanction; who are found in violation and refuse to participate in or fail to complete alternative sanctions; for repeat offences. In addition, repeat offences may result in increased fines.
- (b) campus restrictions;
- (c) suspension in any course or program of study for up to one year; and/or
- (d) expulsion from the University.

F. Emergency Measures

If the Director, Student Services, in consultation with the Faculty Dean or Vice-President, Academic, determines that the presence at the University of a student poses a risk to safety or security of any member of the University Community or other persons or the continued presence of the student would be disruptive, he/she may impose an immediate suspension of up to 10 days. The student will be notified of the decision to invoke an immediate suspension.

If, after further investigation, it is determined that the student continues to pose a risk to safety or security of any member of the University Community or other persons or the continued presence of the student would be disruptive, the Director, Student Services can, with the agreement of the Faculty Dean or Vice-President, Academic, suspend a student for more than 10 days to a maximum of 60 days.

Where a student has been charged under the *Criminal Code*, the maximum number of days may be extended to take into account the scheduling of criminal proceedings, depending on the nature and severity of the offence with which the student is charged.

Alternatively, campus and/or behavioural restrictions short of full suspension may be applied in lieu of suspension.

In appropriate circumstances, the Vice-President, Academic will consult with the President with respect to proper steps to be taken, including a decision to invoke an immediate suspension. The President may consult the Board of Governors with respect to emergency measures. Decisions made by the Director, Student Services, in consultation with the Faculty Dean or Vice-President, Academic, will be implemented under the authority delegated by the President of the University.

G. Procedures for Dealing with Allegations of Non-Academic Misconduct

The University recognizes that many disputes can be resolved without resorting to the provisions of this Policy. Wherever it is possible and proper to do so, members of the University community are encouraged to use respectful and direct communication to encourage appropriate behaviour rather than invoking the following the complaint process. Students are entitled to consult with an advisor or support person at any point in the process.

The standard of proof required for a determination that there has been a breach of the Policy will be "on a balance of probabilities," meaning that the person(s) deciding a case must find that it is more probable than not that a contested allegation is established as fact, or not.

The Complainant has the right to attend any hearing on the matter where evidence he or she has provided is being used. The Complainant also has the right to know the outcome of the complaint process, unless the Director, Student Services or Student Conduct Committee finds that there are grounds to order otherwise.

Complainants and Respondents have the responsibility to ensure that the University has their current contact information throughout any proceeding under this Policy.

Step 1: Initiating a Complaint

Any member of the University Community may file a Complaint (a Complainant) under this Policy, alleging a violation of the standard of student conduct by a student.

- (a) The Complaint must be in writing including the Complainant's name, signature, Respondent (name of person complaint is being made against), a description of the alleged incident(s) dates, times and locations, and the names of potential witnesses. Anonymous Complaints will not be taken forward.
- (b) The Complaint must be filed within four months of the alleged violation of the Policy unless the Director, Student Services or the Student Conduct Committee, upon first addressing the Complaint, considers it reasonable to extend that time limit.
- (c) The Complaint will be treated with appropriate confidentiality, subject to the ability of the University to conduct a full and thorough investigation, to properly respond to the complaint or as may be required by law.
- (d) A Complaint must be filed with the Director, Student Services, with a copy to the Vice-President, Academic.

Step 2: Director, Student Services: Intake and Investigation

- (a) The Director, Student Services shall review the complaint and determine if a non-academic offence has been committed.
- (b) Where an offence has been committed, the student will be informed in writing of the complaint, including a copy of the complaint and a copy of this Policy. The Director, Student Services will meet with the student/Respondent within five working days to discuss the complaint.
- (c) Where appropriate, the complaint will be resolved informally. The Director, Student Services will meet with the Complainant and Respondent independently and gather relevant information, including interviewing witnesses and obtaining relevant documentation.
- (d) If the matter is resolved, particulars of the resolution will be recorded, including any sanction or remedy agreed upon. The Director, Student Services will send each party a copy of the resolution agreement.
- (e) Where there is no resolution, or if informal resolution is not appropriate, the Director, Student Services will refer the matter to the appropriate Faculty Dean for a decision and/or recommendation to the Student Conduct Committee.

