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## **STUDENT CODE OF CONDUCT (NON-ACADEMIC)**

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**Subject:** Student Code of Conduct in Non-Academic Matters

**Group:** Student Affairs

**Approved by:** President & Vice-Chancellor

**Administered by:** Vice-President, International & Student Affairs

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## 1. INTRODUCTION

As part of the University community, all students and student groups are expected to maintain a high standard of conduct in their on-campus, extracurricular, and academic pursuits. The University's expectations in each of these areas are detailed in this Code and in the University's policy on Academic Integrity.

### 1.1 PURPOSE

The primary objective of the Student Code of Conduct is not to be punitive but rather to be a guideline for appropriate behaviour in a diversified educational environment. Where possible and appropriate, education and provision of support services shall be used to attempt informal resolution of a matter before proceeding to formal disciplinary procedures.

### 1.2 SCOPE

This Code applies to student conduct that occurs:

- a) On property owned or leased by the University;
- b) At any municipal facility included in agreements between the Town of Sackville and Mount Allison;
- c) During a University-sanctioned activity that takes place off-campus (i.e. an event that is funded and/or approved by Mount Allison);
- d) When a student is acting as a delegate or designated representative of the University and/or a student group;
- e) When using electronic communications under the name of Mount Allison University, or using technology managed by the University;
- f) When using social networking sites (while the University does not activity monitor such social networking sites, content that is brought to the attention of the University that reasonably suggests breach of this Code or other university policies may be investigated and responded to by the University as appropriate);

This Code may also be invoked in response to a student's off-campus behaviour that may threaten the safety and security of another University community member while on campus or participating in a University sanctioned, off-campus activity (see c. and d. above).

### 1.3 OVERSIGHT RESPONSIBILITIES

The Student Life Office administers the Student Code of Conduct in Non-Academic Matters. The Director of Student Life will review complaints and respond according to the procedures set out in this Code.

### 1.4 RELATED POLICIES

The following are governed by codes of conduct or regulations and disciplinary procedures separate from this policy. Normally the areas listed below act independently of one another, however, in serious circumstances, more than one of these policies may apply.

- a) [Academic Integrity Policy](#) (Policy 5500)
- b) [Sexual Violence Prevention and Response Policy](#) (Policy 5410)
- c) [Residence Life Code of Conduct](#) (September 2016)
- d) [Liquor Policy](#) (Policy 4000)
- e) [Anti-Racism Education & Response Policy](#) (May 2017)
- f) [No Smoking Policy](#) (Policy 2100)
- g) [Personal Information Protection Policy](#) (RTIPPA) (Policy 2200)

## 2. APPLICATION OF THE CODE

- a) This Code applies to non-academic student conduct. Academic student conduct is governed by the [Academic Integrity Policy](#) and is beyond the scope of this Code.
- b) Wherever it is possible and appropriate to do so, administrators of this Code will seek to employ positive interventions, restorative practices, and educative outcomes.
- c) Whenever it is possible and appropriate to do so, administrators of this Code will use Restorative Justice approaches in all interactions with students, including follow-up on matters related to this Code. Restorative Justice focusses on the community harms and needs, seeking to repair these harms in a collaborative process.

Restorative approaches and/or outcomes may replace or happen in combination with the complaint-resolution processes outlined in this Code, provided students meet certain criteria, such as taking responsibility for their actions. Possible Restorative Justice outcomes include, but are not limited to: apologies to the harmed party/parties, restitution, community service, reflection paper, etc.

Restorative Justice is driven by four guiding principles\*:

- i. Inclusive decision-making - Putting the decision-making back into the hand of the individuals that care most about the harm that has occurred.
- ii. Active accountability - An offender cannot sit back and be judged. They must be engaged in the process and take responsibility.
- iii. Repairing harm - Focuses on hearing a reparation to bring up the harmed party.
- iv. Rebuilding trust - Rebuilding the relationships so that the offender can once again be trusted and the harmed party can feel safe.

*\* Karp, D. R. (2013). Little book of restorative justice for colleges and universities: repairing harm and rebuilding trust in response to Student Misconduct. Intercourse, PA: Good Books.*

- d) This Code applies to students and student groups. All references to "student" include "students" and "student groups." All students and student groups are bound by University policies and regulations.
- e) Students who host guests are responsible for the conduct of their guests. A guest is a

non-student whose presence on campus or at a university-sanctioned event is due to an association with the student-host. In the event of an infraction under this Code, both the host and the guest may be subject to sanctions.

- f) For individuals who are both students and employees of the University, the Director of Student Life (or Designate) will consult with the appropriate offices to determine whether or not the conflict or incident in question falls into the purview of the Student Code of Conduct.
- g) Code proceedings may be instituted against a student charged with conduct that potentially violates both the Criminal Code of Canada and this Code of Student Conduct. Proceedings may be carried out prior to, simultaneous with, or following civil or criminal proceedings off-campus at the discretion of the Director of Student Life. Determinations made or sanctions imposed under this Code may not be subject to change because criminal charges were dismissed, reduced, or resolved in favour of or against the Respondent.
- h) The University reserves the right to:
  - i. determine whether or not a matter should be addressed under this Code;
  - ii. take necessary and appropriate action to protect the safety and welfare of individuals on campus or the campus community as a whole notwithstanding this Code;
  - iii. use information provided by external agencies such as the police or the courts;
  - iv. determine whether or not behavioural restrictions should be put in place regardless of the location of the incident or the actions of external agencies such as the police or the courts.
- i) The University may also invoke, in place of or in addition to its own procedures, civil, criminal, or other remedies which may be available to it as a matter of law.

### 3. STUDENT RIGHTS & RESPONSIBILITIES

#### 3.1 STUDENT RIGHTS

- a) The right to academic pursuit at Mount Allison, with all the access and privileges it affords to those in good standing.
- b) The right to participate fully in University life without the fear or threat of harassment, intimidation, stalking, bullying, coercion, discrimination, or acts of violence.
- c) The right to an educational and on-campus residential environment that is safe, respectful, and conducive to learning.
- d) The right to natural justice under this Code.
- e) The right to privacy of personal information as per University policies.
- f) The right to the freedoms of opinion, expression, belief, and association to the extent that these freedoms do not interfere with the rights of others or violate other University policies and procedures.
- g) The right to peaceful assembly and participation in demonstrations within the

University provided that such actions do not violate the fundamental rights of other members of the University Community nor breach the fundamental responsibilities of the student as outlined in this Code.

### 3.2 STUDENT RESPONSIBILITIES

- a) The responsibility to behave in such a way as to make Mount Allison a safe, respectful, and inclusive place to live, work, and study. Students are called upon to refrain from conduct that threatens or endangers the health, safety, wellbeing or dignity of any member of the Mount Allison community.
- b) The responsibility to uphold an atmosphere of honesty, equity, and respect for others, consistent with the value that the University places on diversity in our community.
- c) The responsibility to be fully acquainted with and to adhere to University policies, procedures, and rules.
- d) The responsibility to protect the health and safety of themselves and others through vigilance to fire safety equipment and procedures. Committing arson, pulling fire alarms falsely or tampering with firefighting equipment (e.g., fire alarms, extinguishers, exit signs, fire hoses, smoke detectors, emergency lights) will be dealt with severely to the full extent of this Code.
- e) The responsibility to maintain a safe and secure campus community by refraining from unauthorized entry to University premises and unauthorized possession of University property. Acts such as damage, vandalism, defacement, destruction, theft, misuse or tampering with University premises or property are prohibited. This includes but is not limited to University supplies, documents, equipment, and keys.
- f) The responsibility to respect the privacy of personal information of all members of the community.
- g) The responsibility to maintain integrity in one's interactions with the University. Knowingly providing false or inaccurate information to the University or an official thereof, altering or tampering with a document submitted to the University or otherwise engaging in fraudulent behaviour with respect to the University constitutes misconduct.
- h) The responsibility to act in accordance with the law and University policy with respect to illegal drugs. The possession, use, or trafficking of illegal drugs is prohibited on property controlled, leased, or owned by Mount Allison University.
- i) For those who choose to consume cannabis (refer to Section 5.8), the responsibility to do so in accordance with the federal Cannabis Act, the provincial Cannabis Control Act, and other related University policies and regulations.
- j) For those who choose to consume alcohol, the responsibility to do so in accordance with provincial laws, with due regard for their personal safety and the wellbeing of others.

### 4. DEFINITIONS

**Advisor or Support Person** – A person identified by the Respondent or Complainant to accompany them during any stage of the Informal or Formal Review processes. The Advisor or Support Person may be a student, a MASU representative (e.g. Ombudsperson), a faculty

member, a staff member, or another member of the Mount Allison community. An Advisor or Support Person does not extend to include legal counsel.

**Appellant** – the person who appeals the decision of the University Judicial Panel.

**Business Days**

The days of Monday to Friday inclusive between 8:30am and 4:30pm Atlantic Time (AT), with the exclusion of weekends, public holidays, and periods when the University is officially closed.

**Calendar Days** – All days, inclusive of business days, holidays, and weekends with the exception of those periods when the University is officially closed.

**Club or Group:** An organization that is affiliated with, and/or receives funding from, Mount Allison University and/or the Mount Allison Students' Union.

