

Procedure #	SSE 103P
Related Policy Name and #	Code of Student Community Standards SSE 103
Approved by:	Jason Hunter
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Policy Holder:	Vice President, Students and Institutional Planning
Administrative Contact:	Dean of Students
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Code of Student Community Standards Investigation, Adjudication, Sanctions and Appeal Procedure

Purpose:

This Procedure is intended to specify the procedural steps involved in investigating and adjudicating potential violation of Humber's Code of Student Community Standards Policy.

Definitions:

Unless otherwise stated herein, the definitions contained in the Code of Student Community Standards Policy apply to this Procedure.

Procedures:

1. The Code Process

All community members are welcome to meet with a representative of the Office of Student Community Standards to confidentially learn more about the Code process, without having to file a complaint, as long as the discussed incident or concern does not pose an imminent risk to self or others. The following steps outline the process used to bring about resolutions to complaints.

1.1 Making a Complaint

A complaint/allegation is registered by any community member providing a report to the Office of Student Community Standards regarding a student. Students who engage in the complaint process will be offered supports.

The alleged behaviour must have taken place while the Respondent was a student. If a determination is made that an investigation is required and within the scope and purpose of the Code, an Investigating Officer is assigned to the complaint by the Office of Student Community Standards. In order for an investigation to proceed, the Complainant is encouraged to submit a written statement outlining the specific details of the complaint.

Proper investigation of a complaint may require the disclosure of the identity of the Complainant to third parties, including witnesses.

A student complaint against another student will be considered based on all applicable institutional codes, policies and regulations including the Code.

1.2 Investigations

A fact-finding, information gathering process will commence involving all potentially involved parties, including possible witnesses. After being informed of the alleged prohibited conduct, the Respondent will be asked to provide a written and/or verbal response to the Investigating Officer. Should an individual refuse to provide a statement or participate in an investigation, the investigation and outcome(s) will be based on the available information.

The Office of Student Community Standards may forego or defer an investigation under the following circumstances: informal resolutions pathways are fitting and have not been attempted; lack of clarity about the nature of the complaint; concern for the safety, well-being, employment or academic status of the parties involved; the existence of criminal or other legal proceedings; or if the complaint appears to be unclear, unfounded, frivolous, vexatious or made in bad faith.

1.3 Decision Making & Resolutions

At this stage the matter may be resolved by the Investigating Officer, who will provide written notice of the outcome, including sanctions and reasons if applicable, to the Respondent.

Sanctions may be applied retroactively if prohibited conduct is discovered subsequent to the completion of a course, the requirement to withdraw or after graduation.

Issues not resolvable by the Investigating Officer or outcomes that do not involve those listed in Section 2.1 will be forwarded to a Hearing Officer for the purposes of conducting a formal hearing.

1.4 Hearings

Decisions involving possible outcomes listed in Section 2.2 entitle the student to a formal hearing. The Respondent will be permitted to bring an advisor and/or support person to the hearing. Following the investigation, the Complainant and the Respondent will have an opportunity to review the investigative report, a summary of information/facts of the case to be presented at the hearing, no later than five (5) business days prior to the hearing. In addition, the Respondent will be given the opportunity to ask questions of the Complainant via the Investigating Officer. Humber reserves the right to modify or exclude questions to mitigate impact on the other party. The final investigative report will take account of the Complainant's responses. At the hearing, the Investigating Officer will present the case, as outlined in the investigative report to the Hearing Officer, in the presence of the Respondent. The Hearing Officer(s) will be the Dean of Students (or designate) and, in the case of a Guelph-Humber student, the Guelph-Humber Registrar (or designate) will serve as an additional Hearing Officer. Following the presentation of facts, the Hearing Officer(s) will pose questions to the Investigating Officer. The Respondent will then be provided the opportunity to respond to the allegations and facts brought forward, to ask questions of the Investigating Officer, and respond to questions from the Hearing Officer(s).

The Hearing Officer(s) will render a decision and issue this decision in writing, including rationale, within ten (10) business days. The finding of responsibility will be provided to the Complainant and the Respondent.

Witness statements are collected as part of the investigative process and are included in the investigative report; witnesses do not participate in hearings and are not identified by name in the report.

A Respondent may waive the right to a hearing. This must be done in writing and at least five (5) business days before the date of the scheduled hearing. Notice must be sent from the student's official Humber/University of Guelph-Humber email account, or a signed hard-copy delivered to the Office of Student Community Standards. In this case, the Hearing Officer(s) will review the investigative report, render a decision, and issue this decision in writing, including rationale, within ten (10) business days. The finding of responsibility will be provided to the Complainant and the Respondent.