Step 3: Meeting with the Dean

1. The appropriate Dean is the Dean of the Faculty in which the student is registered (Deans of Art or Dean of Design). After the matter has been referred to appropriate Faculty Dean by the Director, Student Services, the Dean shall notify the student in writing, provide him or her with particulars of the allegations and a copy of the Non-Academic Misconduct Policy, and advise the student of a date, time and place for a meeting with the Dean. At the meeting the Dean will:
 - (a) review the procedures for dealing with non-academic misconduct, including the student's right to appeal;
 - (b) explain the nature of the allegation and permit the student to review any materials relied upon in support of the allegation;

- (c) outline the range of sanctions recommended in cases on non-academic misconduct, including the sanction recommended in the present case, should the allegation be upheld; and
 - (d) provide the student with the opportunity to respond to the allegation and to the recommended sanction.
 - (e) the Dean may request any additional information that he/she deems necessary including interviewing witnesses and receiving written or oral submissions. The student will be advised of all relevant information and afforded a full opportunity to respond.
2. The Dean will review the relevant information including the response of the student and decide whether or not an offence of non academic misconduct has occurred.
 3. If an offense of non-academic misconduct is found to have occurred, the Dean will impose the sanction that he/she considers appropriate and shall inform the student of his/her decision with written reasons, normally within five working days.
 4. If the student confirms the allegation and accepts the sanction, and if the sanction does not involve suspension or expulsion from the University, the Dean will implement the sanction, a notation of which will be made and sent to the Director, Student Services to be kept in the student's file.
 5. If the student denies the allegation and/or does not accept the sanction, she or he may write a letter of appeal to the Student Conduct Committee, with a copy to the Director, Student Services, within five working days after meeting with the Dean.
 6. If the recommended sanction resulting from the allegation is suspension or expulsion, the matter shall be referred to the Student Conduct Committee for a decision. If the student fails to respond to the initial letter from the Dean, the matter shall also be referred to the Student Conduct Committee for a decision.
 7. If, after reviewing the matter, the Dean decided that no non-academic misconduct has been committed and that no further action in the matter is required, the student shall be informed in writing, normally with five working days.
 8. If the student fails to respond to the Dean's request or to appear at the meeting with the Dean, the Dean may proceed with his/her investigation in the student's absence, including the imposition of a sanction.
 9. The Dean may delegate any of his or her duties or powers to the Associate Dean under this Policy.

Step 4: Referral or Appeal to the Student Conduct Committee

1. In cases referred by the Dean recommending a suspension or expulsion or where the student has appealed a sanction or sanctions imposed by the Dean, the Student Conduct Committee shall convene a hearing as soon as practicable upon receipt of the complaint or letter of appeal.

All parties involved shall be notified of the date, time, and location of the hearing and shall receive all relevant documents. The notice shall be in writing and shall be provided as far in advance of the hearing as possible.

If the student fails to appear before the Committee, the Committee may proceed with the hearing in the student's absence, including the imposition of a sanction.

2. The parties to the hearing are the student, the Dean and any other person deemed to be a party by the Student Conduct Committee.
3. The Student Conduct Committee shall be composed of:
 - (a) three Deans or designate(s);
 - (b) six students (three from each Faculty of Art and Faculty of Design); and
 - (c) four faculty members (representing the three Faculties).

Wherever possible, the composition of the Student Conduct Committee shall be representative of the OCAD community. Five members of the Student Conduct Committee shall sit as a panel for an appeal or referral for a suspension or expulsion composed of the following:

- (a) one Dean or designate (Faculty of Art and Faculty of Design);
- (b) two students (Faculty of Art and Faculty of Design); and
- (c) two faculty members (who must not be from the same Faculty as the student/Respondent).

No member of the Committee shall hear an appeal where there is a pre-existing bias or an apprehension of bias of that Committee member towards a party to the hearing or an issue in the hearing.

The Secretary to the Committee shall be the Assistant to the Director, Student Services. The secretary shall be responsible for retrieving and destroying all copies of documents distributed to members of the Committee.

4. The Chair of the Committee may delegate a member of the Committee to conduct a pre-hearing and may require the parties to participate in a pre-hearing. The purpose of the pre-hearing is to consider:
 - (a) the simplification of any or all of the issues;
 - (b) the settlement or resolution of the appeal;
 - (c) whether there are facts or evidence that can be agreed upon;
 - (d) the length of the hearing and number of witnesses;
 - (e) production and disclosure of documents; and
 - (f) any other matter that may assist in the fair and expeditious disposition of the hearing.