**Complainant** – The person who submits an official complaint against a student (or students) for any breach of this Code. The University may also be a Complainant if a student whose behaviour is in breach of this Code is identified in a university Incident Report.

**Incident Report** – a formal university report detailing an incident or incidents where a student (or students) is in violation of a university policy.

**Mediation** – refers to a voluntary process where a third-party facilitates a face-to-face dialogue between two or more parties and helps the parties arrive at reconciliation or a mutually agreeable resolution.

**Misconduct** – Behaviour or actions by students that breach this Code or fall short of the University's standard for student responsibilities as laid out in Section 3 (Student Rights & Responsibilities).

**Mount Allison University Community or the University Community** – Current students, faculty and staff of Mount Allison University and guests to the campus.

**Natural Justice (Appendix A)** – or procedural fairness, ensures the following:

- that a student has the right to know the allegation(s) against them;
- that a student has the right to present a defense;
- that any decision is made after reasonable investigation and due consideration of relevant evidence; and
- that any decision is made free from bias.

**Respondent** – A student who is the subject of a formal complaint or Incident Report under this Code. In the case of an appeal, the person or party that contends against the appeal.

**Restorative Justice** – a philosophy of justice that is based on specific principles and practices. In the context of this Code, restorative justice is a process for resolving an incident by focusing on redressing the harm caused, holding offenders accountable for their actions and, as often as possible, engaging the community in the resolution of the incident and identified "harm."

**Sanctioned Event** – Any activity coordinated by Mount Allison University faculty or staff on behalf of their department or for the purpose of conducting University activities or sponsored by a University academic or administrative department head. Also, any activity coordinated by Mount Allison University students on behalf of a club or group.

**Student** – Any person admitted to or enrolled at Mount Allison University, full-time or part-time, pursuing non-credit, undergraduate or graduate studies, whether or not the individual is currently registered in courses or is currently a candidate for a degree or certificate. An individual is considered to be a student during periods before or between terms, including, but not limited to athletic training camps, University Orientation, residence staff training, and Winter break, or periods during which the student may be serving a suspension or required by the University to withdraw from courses. The Code applies to students on exchange programs that are coordinated by Mount Allison University at other universities, as well as Students on approved leaves of absence or visiting students.

**The University** – Mount Allison University

## 5. MISCONDUCT UNDER THE CODE

The following list sets out specific examples of student misconduct. It is not an exhaustive list. It is intended to help students understand the type of conduct that will be subject to discipline. Students should be aware that they still may be subject to action under this Code, or the law, even if the reported conduct is not included in the list of examples below.

- 5.1. **Breach of University Policies, Procedures or Rules.**
- 5.2. **Misconduct against persons, which includes:**
  - a. **Threats of harm, or actual harm, to a person’s physical or mental wellbeing**, such as: assault; physical aggression and abuse; verbal and non-verbal aggression; verbal abuse; intimidation; and coercion.
  - b. **Harassment** – Harassment is defined as any course of attention or conduct by an individual or group that knows, or ought to reasonably know, that such attention or conduct is unwelcome/unwanted, offensive or intimidating. Single acts of sufficient severity may also constitute harassment. Harassment may include: verbal, written (including electronic, digital communications whether by email, text messages, posting on internet sites or otherwise), and/or actual or threatened physical actions directed at an individual or group by another individual or group For incidents of sexual harassment or sexual assault, refer to the [Sexual Violence Prevention & Response Policy](#).
  - c. **Hazing** – No student shall engage in hazing, which is defined as an act which endangers the mental or physical health or safety of a student for the purposes of initiation or admission into, affiliation with, or as a condition for continued membership in, a group or organization.

- d. **Discrimination** that is directed at one or more specific persons and that is based on any of the protected grounds under the [New Brunswick Human Rights Act](#) (e.g. race, colour, national origin, place of origin, ancestry, religion, age, marital status, sex, gender identity or expression, sexual orientation, physical or mental disability, social condition, or political belief). For incidents of alleged racial discrimination, please refer to Mount Allison's [Racism & Racial Harassment Prevention & Response Policy](#).

5.3. **Misconduct against property**, which includes:

- a. **Theft/Illegal or Unauthorized Possession** – No student shall possess University property or the property of any member of the University community without the permission of the rightful owner. This includes taking something or being in possession of something that is known or ought reasonably to be known as not their own and for which authorization is needed.
- b. **Damage to the property of the University or its members**, such as: misusing, misappropriating, destroying, defacing, or damaging University property, or property that is not their own including information or intellectual property owned by the University or by any of its members.

5.4. **Conduct that would be recognized as a breach of the law and/or disregard for the health and safety of the University community or its members**, such as:

- a. **Creating Dangerous or Unsafe Conditions** – No student shall set fires, set off false fire alarms, block exit routes, tamper with life-saving equipment, or mislead or impede the work of University and/or emergency personnel;
- b. **Inciting Violence** – No student shall: Use words which threaten violence or physical abuse to any group or individual; Use words in a situation of clear and imminent danger, which incite others to behaviour, which violates any article in this Offenses section.
- c. **Bringing Weapons onto University Property or to a University Activity** – No student shall bring a firearm (including air guns and replica or imitation firearms), explosives (including fireworks), other weapons or dangerous chemicals onto University property or to any University-related event or activity. Likewise, no student shall make claims, false or otherwise, of possessing or threatening to use such items on University property or at any University-related event.

5.5. **Misconduct Related to Access to and Use of University Property, Facilities, Equipment & Materials**

- a. **Unauthorized Entry and/or Presence** – No student shall enter into or remain on University premises, or any building or facility on University

premises, without proper authority. Campus Security Services may charge students who violate this provision with trespass under the Trespass to Property Act.

- b. **Unauthorized Use of University Facilities, Equipment, Materials or Services:** No student shall: Use any facility, equipment, material or service (including any of the University's information resources) contrary to express instruction or without proper authority; Obtain and/or use any University equipment, material or service by fraudulent means or by providing false information.
  - c. **Misuse of University Supplies or Documents** – No student shall without proper authority, make, alter, use, receive or possess University supplies or documents. University supplies and documents include but are not limited to equipment, keys, records, permits, letterhead, stationery and envelopes.
  - d. **Misuse of Library or Information Resources** – No student shall:
    - i. Remove books or other library material from the university libraries without proper authorization;
    - ii. destroy, misplace, misfile, or render inoperable any stored information such as books, film, data files, or programs from a library, computer, or other information storage, processing, or retrieval system;
    - iii. Abuse any University information resources, including (without limitation) computer or computer-related facility or software, alter or remove computer files or software without proper authorization, purposefully misplace them, or deprive others of access to information resources;
    - iv. use any University computing equipment, facility, network, or system for any disruptive or unauthorized purpose, or in a manner that violates any law, University regulation, policy or procedure (this includes downloading, distributing or sending offensive, discriminatory, and/or harassing material).
- 5.6. **Disruption of, or interference with, University activities** – No student shall, by action, threat, or otherwise, disrupt regular university operations (e.g. classes, examinations) or any activity organized by the University or by any of its faculties or departments. Mount Allison affirms the right of all members of the University community to carry on their legitimate activities and to freely speak and associate with others.
- 5.7. **Misconduct Related to the Use of Alcohol & Drugs** – No student shall:
- a. contravene provincial liquor laws or the policies of the University governing the purchase, sale, possession, consumption, or manufacturing of alcoholic beverages.

- b. Be in possession of or consume alcoholic beverages at a University-organized or University-sanctioned event, on or off-campus, that has been designated as a "dry" (non-alcohol) event;
- c. Transport, consume, or be in possession of open alcohol outside licensed on-campus events or spaces, or other University-approved events or spaces where alcohol is being sold or served. Open Alcohol is defined as any source of alcohol that is no longer in its original container (e.g. bottle, can, etc.) at the point of sale or, if it's still in its original container, has been opened or removed from its original packing (e.g. box, case, plastic rings, etc.). For more information about Open Alcohol, refer to New Brunswick's [Liquor Control Act](#).
- d. The possession or use of prescription drugs without a valid prescription or the trafficking of prescription drugs is considered an illegal drug activity for the purposes of this Code, regardless of the amounts involved, and regardless of whether or not money or any other form of consideration is exchanged.
  - i. Without limitation, both selling and sharing (giving away) prescription drugs such as Ritalin and Adderall is prohibited.
- e. Be in possession of, furnish to anyone, or consume illegal drugs;
  - i. cannabis, hashish and their derivatives are considered illegal drugs for the purposes of this Code until section 5.8 of this Code comes into effect.
  - ii. Students who have a prescription from a medical doctor for the use of cannabis, hashish or their derivatives must register with the Meighen Centre prior to possessing or using them on Mount Allison property. Please contact the Director, Accessibility and Student Wellness, for information about the process for obtaining such permission.

**As a general principle, impairment by alcohol or other drugs is not a defense against being found responsible for breaching the standard of conduct outlined in this Code.**

5.8. **Misconduct Related to the Use of Cannabis** – On October 17, 2018, the Canadian federal government passed legislation legalizing the use of cannabis. The Province of New Brunswick also passed legislation of its own. The University, through its policies and regulations, seeks to be in full compliance with the law. The Student Code of Conduct is no exception. Therefore, no student shall:

- a. use, consume, possess, cultivate, or distribute cannabis in contravention of the federal [Cannabis Act](#), the provincial [Cannabis Control Act](#), or other related University policies and regulations. In short, it is prohibited to:

- i. smoke cannabis for recreational purposes on Mount Allison property (refer to [Policy 2100 – No Smoking](#)).
- ii. Cultivate cannabis on Mount Allison property.

