

Report of the Working Group on Non-Academic Misconduct

FOR INFORMATION

PRESENTED BY:	Julian Demkiw, University Secretary and Chief Governance Officer
DATE OF MEETING:	April 20, 2024
SUBJECT:	Update on Revisions to Standard of Student Conduct in Non-Academic Matters and Regulations and Procedures for Resolution of Complaints and Appeals
DECISION REQUESTED:	For information.

BACKGROUND AND SUMMARY:

Senate approved the *Standard for Student Conduct in Non-Academic Matters and Regulations and Procedures for Resolution of Complaints and Appeals* (the Standard) in October, 2008 with revisions in October 2016 taking effect January 1, 2017. The procedures provide for resolution of complaints using an alternative dispute resolution (ADR) process if this is deemed more appropriate than a formal hearing. The Standard includes a stipulation that the standard and regulations be reviewed every five years.

In May 2023, a working group was established to commence the review of the Standard, setting the following goals:

- Examining how to incorporate principles of restorative justice into the Standard
- Expanding opportunities/mechanisms for informal resolution of breaches of expectations of student conduct
- Clarifying processes for appeal to Provost of decisions to allow/not allow appeal of decision of University Secretary
- Review of scope of Regulations, including the definition of USask student and USask premises
- Other changes to reflect current practice and USask environment

The working group was comprised of Senate members, a student member of Senate, and a Council member who had served on Senate Hearing Boards. The working group was chaired by Heather Heavin of the College of Law and the University Secretary and the University Registrar served as executive sponsors.

In January 2024, the Governance Office, which supports the Working Group as well as all processes under the Standard worked with the College of Law to engage a law student, Amanda Lehmann, to conduct the research (environmental scan) needed to understand best practice in the Canadian post-secondary landscape and to make recommendations related to both structural/format changes as well more substantial conceptual and institutional changes.

The Senate Working Group met in March 2024 to review the environmental scan that Ms. Lehmann conducted, which contained information about processes for handling allegations of non-academic misconduct at eleven Canadian post-secondary institutions. She reviewed both U15 comparator institutions as well as regional comparators.

Following this meeting, a series of recommendations were developed based on the environmental scan, keeping in mind changes being contemplated to the *Regulations on Student Academic Misconduct* as well as work being undertaken to align complaints-based processes at USask (both related to students and to staff and faculty). These recommendations were discussed by the working group in April 2024 and are attached for your review.

Discussions are ongoing within the Working Group and with other internal stakeholders about the scope of changes that will come forward to Senate, but the intention is to seek Senate's approval of some changes in Fall 2024 that will include structural, formal and editorial changes, but may also include broader changes to the institutional approach to and support for non-academic misconduct.

ATTACHMENT:

- Non-Academic Misconduct Standard – Recommendations

NON-ACADEMIC MISCONDUCT STANDARD

Recommendations from Environmental Scan

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Recommendations:

The recommendations contained herein are based on the draft Environmental Scan Report and spreadsheet. Potential changes are recommended for the USask *Standard of Student Conduct in Non-Academic Matters* (the “Standard”).

Format & Structural Changes to the Standard:

Definitions Section

Many of the policies and procedures surveyed during the environmental scan included a definitions section that appeared early on in the document(s). These are helpful as they provide a single point of reference to consult when encountering defined terms in the Standard. This could increase navigability for those who are not familiar with the Standard or what the defined terms mean in the context of the Standard.

For an example, see pages 1–3 of the University of Calgary’s [Student Non-Academic Misconduct Procedure](#), and pages 2–3 of their [Student Non-Academic Misconduct Policy](#).

Interpretation Section

Some of the policies and procedures surveyed also included an interpretation section. A similar section could be added to the Standard to clarify how the Standard will be interpreted, and that it does not limit a complainant’s other avenues of investigation, such as civil or criminal action, etc.

For example, see pages 4–5 of the University of Victoria’s [Resolution of Non-Academic Misconduct Allegations policy](#).

Who Can Make Complaints

It is unclear under the current Standard whether individuals who are not members of the university community can make complaints under the Standard. Other institutions specifically state in their policies that visitors and non-members can make complaints. This information could be included in a definitions section and/or the scope/jurisdiction section of the Standard.

For example, page 3 of the University of Victoria’s [Resolution of Non-Academic Misconduct Allegations policy](#).

Application to Online Activities

The current Standard does not specify whether it extends to online activities. Recommend clarifying this point, given the increasingly online nature of university activities.