The member of the Committee who presides at the pre-hearing may make such orders as he or she considers necessary or advisable with respect to the conduct of the hearing.

The member of the Committee who presides at a pre-hearing shall not participate or preside at the hearing unless the parties consent.

5. In cases of non-academic offences involving an appeal from a decision of the Dean, the student bears the onus of proof and shall proceed first in the calling and examination of witnesses and presentation of evidence and submissions, and the Dean shall be the second to do so, unless the parties agree otherwise.
6. In cases of non-academic offences involving a recommendation of suspension or expulsion from the University, the Dean bears the onus of proof and shall proceed first in calling and examination of witnesses and presentation of evidence and submissions, and the student shall be the second to do so, unless the parties agree otherwise.
7. The following procedures apply to hearings of the Student Conduct Committee:
 - (a) The hearing shall be held *in camera*.
 - (b) Either party may be represented by another person, including legal counsel, during the hearing.
 - (c) The Committee may retain legal counsel to advise or assist it during the course of the hearing. Legal counsel for the Committee may also assist the Committee in preparing reasons following the hearing but any decision shall be made by the Committee.
 - (d) The parties shall be allowed to call, examine and cross-examine witnesses and present evidence, including written or documentary evidence, and argument.
 - (e) Each party shall be allowed an opportunity to make an opening and a closing statement.
 - (f) The Committee may ask questions of all parties and witnesses, call additional witnesses, or require the production of any written or documentary evidence.
 - (g) Any procedural issue that arises in the course of a hearing, including issues respecting adjournments and the terms of such adjournments, will be considered by the Committee, but the decision of the Chair is final with respect to any such procedural issues.
 - (h) Both the student and the Dean shall leave the hearing room at the conclusion of the hearing.
 - (i) The Committee shall deliberate *in camera* and reach a decision by majority vote. The Committee may grant any remedy it sees fit, including upholding the decision and sanction(s) determined by the Dean; varying the sanction(s); or granting the appeal of the student. The Committee will not normally increase the sanction imposed by the Dean.
8. The Committee's decision is final.
9. The Committee has the power to reserve its decision¹.
10. The decision of the Committee shall be in writing and signed by the Chair of the Committee. When requested by a party, the Committee shall give written reasons.

11. Copies of the decision, along with its reasons, if requested, shall be sent to all parties to the hearing who took part in the proceeding at their respective address last known to the University.

Sanctions for non-academic misconduct will be implemented by the Director, Student Services acting under the authority of the Student Conduct Committee.

If the relevant University official fails to respond within the time limits specified under any step in the above procedures, the student may automatically move to the next step in the procedures. Time limits may also be extended by mutual consent of the student and University official at the appropriate step or by the Student Conduct Committee if it is satisfied neither the student's nor the University's position has been substantially prejudiced by the delay.

H. Recording of Non-Academic Misconduct

Records of charges and sanctions, other than suspension and expulsion, are confidential and will not be placed in the student academic records. Records of all Student Conduct Committee decisions, including charges and sanctions, will be maintained as part of the confidential hearing file in the Director, Student Services Office for a period of not less than one year. No other copies or files are to be maintained by Deans, faculty or others involved in the process of investigating and hearing allegations of student non-academic misconduct.

I. Review of this Policy

This Policy will be reviewed after one year and thereafter every three years.

APPENDIX A: STUDENT CONDUCT COMMITTEE PROCEDURES

Purpose

The Student Conduct Committee hears cases regarding alleged non-academic infractions of the Non-Academic Misconduct Policy and makes decisions regarding responsibility and sanctioning.

Membership

1. The Student Conduct Committee shall be composed of:
 - (a) three Deans or designate(s);
 - (b) six students (three from each Faculty); and
 - (c) four faculty members (representing the three Faculties).