Students who have a prescription from a medical doctor for the use of cannabis, hashish or their derivatives must register with the Meighen Centre prior to using them on Mount Allison property. Failure on a student's part to comply with the terms of cannabis use on campus, as approved by the Meighen Centre, is an offence under this Code.

For more information about University policies, initiatives, and resources related to the legalization of cannabis, please visit [www.mta.ca/codeofconduct/cannabis](http://www.mta.ca/codeofconduct/cannabis).

- 5.9. **Misconduct Related to Online Postings** – Members of the Mount Allison community are reminded that images, postings, dialogues, and information about themselves or others posted on the internet (e.g. on social networking sites such as Facebook and Twitter) are public information. 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 reasonably suggests a breach of University policy (e.g. Academic Integrity Policy, Student Code of Conduct, Sexual Violence Prevention Policy, etc.) is subject to further investigation. The University reserves the right to appropriately respond to these incidents, which may include disciplinary action.
- 5.10. **Failure to comply** – No student shall:
  - a. fail to comply with the reasonable directions of University Officials, Campus Security Services, or other law enforcement officers acting in the performance of their duties;
  - b. Fail to comply with published University policies, rules or regulations.
- 5.11. **False Information & Identification** – No student shall:
  - a. Refuse to identify themselves upon request by University officials acting in the course of their duties;
  - b. knowingly furnish false information to any person or office acting on behalf of the University, or forge, alter, or misuse any University document, record, or instrument of identification, or knowingly furnish false information to any person regarding their standing, status, or academic record at the University.
- 5.12. **Aiding in Student Misconduct** – No student shall encourage, aid, or conspire with another student to engage in misconduct under this Code. This includes encouraging or aiding behaviour by a non-student which, if committed by a student, would be grounds for misconduct under this Code.

### 5.13. **Misconduct Related to the Application of this Code**

- a. **Abuse of, or disrespect for, the processes of this Code**, such as: bringing false or unfounded complaints with malicious, frivolous, or vexatious intent; failure to comply with the reasonable requests of an administrator of this Code; failure to attend meetings or hearings regarding alleged breaches of this Code; or retaliation against any participant in the Code process.
- b. **Abuse of the Disciplinary System** – No student shall:
  - i. Falsify, distort, or otherwise misrepresent information before the University Judicial Panel or the University Appeal Panel;
  - ii. Disrupt or interfere with the orderly conduct of the disciplinary hearing;
  - iii. Knowingly falsify an incident report on another student;
  - iv. Attempt to discourage an individual's proper participation in, or use of the disciplinary system;
  - v. Attempt to influence the impartiality of a member of the University Judicial Panel or University Appeal Panel prior to, and/or during the hearing or appeal;
  - vi. Harass (verbally or physically) and/or intimidate a member of the University Judicial Panel or the University Appeal Panel prior to, during, and/or after a disciplinary proceeding;
  - vii. Influence or attempt to influence another person to commit an abuse of the University Judicial Panel or the University Appeal Panel.
- c. **Refusal to Comply with Disciplinary Measures under this Code** – No student found to be responsible for misconduct under this Code shall fail to comply with a disciplinary measure imposed under this Code.

## 6. INFRACTIONS UNDER OTHER POLICIES

### 6.1 SEXUAL MISCONDUCT

Mount Allison condemns sexual misconduct in all its forms. Sexual Misconduct is defined as any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. Sexual misconduct can also include coercing or pressuring someone to have sex and/or sexual contact with someone who is incapacitated or sleeping.

Incidents of sexual misconduct are not adjudicated under the Student Code of Conduct and will be referred to the SHARE Advisor for resolution under Mount Allison's [Sexual Violence](#)

[Prevention and Response Policy](#). For more information, visit [www.mta.ca/share](http://www.mta.ca/share). For confidential advising, please contact the SHARE Advisor at [share@mta.ca](mailto:share@mta.ca).

## 6.2 RACISM

Racism is any action or attitude that subordinates an individual or group on the basis of race. It can be enacted individually or institutionally, consciously or unconsciously. Racism is more than personal prejudice; it involves carrying into effect one's prejudices, resulting in discrimination, inequity and/or exclusion. Racism can be openly displayed in racial jokes, slurs, or hate crimes. It can also be more deeply rooted in attitudes, values, and stereotypical beliefs. In some cases, people don't even realize they have these beliefs. Instead, they are assumptions that have evolved over time and have become part of systems and institutions, and also associated with the dominant group's power and privilege. (Ontario Human Rights Code)

Incidents of racism are not adjudicated under the Student Code of Conduct and will be referred to the Anti-Racism Education & Response Committee for resolution under Mount Allison's Mount Allison's [Anti-Racism Education & Response Policy](#). If you or someone you know has experienced racism, please contact [antiracism@mta.ca](mailto:antiracism@mta.ca).

## 7. SANCTIONS

The following (see below) is a list of possible sanctions for infractions under the Student Code of Conduct. The list is not exhaustive but serves as a guideline for the University Judicial Panel and the Director of Student Life & International Services when reviewing violations of the Student Code of Conduct.

### **ADMINISTRATIVE MOVE/RELOCATION (Residence)**

In some situations, residence students may be required to relocate to another room in the same residence or to another room in a different residence. This will often include restrictions on that student's ability to return to their previous residence building.

### **ALCOHOL PROBATION**

Students who create a disturbance after or because of drinking, violate rules and regulations after or because of drinking, or demonstrate signs of problem drinking may be placed on alcohol probation. Students on alcohol probation may not possess or consume alcohol on University property. Students in residence may not return to residence after drinking in another off-campus location. Residence students in violation of alcohol probation may face suspension or eviction from residence. Students on alcohol probation are automatically placed on disciplinary probation.

### **APOLOGY**

Apologies are expressions of remorse and the willingness to take responsibility for one's actions (or inactions). They are an important way to repair community relationships and restore trust between parties. They must be sincere if they are to be taken seriously. They can be issued in

public or in private, in writing or in person, as appropriate and with due regard for the feelings of the complainant. (*The Little Book of RJ for Colleges and Universities*)

### **BAN FROM RESIDENCE/CAMPUS**

Students may be banned from one or more residences and/or campus. Students in violation of a residence/campus ban may be charged under the New Brunswick Trespass Act.

### **BEHAVIOUR CONTRACT**

A behaviour contract is an agreement between an individual and the University, whereby an individual agrees to a set of specified behaviours, stipulations, conditions, and/or expectations. An individual may be required to agree to abide by a behavioural contract if they wish to retain other University privileges.

### **BONDS**

Bonds are a suspended fine and are used to ensure that an individual complies with a specific Behaviour Contract or policy/procedure. If there are no further conduct violations during the remainder of the academic year, no fine will be issued and the bond revoked. If additional violations occur, bonds are converted into fines and charged to the individual's student account. Additional sanctions may also apply.

### **CHANGE OF RESIDENCE, CLASS, OR WORK ASSIGNMENT**

In some instances, it may be necessary – as an interim measure or as an outcome of an investigation – to limit or restrict contact between students. This may result in an administrative move/relocation within the residence community, the imposition of prescribed dining hours at Jennings, or a petition to the Registrar's Office for changes to a student's class schedule or section(s). For on-campus employment, it may also involve the adjustment of a student's work hours, co-workers, or location.

### **COMMUNITY SERVICE**

Community service provides the student with an opportunity to learn new skills, develop new relationships, and to repair the harms done to the community. At the discretion of the University, community service hours may be performed on or off-campus, provided that any such service or work is available and not prohibited by labour or other service agreements. Community service hours must be verified by a community service supervisor. Students may also be required to complete a reflection paper describing the experience.

### **DISCIPLINARY PROBATION**

Disciplinary Probation can be combined with other sanctions and serves as a written warning to a student that the next incident of inappropriate conduct will result in more serious consequences under the Code. During the probationary period, a student must fulfill certain conditions and maintain good conduct.

### **EDUCATIONAL ASSIGNMENT**

These may include, but are not limited to, referral to educational programming, participation in restorative practices, a reflection paper, completion of a quiz, meeting with University staff or community partner, etc. Educational assignments may be combined with other sanctions.

### **EVICTION FROM RESIDENCE**

In some cases, a student in residence may be required to vacate residence. The student will also be banned from all other residence buildings. Students in violation of a suspension/eviction can be charged under the New Brunswick Trespass Act.

### **FINES**

A fine is a monetary amount charged to a student's account as a financial penalty for infractions under this Code. Fines will not normally exceed \$1000.

### **INTERIM MEASURES**

In some instances, the Director of Student Life & International Services may impose interim measures on one or more parties while an incident involving residence students is being reviewed. Interim measures are taken in an effort to protect the safety and wellbeing of the students involved and can include room/residence relocation, a residence/university ban, a No Communication Order, a No Contact Order, and/or other necessary restrictions prior to the completion of an investigation. Interim measures are preliminary in nature and are generally in effect only until an investigation or appeal review has been completed. The introduction of interim measures does not imply a finding of "responsible."

### **LOSS OF FEES**

Forfeiture or loss of payments, fees, or funds.