For example, the University of Alberta provides that: “This policy applies to all misconduct or alleged misconduct by a student or by students, by any means whatsoever (including virtual or online), that has a real and substantial link to or a material effect on the learning environment, whether or not it occurred on or in relation to University property.”

The University of Calgary policy includes that the policy applies to activities “off University Facilities, including online, including through social media, online communication platforms, remote work applications, or other online means, where such actions, interactions or behaviour have a negative

impact on a member of the University Community such that it materially interferes with their University learning, working or living environment.”

Numbering

The numbering of the current Standard is somewhat hard to follow. Would recommend amending this to follow a more standard numbering system that begins with the first level of numbering as “Section 1”, second level as “(a)”, third level as “(i)”, and so on.

Flowchart/Process Map:

From the environmental scan, it was much easier to digest the policies and procedures of those institutions that provided a flowchart or process map, that outlines step-by-step how their policy or procedure worked in practice. Suggest creating this to post with the updated Standard, and to provide to students.

For example, see Dalhousie University’s [guide and flowchart](#).

Role Clarification

It would be helpful to add a section that explains the role of the staff, investigators, hearing board members, etc., that individuals may encounter during the course of a non-academic misconduct complaint. These roles could be included in the definitions section, or given their own section.

Annual/Regular Reporting & Tracking

A section could be added specifying how the university keeps track of complaints; how many proceed to hearings; outcomes, etc. The process for this reporting may already exist, but is not specified in the Standard currently.

Procedural Matters

Recommend updating procedures to include that hearings may be virtual (or that virtual hearings are now the default), and that documents can be provided electronically during the course of an investigation or formal hearing.

Confidentiality & Use of Personal Information Section

Many institutions surveyed included some specific information in their policies and procedures for non-academic misconduct regarding confidentiality and use of personal information. Recommend adding sections that explain the confidentiality of the process and information disclosed. Also recommend a section, that can potentially be pulled from other USask privacy policy information, that outlines how personal information is collected, used, and disclosed, to make it clear that the process is compliant with relevant privacy laws.

Conceptual Changes:

Trauma Informed Approach

Some institutions specify that a trauma informed approach is used in their conceptual approach to non-academic misconduct.

For example, the University of Alberta specifies that their [Student Conduct Policy](#) is informed by and implemented using a trauma informed approach – see page 8, which discusses required training, and page 22 which defines what is meant by “trauma informed” approach: “An approach to processes, procedures, and service provision that incorporates and responds to the effects of trauma. A trauma informed approach takes into account the potential effects of trauma on cognition, memory and behaviour and incorporates steps to address the needs created by trauma and to prevent retraumatization.”

Along with a trauma informed approach, some universities emphasize the support of both complainants and respondents throughout the complaint process, and provide that those responsible for the intake and review of complaints will also connect parties with available support and resources.

Intersectional / Anti-Oppression Approach

Similar to how some institutions specify that a trauma informed approach is used for non-academic misconduct matters, some also specify that these matters are approached from an intersectional, or anti-oppression approach.

For example, pages 2–3 of the University of Calgary’s [Student Non-Academic Misconduct Policy](#): “Intersectional lens means an approach that seeks to understand and recognize the specific barriers individuals may face or have faced and considers ways multiple barriers may overlap to create a unique experience for that individual.”

Institutional Changes:

Student Conduct Office

Some institutions utilize a central office that manages matters of student conduct. It appears most of these handle both academic and non-academic misconduct.

Specific examples of institutions utilizing this approach include: Dalhousie University; University of Calgary; University of Alberta (Student Conduct and Accountability Office); and University of Victoria (Office of Student Life).¹ Positions used at these offices include: Student Conduct Managers, Student Conduct Officers, Investigators, etc. It appears that usually these offices function to intake complaints and evaluate whether complaints should proceed to investigation or hearing stages.

A Student Conduct Office would be helpful as a central point of contact for complainants and respondents, and could also function to appropriately refer complainants and respondents to available services and support during the complaint process. If a Student Conduct Office is added, a section should be added to the standard to outline the Office’s role as per the Standard.

¹ The University of British Columbia also uses a Student Conduct Manager, who handles complaints before they are referred to a Committee. However, UBC’s approach appears to focus more on formal procedures.

Training

In conjunction with some of the recommendations above, specifically the trauma informed approach and intersectional lens approach, additional training would be helpful for those participating in non-academic misconduct matters, from initial investigation, to hearing (if necessary), and through to resolution.