2. **Sanctions/Outcomes**

Decisions on whether a student has engaged in prohibited conduct will be based upon a review of information and facts provided by the parties involved, gathered by the Investigating Officer and assessed on the standard of balance of probabilities.

Should a student be found responsible for engaging in prohibited conduct, a number of factors (severity of behaviour, acceptance of responsibility, willingness to restore the relationship or situation, mitigating factors and cumulative or repeated behaviour) can contribute to the decision to impose one or multiple sanctions.

2.1 **Sanctions imposed by an Investigating or Hearing Officer include:**

- a) Written Warning: An official letter indicating that a student has been found responsible for prohibited conduct while highlighting the need for awareness, caution or corrective action.
- b) Apology: In an effort to help restore the harm done, students may choose to apologize.
- c) Developmental and Educational Initiatives: Participation in developmental opportunities, awareness, health or safety programs; reflective learning or personal success exercises; projects, seminars, and other assignments as warranted.
- d) Community Involvement: Community service to the institution or to the larger community; engagement through co-curricular involvement.
- e) Restitution: Compensation (monetary or material replacement) for loss of or damage to property or services rendered. The amount of restitution will be placed on the student's account and can be paid using MyHumber or, in the case of a Guelph-Humber student, WebAdvisor.
- f) Support Agreement: A description of mutually agreed upon terms whereby the student chooses to engage, with set parameters, in the support services offered by the institution.
- g) Behaviour Contract: A description of the terms, signed by the student, that outline expectations that must be adhered to in order to participate in all or some activities normally considered to be rights of community members.
- h) Loss of Privileges/Non-essential Services: Privileges are those that if restricted may affect full participation in campus life but not make it impossible to complete academic requirements. For example, the ability to attend campus other than for scheduled

classes, loss of recognition from an organized club, team or organization, suspension/removal from campus or co-curricular activities including varsity sports.

- i) Registration Holds: A hold placed on a student's account prohibiting access to the College or course registration process and can impact a student's ability to access grades. Holds may be placed on accounts until students acknowledge the requests of the Office of Student Community Standards or for failing to comply with sanctions levied within the Code process.
- j) Restriction: A ban or formal trespass notice from a specified area (e.g.: residence, licensed facilities, athletic facilities) of campus or campus as a whole, or a no contact order between community members, for a designated period of time.
- k) Removal from On-campus Housing: As per the Residence Code of Conduct, a resident may have their housing agreement terminated. Conditions for readmission to residence may also be specified.
- l) Performance Review: A recommendation to the Human Resources Department to review a student employee's contract based on the intersection and impact of the prohibited conduct with the nature of the student's employment.
- m) Conduct Probation: An indefinite period of time where the student is given the opportunity to modify unacceptable behaviour, to complete specific assignments, and to demonstrate a positive contribution to the community in an effort to regain student privileges within the institutional community. After two consecutive terms from being placed on Conduct Probation, the student may apply for a review of the probationary status to the Office of Student Community Standards. The student will meet with an Investigating Officer from the Office of Student Community Standards and demonstrate significant contributions, both of an academic and co-curricular nature, to the institutional community. The Investigating Officer will determine if the student's status will be lifted within ten (10) business days of the meeting. The decision of the Investigating Officer is final and not subject to appeal.
- n) Any other sanction deemed appropriate in the circumstances, excluding those set out at Section 2.2.

2.2 Sanctions imposed by Hearing Officers as a result of a hearing:

The following sanctions may only be administered with the approval of the Dean of Students or a duly designated member of the senior administration.

- a) Single/multiple course de-registration including partial or total loss of marks for the course(s).
- b) Program de-registration for a period of up to two (2) years from the date of incident, whereby a student may no longer register for program(s), typically involving professional standards and/or vulnerable populations. The student is required to have their program selection vetted and approved by the Office of Student Community Standards moving forward.
- c) Forfeiture of awards or Humber funded scholarships or bursaries.
- d) Suspension from the institution for a period of up to two (2) years from the date of incident. The student will not be permitted to register and will retain none of the privileges accorded to students. Suspensions may result in a notation on a student's academic record and transcript. This notation will be expunged from the student's record and transcript upon graduation or following the suspension period.
- e) Expulsion from the institution. The record of expulsion is permanent, unless a student makes a request to the Academic Appeals Committee to have the record expunged from their academic record no sooner than five (5) years after the date of the expulsion.
- f) Rescinding a credential following graduation, or after having a credential conferred.

- g) Any other sanction or penalty deemed appropriate in the circumstances.

NOTE: Students who have been expelled or suspended will not receive credit for any studies undertaken at Humber during the semester that the suspension or expulsion was assigned. A student who wishes to be considered for readmission after the suspension period, must make an application to the Office of the Registrar for readmission that will be evaluated on the basis of eligibility to continue. A student who is suspended and also fails to meet the continuation of study requirements (promotion and progression), as outlined in the Academic Regulations/Calendar, may be able to serve the associated penalties consecutively.