### **NO COMMUNICATION ORDER**

To safeguard the integrity of an investigation and/or to create a safe space for students in response to an incident/complaint, Student Life may issue a No Communication Order. A No Communication Order is a Student Life directive which may be used for the purpose of restricting communication between two or more students for a specified period of time.

### **NO CONTACT ORDER**

To safeguard the integrity of an investigation and/or to create a safe space for students in response to an incident/complaint, Student Life may issue a No Contact Order. A No Contact Order is a Student Life directive which may be used for the purpose of restricting contact and communication between two or more students for a specified period of time.

### **NON-ACADEMIC SUSPENSION**

Students on a non-academic suspension are permitted to be on campus for academic purposes only. With the exception of classes, labs, and any prescribed study groups, a student who is on a non-academic suspension is not to be on campus. The only exceptions are the library and the Wallace McCain Student Centre, the latter of which may be accessed during regular business hours only (8:30AM-4:30PM). All other University venues and facilities are off-limits for the duration of the suspension.

### **REFERRAL**

In some cases, students may also be required to attend meetings/appointments with designated people, bodies, or departments either on or off-campus (e.g. Counselling Services, SHARE Advisor, Academic Support Services, etc.).

**RESTITUTION FOR INJURY, LOSS OR DAMAGE**

Notwithstanding any sanctions applied under the Code of Conduct, students responsible for costs incurred from injury, loss, or damage may also be charged the cost of repair, replacement, and/or compensation.

**RESTRICTION OR PROHIBITION OF ACCESS OR USE**

A denial for a specified period of time of, or conditions imposed on, a student's right to access to or use any part of or all of the University's lands, equipment, facilities, services, activities, programs, meetings, or events or those held by, or on, or in association with the University.

**STATEMENT OR RETRACTION**

Issuance of a statement or retraction, in an appropriate form, in public or in private.

**SUSPENSION OR LOSS OF PRIVILEGES**

Students who are found in violation of the Code may have their privileges restricted or suspended. This may include participation in clubs, societies, or teams, eligibility for residence accommodation, eligibility for participation in University programs, etc. The University reserves the right to carry the restriction and/or suspension of privileges into the following academic year(s).

**UNIVERSITY SUSPENSION**

For particularly serious offences under the Code, students may be suspended from University. The suspension may be permanent or for a defined period of time. In the case of a suspension, the student will be fully responsible for all fees still owed to the University. A University suspension does not exempt a student from financial responsibilities under any University refund policy. Students in violation of a University Suspension may be charged under the New Brunswick Trespass Act.

**WRITTEN WARNING**

A Written Warning is a disciplinary reprimand that serves as notice that continuation or repetition of prohibited conduct may be cause for additional disciplinary actions.

**OTHER ACTIONS**

Depending on the nature of the event and/or the impact of the circumstances, the University reserves the right to impose outcomes other than those listed above.

## 8. DIRECT RESOLUTION

The University recognizes that many disputes can be resolved without resorting to the procedures in this Code. Wherever it is possible and appropriate to do so, members of the University community are encouraged to use constructive communication to directly resolve the situation rather than invoking the complaint process. This can be done as follows:

- a) Choose a time and place when the conversation can proceed calmly, privately, and without too much delay from the precipitating incident.
- b) Speak about the impact of the behaviour, focusing on the behaviour and not making a judgement about the person.
- c) Acknowledge the standpoint of the other person.
- d) Work together to find agreement on how to resolve the issue through better mutual understanding, and possibly a different pattern of behaviour in the future.

If the situation does not lend itself to direct resolution or if direct resolution is unsuccessful, an individual may choose to submit the matter to a University complaint-resolution process. In all cases, the complaint-resolution process begins with a formal, written complaint (refer to Section 9).

## 9. COMPLAINT PROCESS

### 9.1 FILING A COMPLAINT

The complaint-resolution process begins with the submission of a formal, written complaint to the Student Life Office (Wallace McCain Student Centre, 62 York Street, Sackville, NB E4L 1E2, [studentlife@mta.ca](mailto:studentlife@mta.ca)). Any member of the University community (a Complainant) may file a complaint under this Code, alleging a breach of community standards by a student. An online complaint form can be found on the [Student Code of Conduct page](#) on the Mount Allison website. A paper version of the same form is available from the Student Life Office.

- a) The complaint must be in writing with the Complainant's name and contact information; a residence incident report or a security report may constitute a complaint. Anonymous complaints will not be taken forward.
- b) The complaint must be filed with the Student Life Office within thirty (30) calendar days of the alleged violation of the Code unless the Director of Student Life & International Services, upon first addressing the complaint, considers it reasonable to extend that time limit. Reasons for extending the time limit may include, but are not limited to, pending criminal proceedings, fear of/intimidation by the respondent(s), or an absence from campus by the complainant, etc.
- c) If it is determined by the Director of Student Life & International Services that the complaint falls within the jurisdiction of the Code, the Director of Student Life & International Services will notify the parties accordingly (see Section 9.2).

- d) If the complaint does not fall within the jurisdiction of this Code, the complaint will be dismissed and the Complainant will be informed.

## 9.2 RESPONDING TO A COMPLAINT

The following is a general description of the notification and response process that is followed when a complaint or Incident Report is received and approved for resolution under this Code. For more detail about the steps taken during the Informal Resolution Process, the Direct Decision Process, or the University Judicial Process, refer to the corresponding sections within this Code.

- a) Upon receipt of the complaint, the Director of Student Life & International Services will contact the Complainant by Mount Allison email to 1) confirm that the complaint has been received, and 2) schedule a meeting to review the complaint. During the meeting, the Director will provide the Complainant with more information on the complaint-resolution processes under this Code and identify sources of on-campus support for the Complainant.
- b) Normally, the Director of Student Life & International Services will respond to complaints within five (5) business days.
- c) During the first meeting with the Complainant (normally within 5 business days of the Director responding to the complaint), the Director will discuss with the Complainant which resolution process (i.e. Informal vs. Formal) to follow.
  - i. For complaints that lend themselves to **Informal Resolution**, refer to Section 10 for next steps.
  - ii. For complaints that lend themselves to **Formal Resolution**, refer to (d) – below – for next steps.
- d) After meeting with the Complainant, the Director will notify the Respondent of the complaint and next-steps in the process. These include: 1) scheduling a meeting to review the details of the complaint, 2) directing the Respondent to the relevant sections of the Code of Conduct, and 3) identifying sources of on-campus support for the Respondent.
  - i. For cases involving personal safety, only the first name of the harmed party and Complainant may be provided to the Respondent.
- e) Normally, the Director of Student Life & International Services will notify the Respondent of the complaint within five (5) business days of meeting with the Complainant.
  - i. Notification of the complaint will be sent to the Respondent by Mount Allison email and campus mail.
  - ii. If the Respondent does not engage in the process, the process may continue without the Respondent's participation.

- f) Normally, the Respondent has up to five (5) business days to 1) meet with the Director of Student Life & International Services to review the details of the complaint and 2) submit a formal response to the complaint. The response should be submitted in writing to the Director of Student Life & International Services.
  - i. In the case of a student-on-student complaint, if the Respondent believes the Complainant to likewise be in violation of the Student Code of Conduct, the Respondent should detail the nature of the violation(s) in the response. The Respondent's complaint will be considered only if submitted as part of the Respondent's response. No complaints against the Complainant by the Respondent will be received or considered after the Respondent's original response is submitted.
  
- g) The Complainant will be given an opportunity to review the Respondent's response (normally within 5 business days of the Respondent submitting a written statement). The Complainant may then provide a further response (normally within 5 business days) to be shared with the Respondent. Both responses may contain witness statements, if applicable.
  
- h) Under normal circumstances, the entire complaint resolution process is expected to be completed within 60 calendar days of when it began. Some exceptions may apply (see i. below).
  
- i) It may be necessary to adjust timelines if/when:
  - i. Additional time is needed to gather more details about the complaint (which may include meeting with witnesses);
  - ii. Classes are not in session;
  - iii. The University is closed or scheduled to be closed;
  - iv. The Complainant requests to temporarily defer the complaint;
  - v. The University elects to defer the complaint because of outside legal action.
  
- j) During any meetings relating to the processes outlined in Sections 10 and 11, the Complainant and Respondent may be accompanied by an Advisor of their choosing. While an Advisor may speak during the process, the Complainant and Respondent are still expected to speak on their own behalf. The Complainant or Respondent must provide the Director of Student Life & International Services with at least 24 hours' notice if an Advisor will be present and, if so, the name of the Advisor. This information will be shared with all relevant parties participating in the process.
  
- k) All participants are expected to maintain confidentiality outside the meeting(s).
  
- l) In the event of an identified conflict of interest with the Director of Student Life, the matter will be referred to the Vice-President, International & Student Affairs, to determine an appropriate course of action.

## 10. INFORMAL RESOLUTION OF COMPLAINTS

The Informal Resolution process provides the Complainant(s) and Respondent(s) with the option of seeking a facilitated or educative outcome to the complaint. It is not meant to be a punitive process. The goal of the Informal Resolution process is to arrive at a common understanding of the harm done and a mutually-agreeable outcome that is designed to repair/redress the harm. Any breakdown of the Informal Resolution process or any violation of agreed-upon terms will result in the matter being referred to the University Judicial Panel.