Additional training would also be helpful concerning issues that are central to such matters and could include training regarding: procedural fairness; anti-oppression; trauma informed practice; and standard of review training for members of appeal panels (see the University of Alberta [Student Conduct Policy](#) at pages 7–8).

Expansion of Informal Measures

Currently, the Standard contains little direction regarding informal resolution of non-academic misconduct matters. Based on the environmental scan and practices at some institutions that appear more advanced in this area, recommend expanding the informal measures options available to complainants and respondents.²

For example, the University of Alberta has a guiding principle that: “Wherever possible and appropriate, individuals are encouraged to explore non-disciplinary accountability options, including educational, developmental, restorative, transformative, or other voluntary facilitated resolution options.”

The University of Victoria advises that: “Wherever possible, members of the University Community are encouraged to use respectful and direct communication to resolve incidents or disputes informally by way of apology, conciliation (including restorative justice), education, consultation, or mediation.”

Dalhousie University’s procedure allows for multiple opportunities for a complaint to be handled through an alternative or “non investigative stream”. A similar approach could be built into the current Standard to allow for more informal resolution prior to formal hearings. See Dalhousie University’s [guide and flowchart](#).

Expansion of Alternative Dispute Resolution (“ADR”)

Increasing ADR options before or after a formal complaint are also recommended. For example, the University of Victoria indicates some available ADR measures under its policies and procedures include: “conflict coaching, facilitated dialogue, restorative justice, [and] mediation.” Some of these options are defined as:

- **Conflict Coaching:** “Conflict coaching is at its very essence, an individualised method for helping.”³ “Conflict coaching is primarily a dyadic process in which a coach trained in conflict resolution or executive coaching works with a client to develop the client’s conflict-related understanding, interaction strategies, and interaction skills.”⁴

² There is some overlap between methods viewed as “informal” and those seen as “alternative dispute resolution processes.”

³ Priyanka Saha, “Conflict Coaching: A Tool for Conflict Resolution in Schools” (2012) 19 James Cook U L Rev 113 at 115 https://heinonline.org/HOL/Page?iname=&public=false&collection=journals&handle=hein.journals/jamcook19&men_hide=false&men_tab=toc&kind=&page=113

⁴ Ross Brinkert, “State of Knowledge: Conflict Coaching Theory, Application, and Research” (2016) 33:4 Conflict Resolution Quarterly 383 at 383 <https://onlinelibrary.wiley.com/doi/epdf/10.1002/crq.21162>

- Facilitated Dialogue: “*Facilitated Dialogue* is a conversation between two or more people involved in a conflict that is supported and structured by a trained, multiparital facilitator. Sometimes Facilitated Dialogues are structured using a “Circle Process” and as such may be referred to as a ‘Circle.’”⁵
- Restorative Justice:
 - “Restorative justice operates from a different premise than punitive justice. Rather than specifying what rule was broken, the primary concern is about harm”;⁶
 - “Restorative practices are designed to accommodate expressions of moral disapproval—even outrage. The students do not escape the repercussions of community distrust. By having them face harmed parties who can directly articulate how they have been affected, it is more difficult for them to deny or diminish their responsibility. They do so, however, within a context of support. Indeed, it is expected that in a learning community, students will make mistakes and helping them learn from their mistakes is essential to the education of the whole person. In this way, reconciliation, reintegration and earned redemption are made possible.”⁷

The University of Alberta includes in their “Principles” section a statement regarding ADR: “Wherever possible and appropriate, individuals are encouraged to explore non-disciplinary accountability options, including educational, developmental, restorative, transformative, or other voluntary facilitated resolution options.”

Some institutions that have advanced procedures in ADR include: the University of Calgary, University of Alberta, Dalhousie University, and University of Victoria. Further consultation should be conducted with these institutions to determine if the processes that they have put in place for ADR are producing the desired results, and to understand any challenges these alternative processes have created, if any.

⁵ University of Michigan, “Facilitated Dialogue”, online: <https://oscr.umich.edu/article/facilitated-dialogue>

⁶ David R Karp & Olivia Frank, “Restorative Justice and Student Development in Higher Education: Expanding ‘Offender’ Horizons Beyond Punishment and Rehabilitation to Community Engagement and Personal Growth” (2016) in *Offenders No More: An Interdisciplinary Restorative Justice Dialogue*, edited by Theo Gavrielides (New York: Nova Science Publishers, 2016) at 144 <https://www.msudenver.edu/wp-content/uploads/2022/12/Restorative-Justice-And-Student-Development-in-Higher-Education.pdf>

⁷ *Ibid.*