Outcomes listed above will be subject to and in accordance with the University of Guelph's Policy on Non-Academic Misconduct, in conjunction with the Academic Calendar for all Guelph-Humber students and as such may vary or not be applicable. All sanctions in this section will be administered in conjunction with a Hearing Officer representing the University of Guelph-Humber for Guelph-Humber students.

Students facing sanctions in this section will be required to engage the Non-Academic Return to Campus Policy to resume their studies at the College.

3. **Requesting an Appeal**

All Respondents have the right to appeal a decision made by the College. Either party in a complaint process may request an appeal for violations found in the Sexual Assault & Sexual Violence Policy. If an appeal is filed by one party, other parties to the case will be notified that an appeal has been submitted. They will also be invited to make a written submission for consideration in the review of the appeal.

To request an appeal, a student must complete the [Non-Academic Appeal Form](#) found online within ten (10) business days of receipt of the written decision of an Investigating or Hearing Officer(s). A right of appeal is available where at least one of the following conditions/grounds is met:

1. There is new information that is likely to change the outcome
2. There is evidence of procedural error or bias in the process
3. The sanction imposed is not consistent with the nature of the offense

When requesting an appeal, a student must submit the Non-Academic Appeal Form indicating:

1. The conditions/grounds under which the appeal is being made
2. The explanation/reasons that will be used to support the grounds for appealing
3. The requested resolution
4. The decision letter along with any other supplementary documentation/information
5. The names of the student's advisor, support person, or representative, if applicable

Filing or receiving an appeal does not stay (postpone) the decision under appeal. If the Department of Public Safety deems a student a risk to self or others, the student will not be permitted on campus, with the exception of the appeal hearing, until the process is completed. Where possible, the student may resume regular or modified participation in their academic pursuits.

3.1 For decisions of an Investigating Officer:

One designated Hearing Officer will be assigned to the appeal request to determine if the request for an appeal is granted. If an appeal request is granted, the Hearing Officer will conduct a formal review of the appeal submission within five (5) business days and either overturn, amend or uphold the original decision of the Investigating Officer. The decision of the Hearing Officer, serving in this capacity, is final and the student will have exhausted all available means of review at Humber.

Note: The Hearing Officer will hold a more senior position at the College than the Investigating Officer (e.g. if the Investigating Officer is a Coordinator, the Manager will review the appeal).

3.2 For decisions of Hearing Officers:

The College Registrar or designate will determine if the request for an appeal is accepted and confirm the decision in writing within five (5) business days after receipt of the written appeal request. Appeals will be granted if, in the opinion of the College Registrar or designate, the request meets at least one of the above criteria, and if on the balance of probabilities there is sufficient reason to question the initial decision.

If an appeal request is granted, a hearing will be convened within ten (10) business days of the decision to grant an appeal. The Appellant and all other parties involved will be informed that the right of appeal has been granted by way of a written Notice of Appeal. Notice will include the date, time, and location of the appeal hearing, along with the names of the appeal panel members and the appeal submission provided by the student.

All witnesses must be identified to the Chair of the Code Appeals Committee at least five (5) days in advance of the appeal hearing, and both the Appellant and Hearing Officers must be notified of the participation of any witnesses in advance of the hearing. The Appellant and/or Hearing Officers are responsible to ensure the availability of witnesses for the scheduled date, time and location of the appeal hearing.

A minimum of five (5) business days prior to the appeal hearing, a written response by the Hearing Officers indicating the rationale for the decision; a list of witnesses, if applicable, will be submitted to the Appellant.

The decision to deny an appeal request is final and the student will have exhausted all available means of review at Humber.

4. The Hearing Appeal Process

The process outlined below applies to appeals of the decision made by Hearing Officers following a hearing. The Dean of Students will represent the Hearing Officers throughout the appeal process. These appeals are conducted under the jurisdiction of the Code Appeals Committee, a trained group of College community members appointed by the Vice-President, Students and Institutional Planning and the Registrar.

The student has the right to legal representation throughout the various stages of the appeal procedure. Regardless of the outcome of any appeal hearing, any costs incurred by the student as a result of being represented are the sole responsibility of the student. In the event that the student retains legal representation, the College has the option to do the same, at its own expense. At this time, the advisor role will cease.

4.1 Composition of Committee & Appeal Panel

A standing group of trained community members will serve on the Code Appeals Committee. To hear an appeal, an appeal panel will be convened with representation from each of the following groups:

1. Deans/Program Heads or designates of Faculties, one of whom will serve as Chair
2. Staff or faculty members
3. Students representing or identified by the students' union, IGNITE

For appeals of incidences of sexual violence, the Code Appeals Committee will consist of three (3) members and will not include students.