### A. OVERVIEW

- 1) The Complainant may request an Informal Resolution process or the Director may suggest it, but ultimately the Complainant and the Respondent must both mutually agree to it. Where there is disagreement, or in cases when the Respondent does not respond, the matter will proceed to either Direct Decision or University Judicial.
- 2) Normally, the Director of Student Life & International Services will facilitate the Informal Resolution process. At the discretion of the Director or at the request of both parties involved, another University staff member – or members – may be called upon to facilitate. In the event the Director is not the facilitator, every effort will be made to find a facilitator – or facilitators – who is/are mutually-agreeable to both parties.
- 3) At any point in this process, either the Complainant or the Respondent may choose to withdraw their participation from the Informal Resolution process. In such instances, the matter will normally be referred to the University Judicial Panel for resolution.
- 4) At any point in the process, the Complainant and Respondent may elect to be accompanied by a support person. While a support person may speak during the process, the Complainant and Respondent are still expected to speak on their own behalf. The Complainant or Respondent must provide the Director – or facilitator(s) – with the name of the support person at least 24 hours prior to any scheduled meeting.
- 5) The Informal Resolution process is confidential and personal information and admissions shared within the process may not be used by either party against the other in an adjudicative process unless otherwise stipulated. If the parties arrive at a mutually agreeable resolution, then the resolution/agreement may be shared with the appropriate third parties or decision-makers, but the content of the process remains confidential.
- 6) The facilitator will work with the parties, separately or together, to achieve a commonly-agreed upon outcome. The facilitator may suggest solutions but will not act as a decision-maker.
- 7) Any outcome will be determined jointly and entered into voluntarily by the parties;
- 8) Where a resolution is not reached, the case will normally proceed to the University Judicial Panel. Also, where a resolution has been reached but the resulting agreement is

not complied with, the matter will be referred to the University Judicial Panel for resolution. At the discretion of the Director of Student Life & International Services, interim measures may be imposed.

## **B. PROCESS**

- 1) At the outset of the process, the Director will notify the Respondent of the complaint and the Complainant's desire to resolve the matter informally. The Director will invite the Respondent to meet in person to discuss the nature of the complaint and the details of the Informal Resolution process.
  - a) If the Respondent agrees to participate in the Informal Resolution process, refer to (2) below.
  - b) If the Respondent does not agree to participate in the Informal Resolution process, the matter will be referred to the University Judicial Panel for resolution.
- 2) Next, the Director – or appointed facilitator(s) – will take time to meet with the Complainant(s), the Respondent(s), and any relevant witness(es). The process allows for multiple meetings (if necessary) providing the meetings remain constructive and are working towards the achievement of a positive outcome. The purpose of the meetings is 1) to better understand the nature and impact of the harm, 2) to make the Respondent(s) aware of the harm impacted the Complainant(s), and 3) to assess the potential for arriving at a mutually-agreeable outcome that suitably addresses the harm.
- 3) Following the initial set of meetings with the Complainant(s) and the Respondent(s), the Director – or appointed facilitator(s) – will present to the Complainant(s) a number of possible courses of action with respect to next steps. These may include any of the following:
  - a) Interim measures designed to acknowledge the impact of the harm(s) and prevent reoccurrence;
  - b) A proposal from the Respondent(s) that includes goals and a timeline for tasks that they would like to undertake to:
    - i. Prevent reoccurrence, and
    - ii. Repair the harm caused by the precipitating incident(s).
  - c) A conciliatory meeting in which the Complainant(s)/Respondent(s) involved do not meet face to face, but information is shared back and forth by the facilitator(s).
  - d) A mediation with everyone present in which a facilitator (usually the Director of Student Life & International Services) encourages an exploration of the behaviour, its root cause(s), the effect on others, and possible remedies.
  - e) Agreed-upon administrative recommendations designed to remedy the harm that may have been caused.
- 4) Each component of the Informal Resolution process must be agreed upon by all parties. This includes:

- a) Developing and agreeing to a set of expectations that ensure everyone has a fair opportunity to participate and is respected in the process;
  - b) Working together to define the topics that will be discussed, and possibly some topics that are too sensitive to explore;
  - c) Deciding on how the process will unfold, including steps, who to involve, when and where it will take place, and appropriate forms of communication;
  - d) Agreeing to outcomes that satisfy those who have been impacted.
- 5) The process will take the form of one or more discussions with those who are directly involved.
- a) All participants are expected to approach the process with an open mind, a willingness to listen, and a genuine desire to better understand what has happened.
  - b) The conversations will be constructive in nature. That is, they will seek to bring about new insight into what happened, what it meant to those who were involved, and what should happen next.
  - c) It is understood that this may be emotional for the parties involved. It is expected, therefore, that:
    - i. Each participant will engage in a thoughtful and reflective manner,
    - ii. All parties will make an effort to de-escalate tensions,
    - iii. Individuals who take emotional risks will be treated with respect,
    - iv. If blame enters into the discussion, it will be focused on the situation and not on perceived individual shortcomings.
- 6) The process can be extended beyond sixty (60) days should it be agreeable to all parties.
- 7) The matter will be deemed to be resolved when the process comes to a natural conclusion, the outcomes have been adequately fulfilled, and all parties agree that it may be put to rest.
- 8) A brief written summary will be provided by the facilitator to all parties who participated in the process and kept as a record. This will include:
- a) An overview of the timeline from the precipitating incident to the conclusion of the process,
  - b) A description of any outcomes,
  - c) An explanation of how confidentiality may apply in this circumstance.

## 11. FORMAL RESOLUTION OF COMPLAINTS

Complaints that do not lend themselves to the Informal Resolution process (refer to Section 10) or that cannot be resolved by Informal Resolution will be subject to formal resolution by Direct Decision or University Judicial Panel.

## 11.1 DIRECT DECISION

Complaints that are normally subject to a Direct Decision process are those that may require an expanded investigation, sensitivity around confidentiality, or more immediate action because of concern to individual or community safety. The Direct Decision process may also be used when the University is the Complainant or when a complaint/incident report is received during periods when the University Judicial Panel does not or is unable to meet (refer to Section 13).

### A. DETERMINATION OF PROCESS

- 1) Upon consideration of the factors listed in Section 11.1, the Director of Student Life & International Services will determine whether the complaint/incident report will be resolved by Direct Decision (11.1) or University Judicial Panel (11.2).

### B. PROCESS

When the Direct Decision process is undertaken, the Director of Student Life & International Services (or designate) will notify all involved parties as outlined in Section 9.2. For cases involving allegations of danger to personal or community safety, the Director (or designate) may order interim sanctions or restrictions.

- 1) The Director (or designate) will take the appropriate steps to ascertain the facts of the matter by meeting separately with the parties, and if necessary, with any relevant witnesses that have been identified.
- 2) The Director may call upon other witnesses based on information gathered over the course of the investigation. In some cases, it may be necessary for the Director to interview witnesses more than once.
- 3) If new information comes to light as a result of the information provided by the Respondent or the Respondent's witnesses, the Director may deem it necessary to meet again with the Complainant and/or any previously interviewed witnesses for the purpose of clarifying their original statements.
- 4) In the case of a student-on-student complaint when the Respondent submits a complaint against the Complainant, the Director (or designate) will make a decision on both complaints at the same time.
- 5) Where a meeting has been scheduled between the Respondent and Director, but the Respondent does not attend despite having been informed of the meeting in writing, the Director may proceed without scheduling another such meeting and may reach a decision on responsibility based on the information and documentation the Director has received and reviewed.
- 6) The Director reserves the right to call upon additional University staff members, as necessary, to assist with or lead the investigative process. The Director will review other relevant policies and invoke other relevant processes that may apply under the circumstances. In matters involving criminal activity, the Director reserves the right to

notify the appropriate legal authorities.

- 7) Under normal circumstances, each progressive step in this process will take five (5) business days, with the exception of a final decision by the Director which may take up to ten (10) business days.
- 8) If, at any time, the Director (or designate) determines that the complaint no longer warrants or cannot be dealt with effectively via Direct Decision, the Director (or designate) may refer the complaint to the University Judicial Panel.

### **C. THE DECISION**

- 1) Normally, the investigative process will conclude and a decision rendered by the Director of Student Life & International Services (or designate) within fifteen (15) business days of sharing the Respondent's statement with the Complainant.
- 2) If the Respondent is found to be Not Responsible, the case will be closed. If the Respondent is found to be Responsible, then sanctions may be imposed.
- 3) The Director's decision will be communicated in writing to both the Respondent and the Complainant. This will include:
  - a) A summary of the incident(s) in question and a finding with regards to responsibility;
  - b) A description of outcomes/sanctions (if any) that are to be imposed (refer to Section 7);
  - c) A time-frame and process for any applicable follow-up;
  - d) An explanation of the appeals process;
  - e) An affirmation of how confidentiality may apply to the case.

### **D. STANDARD OF PROOF**

The standard of proof required to determine that there has been a breach of the Code will be "on a balance of probabilities," meaning that the Director (or designate) must determine whether the evidence shows that it is more likely than not that the alleged events and/or Code breach(es) occurred.

### **E. SANCTIONS**

Sanctions that may be considered are outlined in Section 7. The Director has full authority to issue all sanctions in Section 7 with the exception of University Expulsion. In the event the Director recommends University expulsion, the case will be forwarded to the Vice-President, International & Student Affairs, for a final decision.