Five members of the Student Conduct Committee shall sit as a panel for an appeal or referral for a suspension or expulsion composed of the following:

- (a) one Dean or designate (Faculty of Art and Faculty of Design);
 - (b) two students (Faculty of Art and Faculty of Design); and
 - (c) two faculty members (who must not be from the same Faculty as the student/Respondent).
2. The Student Conduct Committee will be chaired by a faculty member. The Director, Student Services will appoint a Chair. The Chair is normally appointed for a maximum term of one year.
3. Student members of the Student Conduct Committee shall serve a one year term from September 1 to August 31. Faculty members and Deans may serve a two-year term from September 1 to August 31.
4. No voting member of the Student Conduct Committee may simultaneously be:
 - an officer of the Student Union (Executive or Member of the Board of Directors);
 - the Student Ombudsperson; or
 - a voting member of the University Appeal Board.
5. Student members of the Student Conduct Committee may serve for up to three years at the invitation of the Director, Student Services.
6. Returning members will normally comprise up to one third of the Student Conduct Committee membership.
7. No member may continue if found responsible for an infraction of the Non-Academic Misconduct Policy. Any member found responsible for any infraction of the Non-Academic Misconduct Policy will be immediately removed from the Student Conduct Committee.

Selection

1. The Vice-President, Academic shall publish announcements of positions. Invitations to apply are published in the student newspaper and widely disseminated not less than fifteen (15) days before the deadline for applications. Applications are invited during the Winter term for the next academic year.
2. All three Deans will serve as members of the Student Conduct Committee.
3. The Vice-President, Academic will select two faculty members from each Faculty for a total of four faculty members on the Student Conduct Committee.
4. A maximum of twelve students will be nominated by the Student Union to be interviewed. A selection committee, normally composed of the following, will interview student applicants for the Student Conduct Committee positions:
 - Director, Student Services;
 - Vice-President, Academic; and
 - Student Representative on Academic Council.
5. Upon the completion of the applicant interviews, the selection committee shall select up to three students from each Faculty for a total of six students to serve as members of the Student Conduct Committee.
6. As far as possible, the composition of the Student Conduct Committee should be representative of the OCAD community.

Rights and Duties of Members

Rights

- Each member of the Student Conduct Committee shall have the right to discuss all business before them for consideration during any meeting of the Student Conduct Committee.
- Each member will have one vote.

Duties

1. The Student Conduct Committee shall be responsible for the following:

The Chair shall:

- ensure that the policies and procedures of the Student Conduct Committee are followed at each hearing;
- read the decision of the Student Conduct Committee to the student; and
- ensure that voting members fulfill all duties.

The Vice Chair shall:

- act as the Chair in the event that the Chair is unable to attend a meeting; and
- ensure that voting members fulfill all duties.

The Recording Secretary shall:

- record the name of the student, the date of the proceedings, the case number, and the order of the proceedings;
- record the proceedings for possible clarification during the deliberations; and
- forward the decision to the Director, Student Services for the purpose of notification and subsequent collection or billing of student, if required.

The voting members shall:

- act in the disposition of disciplinary matters when infractions of the Non-Academic Misconduct Policy or any unacceptable behaviour occurs;
- make students aware of the existing regulations, the responsibilities derived from these regulations, and the sanctions for infractions;
- keep all discussions and decisions in confidence;
- review the current regulations of the University and recommend revisions or amendments in the best interests of the majority of the students, to the Vice-President, Academic;
- understand and be familiar with the Non-Academic Misconduct Policy and disciplinary procedures in non academic matters;
- hear all available information for and against the student, including witnesses, if provided; and
- ask pertinent questions of all parties involved.

Meetings

1. The Student Conduct Committee shall meet as required. Meetings will be held at a time agreeable to the majority of the members,
2. The initial meeting shall be a training workshop, usually during Orientation Week, at which attendance will be mandatory.
3. Subsequent meetings shall be called to:
 - review cases of a non academic disciplinary nature, hear student testimony, and determine whether a disciplinary infraction has occurred;
 - discuss and decide sanctions for infractions;