## 11.2 UNIVERSITY JUDICIAL PROCESS

The University Judicial process provides a closed forum for the Complainant and Respondent to present their arguments before an adjudicating body made up of University representatives. The adjudicating body (i.e. University Judicial Panel) will consider the arguments and then make a determination of responsibility which may include the issuing of sanctions (refer to Section 7).

### A. DETERMINATION OF PROCESS

- 1) Complaints that do not meet the criteria for the Direct Decision process will normally be referred to the University Judicial Panel. Any decision to proceed with the University Judicial process will be made by the Director of Student Life & International Services.

### B. NOTIFICATION OF UNIVERSITY JUDICIAL HEARING

The University Judicial Panel will normally hear the case within twenty (20) business days from the day the Director of Student Life & International Services notifies the Respondent of the complaint (refer to Section 9.2). The Director (or designate) will be responsible for notifying the parties of the date, time, and place of the hearing.

### C. PROCESS

- 1) The purpose of the University Judicial Panel Hearing is to provide a fair evaluation of the case and determine whether or not the Respondent is responsible for violating University regulations and to assign appropriate sanctions in the case where a student is found responsible. University Judicial Panel members will ask questions not only to determine whether or not there has been a breach, but also to determine the impact of the behaviour, the level of harm that has occurred, and how that harm can be addressed. If a student is found responsible, then the University Judicial Panel will consider how the harm should be addressed and identify the appropriate sanctions.
- 2) The hearings are held in private (i.e. restricted to persons who have a direct role or interest in the hearing, or persons who are acting as Witnesses). At the discretion of the Judicial Panel, other persons may be admitted to the hearing for training purposes or other reasonable considerations.
- 3) After the Complainant and Respondent have each had an opportunity to view the other's statements or responses (refer to Section 9.2), the Director will submit all documentation and supporting evidence to the University Judicial Panel. The University Judicial Panel will have five (5) business days to review the information before scheduling a hearing.
- 4) Normally, the Complainant(s) and Respondent(s) will receive at least three (3) business days' notice of the date, time, and location of the Judicial Panel hearing. Where there are circumstances that warrant more urgent handling, the notice period may be

shortened at the discretion of the Director of Student Life in consultation with the University Judicial Panel. The Director of Student Life will send the hearing notice to the Complainant(s) and Respondent(s) by Mount Allison e-mail, campus mail or Express Post. The Complainant and Respondent will be responsible for notifying their witnesses, if applicable.

- 5) In order to ensure that its procedures are as fair as possible in the context of University circumstances and traditions, the University Judicial Panel shall comply with the following procedural guidelines:
  - a) The hearing will proceed in stages. The Complainant and the Complainant's witnesses will present themselves before the Judicial Panel first. The Respondent and the Respondent's witnesses will present themselves before the Judicial Panel second. The two parties will be kept separate throughout the hearing.
    - i. At the University Judicial Panel's discretion, the Complainant and/or the Complainant's witnesses may be asked to present themselves before the Judicial Panel for a second time. Similarly, the Judicial Panel may ask the Respondent and/or the Respondent's witnesses to present themselves before the Judicial Panel for a second time.
  - b) In the case of a student-on-student complaint where the Complainant and the Respondent have both registered complaints against the other, the Judicial Panel will consider both complaints simultaneously over the course of the hearing.
  - c) The Respondent(s) will be given an opportunity to admit or deny responsibility in whole or in part.
  - d) Both the Complainant and the Respondent will have the opportunity to suggest what remedies and sanctions, if any, they believe are appropriate to the matter before the University Judicial Panel.
  - e) If new evidence is presented at the hearing, the Judicial Panel may choose to postpone proceedings to allow further time for all parties to consider it.

#### **D. PROCEDURAL MATTERS**

- 1) The Judicial Panel members will appoint a Session Chair for the proceedings. The Session Chair will be responsible for moderating the hearing process.
- 2) The Judicial Panel members will select one member to serve as the Recording Secretary for the proceedings.
- 3) In rare circumstances when a Judicial Panel matter continues over a period of time and one Judicial Panel member becomes unavailable for unavoidable reasons such as a

medical emergency, the remaining Judicial Panel members may complete the proceeding. If the Judicial Panel member who is unavailable was the Session Chair, one of the remaining members will become the Session Chair.

## **E. THE DECISION**

- 1) In arriving at a decision, the University Judicial Panel will operate on the basis of consensus. In the event the University Judicial Panel is unable to reach a decision by consensus a vote will be taken. If the Judicial Panel consists of four members, the Recording Secretary will not vote. If the Judicial Panel consists of three members (refer to Section D.3 and I.), all three members will vote.
- 2) The decision of the University Judicial Panel will be put in writing no more than five (5) business days from the end date of the hearing and will be sent to the Respondent(s) and the Complainant(s) by Mount Allison email and campus/regular mail. A copy of the decision will also be filed with the Student Life Office. Whenever possible, decisions of the University Judicial Panel will also be made orally immediately following the hearing. The decision will include:
  - a) A summary of the incident(s) in question and a finding with regards to responsibility;
  - b) A description of outcomes/sanctions (if any) that are to be imposed (refer to Section 7);
  - c) A time-frame and process for any applicable follow-up;
  - d) An explanation of the appeals process;
  - e) An affirmation of how confidentiality may apply to the case.
- 3) Variations from procedural guidelines within this Section shall not necessarily invalidate a decision, unless significant prejudice to a student or the University may result.

## **F. STANDARD OF PROOF**

The standard of proof required to determine that there has been a breach of the Code will be "on a balance of probabilities," meaning that the University Judicial Panel must determine whether the evidence shows that it is more likely than not that the alleged events and/or Code breach(es) occurred.

## **G. SANCTIONS**

- 1) Where the University Judicial Panel finds that a breach of the Code has occurred, it has the authority to impose any of the sanctions outlined in Section 7 with the exception of University Expulsion.
- 2) Where a University Judicial Panel is persuaded, by the information it has heard and reviewed, that there is a risk that the Respondent will engage in future behaviour that is likely to cause harm to others in the University community, the University Judicial Panel may recommend to the Vice-President International & Student Affairs expulsion from

the University.

## **H. STUDENT RESPONSIBILITIES AT A HEARING**

It is a student's responsibility to:

- 1) Notify witnesses of the date, time, and location of the hearing. Only witnesses whose names and/or statements were included in the original submission of documentation and evidence to the University Judicial Panel may participate in the hearing.
- 2) Advise the University Judicial Panel c/o the Director of Student Life & International Services whether or not they will be bringing a support person/Advisor to the hearing. The name, title, and contact details of the Advisor or Support Person should be provided to the Director of Student Life & International Services at least 24 hours in advance of any meeting or proceeding. This information will be shared with all relevant parties participating in the process.
  - a) Respondents are expected to attend hearings in person even if they have an Advisor. Failure to attend a hearing may result in the case being heard and determinations made in the absence of the Respondent's own evidence being considered.
  - b) A student is responsible for selecting as his or her Advisor a person whose schedule allows attendance at or near the scheduled date and time for the hearing so that the hearing is timely for both parties.
- 3) Provide the University with their current and actively used contact information. If a student fails to receive any notice under this Code by reason of the student's own failure to meet this requirement, such notice will still be treated as valid and effective.

## **I. REASONABLE APPREHENSION OF BIAS/CONFLICT OF INTEREST**

Students have the right, before the merits of the case are heard, to challenge the suitability of any decision-maker hearing the case if there is a reasonable apprehension of bias against the Respondent's case. If such a challenge is made, the whole panel will determine if a reasonable apprehension of bias is warranted. Its decision will be final. If it does find a reasonable apprehension of bias against the Complainant's or Respondent's case, the hearing will be re-scheduled and a new panel member appointed. Or, if all parties are in agreement, the hearing will proceed as planned minus the participation of the panel member who was recused.

## **J. ACCOMMODATION**

Under the provisions of the New Brunswick Human Rights Act, students with disabilities may require reasonable accommodation in relation to a Code proceeding. In such cases, the student is required to provide medical or psychological documentation to the Meighen Centre. With student consent, the Meighen Centre will confirm and specify the functional impairment and, where applicable, will specify the accommodation that is required.

## **K. POSTPONEMENT**

- 1) A hearing may be postponed at the discretion of the University Judicial Panel if it has independent reasons to do so or upon the request of a party where the party satisfies the University Judicial Panel that the postponement is necessary for a fair hearing to be held. When deciding whether or not to grant a postponement, the University Judicial Panel may consider one or more of the following factors:
  - a) the timeliness of the request;
  - b) the adverse impact, if any, of postponement on the parties;
  - c) whether postponements have been previously granted in the case;
  - d) the consent of the parties; or
  - e) any other relevant factor(s).
- 2) The party seeking the postponement must submit their request in writing to the University Judicial Panel via the Director of Student Life & International Services. The request must include the reason(s) for the request and any additional information that may help the University Judicial Panel in its decision. The Director of Student Life & International Services will forward the request to the University Judicial Panel. The Director will likewise notify the other party of the request. The other party will have equal opportunity to register their support for or opposition to the postponement request. Such a response must be submitted in writing to the Director of Student Life & International Services. The University Judicial Panel will communicate its decision through the Director.
- 3) Where possible, the University Judicial Panel will consider the request in advance of the original hearing date. Where this is impractical or impossible, the University Judicial Panel may consider the request as a preliminary matter on the hearing date. Either way, the University Judicial Panel will decide whether or not to grant the postponement request as it deems appropriate and fair.
- 4) If the request is denied, the hearing will proceed on the originally scheduled date. The University Judicial Panel may, in its discretion, deny a postponement even though the parties consent.

## **L. UNIVERSITY JUDICIAL PANEL COMPOSITION**

- 1) The full membership of the University Judicial & Appeal Panels consists of at least four (4) students, two (2) faculty members, and two (2) staff members appointed by the Vice-President International & Student Affairs upon recommendation by a selection committee comprising the Director of Student Life, the Student Union President (or designate), and a faculty representative.
- 2) A University Judicial Panel that is in session will normally consist of four members, with at least two members being students. This forms the basis of quorum.
- 3) For any University Judicial Panel in session, the remaining four Panel members will be

held in reserve in the event they are called upon to form an Appeal Panel (refer to Section 12).

- 4) Student members of the University Judicial Panel will serve a one one-year term (September – April), renewable annually up to a maximum of three years. Requests for renewal must be submitted in writing to the aforementioned selection committee for review and decision by January 31 of each year. Students interested in serving on the University Judicial Panel must submit an application of the Student Life Office by the posted deadline. The selection committee will review the applications and submit all recommendations for appointment to the Vice-President International & Student Affairs.
- 5) Faculty members of the University Judicial Panel will serve one two-year term (September – April), whereupon they are eligible for renewal in one-year increments up to a maximum service period of five (5) consecutive years. Faculty members who wish to extend beyond their normal period of active service must wait one year to restore their eligibility or seek special permission from the aforementioned selection committee.
- 6) Staff members of the University Judicial Panel will serve one three-year term (September – April), whereupon they are eligible for renewal in one-year increments up to a maximum service period of six (6) consecutive years. Staff members who wish to extend beyond their normal period of active service must wait one year to restore their eligibility or seek special permission from the aforementioned selection committee.
- 7) The University Judicial Panel membership will select one member to serve as University Judicial Chair. The University Judicial Chair will serve as a liaison between the University Judicial Committee and the Student Life Office.
- 8) In rare circumstances when a Judicial Panel matter continues over a period of time and one Judicial Panel member becomes unavailable for unavoidable reasons such as a medical emergency, the remaining Judicial Panel members may complete the proceeding. If the Judicial Panel member who is unavailable was the Session Chair, one of the remaining members will become the Session Chair.
- 9) Unless otherwise stipulated, the University Judicial Panel will meet at the call of the Director of Student Life & International Services in consultation with the University Judicial Chair.

## 12. APPEALS

### A. GROUNDS FOR APPEAL

- 1) The Complainant or the Respondent may only appeal the outcome of a Direct Decision process or University Judicial Process on one or more of the following grounds:
  - a) a significant error occurred where the procedures outlined in this Code were not followed correctly;
  - b) there is clear evidence of a significant conflict of interest on the part of a decision-maker;
  - c) the outcome is disproportionate with the precipitating incident(s);
  - d) there is significant new evidence that was not available at the time of the decision, which has the potential to change the outcome of the case.
- 2) Disagreement with a decision does not constitute a basis for appeal.
- 3) The grounds for appeal, including all supporting information, must be described and delivered in writing to the Student Life Office within five (5) business days following the date the Direct Decision or the University Judicial Panel decision was issued.
- 4) All appeals of Direct Decision cases and University Judicial Panel cases will be directed to the University Appeal Panel for review.
- 5) Students may appeal a decision only once.

### B. PRELIMINARY ASSESSMENT OF THE MATERIALS

- 1) The Appeal Panel will do a preliminary assessment of the written material before making a decision whether to hold a subsequent hearing.
- 2) If it is determined that the appeal cannot succeed on any of the grounds listed in Section A (“Grounds for Appeal”), the appeal may be dismissed. In such an instance, the Appeal Panel’s decision to dismiss the appeal is final and may not be appealed.
- 3) If the appeal relies on grounds (a), (b), or (c) above and no other grounds, the Appeal Panel may move to conduct a Written Hearing (refer to Section C).
- 4) If the appeal relies on grounds (d), the Appeal Panel may move to conduct an Oral Hearing (refer to Section D).

### C. WRITTEN HEARING

The written hearing will be conducted within ten (10) business days of the appeal’s submission date. The Appeal Panel will review the materials in a closed session and then make a decision.

#### **D. ORAL HEARING**

- 1) Except in exceptional circumstances, the Appeal Panel will hear the appeal within ten (10) business days of the appeal's submission date. The Appeal Panel will give the Appellant at least three (3) days' notice of the date, time, and place of the appeal hearing.
- 2) The oral hearing will follow the same general procedural guidelines as outlined in Section 11.2 (B). It is not the purpose of the Appeal Hearing to re-hear the case, rather the scope of the hearing will be limited to the Appellant making a case that their grounds for Appeal have been met.

#### **E. THE DECISION**

The Appeal Panel will render a written decision no more than five (5) business days from the end of the Appeal Panel hearing. The Appeal Panel has the authority to do the following:

1. Affirm or modify the University Judicial Panel decision;
2. Affirm, reduce or increase the sanctions appealed against; or
3. Require that the original University Judicial Panel conduct a new hearing or reconsider some aspect of its decision.

The decision of the Appeal Panel will be delivered to the Appellant, the Respondent on Appeal, and the Student Life Office by Mount Allison e-mail, campus/regular mail, or Express Post. The decision will be filed with the Student Life Office. The Appeal Panel decision is final and binding and may not be appealed by either party.

If a new hearing is granted, then the subsequent decision is final and binding and also may not be appealed.

#### **F. SUSPENSION OF SANCTIONS**

- 1) Only monetary sanctions are automatically suspended pending the outcome of the appeal. Non-monetary sanctions remain in force pending the outcome of the appeal.
- 2) In University Judicial Panel decisions, the Appellant may submit a written request to the Director of Student Life & International Services to stay the enforcement of the sanctions pending the outcome of the appeal.
- 3) For Direct Decision cases, the Appellant may submit a written request to the Vice-President, International & Student Affairs to stay the enforcement of the sanctions pending the outcome of the appeal.

#### **G. COMPOSITION OF THE APPEAL PANEL**

- 1) The full membership of the University Judicial & Appeal Panels consists at least of four (4) students, two (2) faculty members, and two (2) staff members appointed by the Vice-President International & Student Affairs upon recommendation by a selection committee comprising the Director of Student Life, the Student Union President (or designate), and a faculty representative.
- 2) A University Appeal Panel that is in session will normally consist of four members, with at least two members being students. This forms the basis of quorum.
- 3) No members of the Appeal Panel will have served on the University Judicial Panel that heard the original case.

### 13. PERIOD OUTSIDE THE ACADEMIC YEAR

For incidents that occur after the end of classes, between terms, outside the regular academic year, or at a time when the University Judicial Panel is unable to meet, the Director of Student Life & International Services will, when appropriate, endeavour to resolve the matter according to the Direct Decision Process. In such cases, the usual timelines for response and resolution may require adjustment on account of student and staff absences, holidays, etc. In some cases, the Director may refer the incident to the University Judicial Panel for resolution upon the commencement of a new term or academic year.

An individual, who is on campus during one of the periods listed above, and who, during that period, commits an offence under this Code, and who subsequently registers as a Mount Allison student in September of that year, will be deemed to fall under the jurisdiction of the Student Code of Conduct. Such an individual will be subject to disciplinary review as soon as possible after the first day of classes.

### 14. EMERGENCY MEASURES

1. Mount Allison reserves the right to intervene in situations where a student's behaviour affects others' use and enjoyment of University privileges and facilities. These circumstances include those where there are reasonable grounds to believe that the safety of other people is endangered, that there is a high potential of physical danger posed by the student's continued presence, that damage to University property is likely, or that the continued presence of the student would be disruptive.
2. In such instances, the Vice-President International & Student Affairs (or designate) may invoke emergency measures by immediately imposing a range of restrictions, up to and including suspension for up to fourteen (14) calendar days.
3. Normally, a formal hearing before the University Judicial Panel will be held within ten (10) business days of notice to the student of this decision, during which time the student may only enter the residence and/or campus under escort where he or she has received appropriate permission(s). Other interim conditions may include: restrictions on a student's movement on campus, non-association/no contact directives, and

suspension of student privileges.

4. The Vice-President International & Student Affairs (or Designate) may extend restrictions for an additional five (5) business days or until the University Judicial Panel can convene, whichever occurs first. A University Judicial Panel hearing must be commenced as soon as possible, but within twenty-one (21) calendar days from the first imposition of emergency measures (notwithstanding scheduled University closures).
5. The interim conditions are in no way to be construed as indicative of guilt, and shall remain in place until the matter is formally disposed of by the University Judicial Panel as per the process and procedures of this Code.
6. The University Judicial Panel may limit a student's access to the University until a comprehensive threat assessment has been conducted. Notwithstanding the results of that assessment by qualified professionals, the student may still be held accountable for the past behaviour that either led to the emergency measures or had a negative impact on the University or its members.
7. When Mount Allison is made aware that criminal proceedings have been initiated against a student, and the student's activity impacts or may impact campus safety or vital University interests, the Vice-President International & Student Affairs in consultation with Provost & Vice-President Academic (or designate) will determine how to proceed under the Code of Student Conduct, which could include temporary suspension or expulsion of the student.