- hear appeals by students of University administrator's decisions not made by the Panel;
 - review the Non-Academic Misconduct Policy with a view to making recommendations to the Vice-President, Academic; and
 - conduct on-going training of Student Conduct Committee members.
4. Student Conduct Committee meetings will be suspended during the exam and holiday period except in extraordinary circumstances. Hearings take precedence over other business.
 5. The Student Conduct Committee shall always sit with an odd number of voting members. Voting quorum for the hearings shall be five voting members.
 6. A member of the Student Conduct Committee who has any direct involvement in a matter prior to the commencement of the hearing shall disqualify himself/herself and will not take part in the hearing, the deliberations, the decision and the reasons.
 7. A member of the Student Conduct Committee who has not been present through the whole hearing shall not take part in the deliberations, the decision or the reasons.
 8. All meetings will be held *in camera* and be kept in strictest confidence, with the exceptions that (a) those who need to know, and (b) the relevant University administrators and/or Complainant(s) will be informed of the hearing outcome. All members of the Student Conduct Committee are responsible for maintaining confidence regarding all information received in the course of a hearing.
 9. The Student Conduct Committee may adjourn the proceeding from time-to-time on its own motion or on request by either party where it is satisfied that the adjournment is required to permit an adequate hearing to be held.
 10. In reaching a decision, the Student Conduct Committee shall have regard only to the evidence, argument and submissions made at the hearing and the debate during the deliberations and not to any information that may have come into its possession prior to or outside the course of the hearing.

Procedures

It is intended that procedures be as informal as possible. Nevertheless, they must include reasonable notice to the parties involved of the nature and source of an allegation of misconduct, an opportunity for the parties to hear and answer any evidence used to substantiate the allegation, an opportunity for the parties to submit evidence and arguments, and the right to a decision on the merits of the case.

Pre-Hearing Procedures

1. Upon an alleged breach of the Non-Academic Misconduct Policy, a student shall receive notification in writing of the following:
 - nature of the breach;
 - any evidence of the alleged breach;
 - procedures which will be followed; and

- possible sanctions if the student is found responsible for the breach.
2. Where possible, the student will receive notification of a hearing within ten working days of the alleged incident, and at least five working days prior to the scheduled hearing.

Hearing Procedures

1. Hearings of the Student Conduct Committee will be conducted as follows:
 - (a) The hearing shall be held *in camera*.
 - (b) Either party may be represented by another person, including legal counsel, during the hearing.
 - (c) The Committee may retain legal counsel to advise or assist it during the course of the hearing. Legal counsel for the Committee may also assist the Committee in preparing reasons following the hearing but any decision shall be made by the Committee.
 - (d) The parties shall be allowed to call, examine and cross-examine witnesses and present evidence, including written or documentary evidence, and argument.
 - (e) Each party shall be allowed an opportunity to make an opening and a closing statement.
 - (f) The Committee may ask questions of all parties and witnesses, call additional witnesses, or require the production of any written or documentary evidence.
 - (g) Any procedural issue that arises in the course of a hearing, including issues respecting adjournments and the terms of such adjournments, will be considered by the Committee, but the decision of the Chair is final with respect to any such procedural issues.
 - (h) Both the student and the Dean shall leave the hearing room at the conclusion of the hearing.
 - (i) The Committee shall deliberate *in camera* and reach a decision by majority vote. The Committee may grant any remedy it sees fit, including upholding the decision and sanction(s) determined by the Dean; varying the sanction(s); or granting the appeal of the student. The Committee will not normally increase the sanction imposed by the Dean.
2. In the event that a student fails to appear for a hearing, the hearing will be conducted in his/her absence.
3. The standard of proof for rendering a decision on matters relating to the Non-Academic Misconduct Policy will be the civil law standard of “on a balance of probabilities”.ⁱⁱ
4. The Committee’s decision is final.
5. The Committee has the power to reserve its decision.ⁱⁱⁱ
6. The decision of the Committee shall be in writing and signed by the Chair of the Committee. When requested by a party, the Committee shall give written reasons.

7. Decisions of the Student Conduct Committee will be implemented by the Director, Student Services under the authority delegated by the President of the University.

ⁱ To reserve the decision, the Committee would have the ability to not make the decision immediately but to reflect on the evidence before the Committee, the documentation presented at the hearing, the submissions of the parties and College policy and procedures and send out a decision to the parties at a latter date. There is no obligation to present the decision of the Committee immediately. This is a standard practice of Committee non-academic misconduct hearings of this nature.

ⁱⁱ The standard of proof required for a determination that there has been a breach of the Non-Academic Misconduct Policy will be “on a balance of probabilities,” meaning that the person(s) deciding a case must find that it is more probable than not that a contested allegation is established as fact, or not.

ⁱⁱⁱ Please see footnote ⁱ.