## 15. RECORDS

Records of charges and sanctions, other than suspension or expulsion, will not be placed in student academic records. Records of Informal Resolutions will be kept as part of a student's file until the time of their graduation. Records of all Formal Resolutions, including charges and sanctions, will be maintained as part of the confidential records in the Student Life Office for a period of up to five (5) years after the student graduates. In cases when a student ceases to be a student, all records of Informal Resolution, Formal Resolution, and University Judicial Panel decisions will be maintained for a period of five (5) years.

## 16. REVIEW OF THIS CODE

This Code will be reviewed after one year and thereafter every two years.

## APPENDIX A – GUIDELINES FOR NATURAL JUSTICE

1. The burden of proof is preponderance of evidence or balance of probabilities rather than “beyond a reasonable doubt”. The burden of proof will be established by an analysis of “what is most likely to have happened.”
2. The process should ensure as speedy a resolution of cases as is consistent with due process.
3. Each party must be given sufficient notice of an investigative process or appeals hearing, in writing, to allow for preparation of the case.
4. The student must be informed of the allegations forming the basis of the report of misconduct against them.
5. The student has the right to hear and to respond to evidence presented against them.
6. Each party may have an advisor who shall be a member of the University community (i.e. students or current employees of the University).
7. Accused students and persons initiating a complaint may call witnesses at the initial investigative meeting. Witnesses must appear. It is the responsibility of both parties to notify their own willing witnesses of the time and place of the meeting. The relevant authority may compel witnesses to attend.
8. Students may be accompanied by an advisor during the informal and formal resolution processes (as appropriate). Students must inform the relevant authority, in writing and according to the timelines set out in this Code, if they plan to bring witnesses or an advisor.
9. Both sides of the case have the right to be heard.
10. Accused students who request access to the case against them and to the names of witnesses are entitled to such access provided that a request is made in a reasonable amount of time in advance.
11. Hearsay evidence may be presented at the discretion of the relevant authority.
12. Evidence in support of the Complainant and Respondent is to be heard, and the decision made, without reference to previous record, except where appropriate and relevant to the case at hand. If responsibility is determined, the previous record may be considered in determining the sanction.
13. Any record of the process will not be maintained in the student’s academic or personal files if no charges are laid, although the relevant authority shall maintain official records for University purposes.
14. At all levels of the process, decisions must be given promptly in writing. Reasons for the decisions must be provided.

15. No one should hear a case if they are biased towards the participant(s) in any way.

## APPENDIX B – COVID-19 MEASURES

The Government of New Brunswick has implemented a number of measures in response to the coronavirus pandemic. These include the declaration of a State of Emergency.

The State of Emergency is managed by the Government of New Brunswick through the use of a [Mandatory Order](#) that outlines rules and conditions aimed at reducing the spread of the COVID-19 virus. Individuals and organizations in New Brunswick, including Mount Allison, are legally required to comply with the terms of the Mandatory Order.

Mount Allison has taken action to mitigate the impact of COVID-19 and comply with the Mandatory Order and all related legislation. This includes the University's Operational Plan, other plans, and changes to University procedures and processes.

Students are expected to comply with the University and government policies, plans and directives related to COVID-19. Failure to do so can lead to action under this Code.

University plans can be found [here](#). Government of New Brunswick resources can be found [here](#). Basic expectations of students include, but are not limited to:

- Monitoring and adhering to travel restrictions and self-isolation requirements as issued by the Province of New Brunswick;
- Maintaining physical distancing requirements (2m);
- Wearing non-medical face masks, as expected, directed, or required;
- Limiting the size of indoor and outdoor gatherings;
- Cooperating with University staff and Public Health officials as part of any personalized or University COVID-19 response plan.

Student compliance with the University's COVID-19 measures will be administered through the [Student Code of Conduct](#) and the [Residence Life Code of Conduct](#). Student compliance with the Province's Mandatory Order in off-campus settings will be enforced by local bylaws, as well as provincial and federal law as applicable.

In that regard, the following policy will remain in effect until formally rescinded by the University:

Whereas Mount Allison and residents of New Brunswick, including students, are legally required to comply with the Province of New Brunswick's Mandatory Order, and whereas students are required to comply with any and all University policies, procedures, and directives related to COVID-19, the following clause herein goes into effect and will remain in effect until formally rescinded by the University:

***Failure to Comply with Stated Health & Safety Measures***

*Any action or inaction by a student or students that undermines or violates the health and safety measures put in place by Mount Allison in relation to COVID-19 and New Brunswick's Mandatory Order will be deemed an offence under the Code of Conduct.*

The University does not seek to be deliberately punitive in enforcing this “Failure to Comply” clause. It is our hope that both education and common sense are sufficient — that students will understand, respect, and comply with the measures that have been put in place to mitigate the risk of a COVID-19 outbreak at Mount Allison.

These are exceptional times. The measures put in place are context-specific and will remain in effect only as long as necessary. In the meantime, we must do what’s necessary to protect the health and safety of the campus community. If students are unwilling to comply and, in so doing, endanger their health and the health of those around them, action will be taken under the Code.

### **SCOPE**

The administration of this clause will be limited to students’ on-campus conduct. In certain, exceptional cases, if a student’s off-campus conduct adversely affects the health and safety of Mount Allison’s on-campus community, action is permitted under the Code of Conduct.

### **STAGES OF ACTION**

With education as the principal and preferred tool for compliance, **reminders** will generally serve as the first form of action when enforcing the University’s health and safety measures. If reminders do not bring about compliance, **incident reports** will be written and submitted to the COVID-19 Conduct Panel for formal adjudication.

NOTE: reminders may not be issued in all situations. Any behaviour that is in violation of University health and safety directives and/or New Brunswick Public Health regulations may be documented in the form of an incident report and submitted to the COVID-19 Conduct Panel independent of any reminder.

Failure by the University to bring to the attention of a student a violation of a COVID-19 related policy, plan, or directive does not absolve the student from sanctions or mean the University condones or authorizes such activity.

Students have an obligation to exercise personal responsibility with respect to their conduct (e.g. physical distancing, hand washing, mask wearing, etc.) that is medically-confirmed to help mitigate the risk of COVID-19 transmission. Ultimately, it is an individual’s responsibility to ensure their own safety relative to COVID-19, as well as to proactively take the precautions necessary to ensure the safety of others.

### **ADJUDICATION**

The University will form a special COVID-19 Conduct Panel to review and adjudicate COVID-19-related incident reports and complaints. The Conduct Panel will meet as required to review all incident reports from the preceding week.

Students will be notified in writing of the alleged violation(s). Students will be invited to respond in writing to the alleged violation(s). A student’s written response must be submitted to the COVID-19 Conduct Panel at least 24 hours prior to the Panel’s next scheduled meeting. All written responses should be submitted to [studentlife@mta.ca](mailto:studentlife@mta.ca).

In the event a student is notified of an alleged violation less than 48 hours before the next meeting of the COVID-19 Conduct Panel, the case will not be reviewed by the Panel until the following week. If the Panel requires more information from the student(s) in question, the student(s) will be invited to provide an additional written submission or join the review session. Unless otherwise arranged, the review session will be conducted on the basis of written submissions.

If a student declines to submit a written statement or meet with the COVID-19 Conduct Panel, the Panel will still meet and render a decision. A decision will be communicated to the student(s) in question within 48 hours of the review session. The University reserves the right to impose temporary measures in the time before a final decision is reached.

In instances when a student is subject to multiple violations under the Code as part of the same incident report or complaint, adjudication may be referred to the full University Judicial Panel for the purpose of one, all-encompassing hearing.

In instances when the COVID-19 Conduct Panel is unable to meet or greater expediency is required, an incident report may be referred for direct resolution under Section 11 of the Student Code of Conduct or Section 7 of the Residence Life Code of Conduct.

#### **APPEALS**

If a student wishes to appeal a decision based on the grounds for appeal listed in the Student Code of Conduct and the Residence Life Code of Conduct, they have five business days from the date/time of the decision to do so. Appeals must be submitted in writing to [studentlife@mta.ca](mailto:studentlife@mta.ca). Appeals will be reviewed by the University Appeal Panel. The Appeal Panel will meet weekly to review any outstanding appeals. Unless otherwise arranged, appeals will be adjudicated on the basis of written submissions. A decision will be communicated to the student(s) within 48 hours of the Appeal Panel review. The decision of the Appeal Panel is final and cannot be appealed again.

#### **SANCTIONS**

Refer to Section 4.3 of the [Residence Life Code of Conduct](#) and Section 7 of the [Student Code of Conduct](#) for lists of possible sanctions. When appropriate, education leading to understanding and future compliance will be pursued as desired outcomes. More serious infractions and repeat violations will warrant more serious consequences. Decisions by the COVID-19 Conduct Panel will be kept on file in the Student Life Office only for as long as Appendix B remains in effect. Sanctions assigned by the COVID-19 Conduct Panel may be used in the consideration of other sanctions for future or related violations under the Residence Life Code of Conduct or the Student Code of Conduct.