No appeal panel member will be a member of the Faculty where the Appellant is enrolled. In the case of a Guelph-Humber student, the membership of the appeal panel will consist of, at minimum, two members of the Guelph-Humber community as identified by the Vice Provost.

A committee member who has a conflict of interest including perception of bias or a pre-existing bias is expected to remove themselves from the panel and will be replaced by a member of the standing committee. The Appellant may also declare a conflict of interest with a committee member by informing the Chair of the Code of Appeal Committee, providing reasons and requesting a new member.

4.2 The Appeal Hearing

- a) The student (Appellant) bears the onus of proof, and a decision will be rendered based on a balance of probabilities. The student is entitled to procedural fairness that contains the following components:
 - i. The student must know the allegations against them, including the information that led to the initial decision
 - ii. The student must be given an opportunity to correct or contradict any information or assertions made in support of the initial decision
 - iii. The panel must make its decision without bias or reasonable apprehension of bias

Those present at the appeal hearing are:

- i. the student (Appellant)
- ii. an advisor and/or support person and/or representative if chosen by the student (Appellant)
- iii. identified witnesses of the Appellant and Hearing Officers
- iv. the members of the appeal panel
- v. any other person deemed to be appropriate as per the Chair of the Code Appeals Committee

Note: In the case of an appeal for a decision made under the Sexual Assault & Sexual Violence Policy, where the student (Appellant) is the Complainant from the initial case, the student will be entitled to procedural fairness that contains the following components:

- i. The student must know the information that led to the initial decision

- ii. The student must be given an opportunity to correct or contradict any information or assertions made in support of the initial decision, including information provided by the Respondent
 - iii. The panel must make its decision without bias or reasonable apprehension of bias
- b) The Appellant or representative will present the Appellant's case, and call any witnesses that they have identified.
 - c) The Dean of Students will then present the information used to make the original decision, and call any witnesses that they have identified.

Note: Witnesses called by either the Appellant or the Dean of Students shall be invited individually to present their information and dismissed by the Chair of the Code Appeals Committee once they have been questioned by the other party to the appeal, and by the appeal panel. Witnesses may be asked to return to answer any further questions of the panel.

- d) Once the formal presentations are complete, the Appellant or representative may direct questions to the Dean of Students and any witnesses through the Chair, and the Dean of Students may ask further questions to the Appellant and of their witnesses.
- e) The appeal panel may ask questions of all parties and witnesses and may require the production of any additional written or documentary information.
- f) The Chair of the Code Appeals Committee may give directions throughout the appeal hearing for the purpose of maintaining order, including asking anyone in attendance to leave the hearing if any behaviour is deemed by the Chair of the Code Appeals Committee to impede the process. Information presented at the hearing must relate to or bear directly upon the outcome.
- g) Any procedural issue that arises in the course of a hearing, including issues respecting adjournments and the terms of such adjournments, will be considered by the panel, but the decision of the Chair of the Code Appeals Committee is final with respect to any such procedural issues.
- h) The appeal panel shall deliberate in private and shall reach a decision by majority vote. The panel may grant any remedy it sees fit, including upholding the decision and outcome, imposing a lesser outcome, or granting the resolution requested by the student. No monetary awards can be issued by the appeal panel.
- i) The appeal panel has the power to reserve its decision for further consideration and will render a decision within ten (10) business days of the appeal hearing.
- j) The decision of the appeal panel, including reasons, shall be in writing and signed by the Chair of the Code Appeals Committee.
- k) Copies of the decision, along with its reasons, shall be sent to the student (Appellant) and the Hearing Officer(s).

5. **Delays & Time Limits**

Time limits outlined in the Code may be extended by: (i) the mutual consent of the student and Humber's Office of Student Community Standards; or (ii) by the Office of Student Community Standards unilaterally if circumstances outside of their control require such a delay. Delays should not substantially prejudice either party. The failure to meet a time limit prescribed by the Code does not render any sanctions assigned via the Code process void. Humber's Office of Student Community Standards or the Chair of the Code Appeals Committee may consider a failure to meet prescribed timelines in considering an appropriate outcome.

6. Accommodations

Students may request accommodation in regard to an investigative process, a hearing, appeal hearing or probation review meeting as outlined within the Code by contacting the Office of Student Community Standards. Accommodations will be provided in accordance with the *Ontario Human Rights Code* and the *Accessibility for Ontarians with Disabilities Act* (AODA).

7. Record Keeping

All information and record keeping pertaining to a complaint under the Code of Student Community Standards will be kept in accordance with the *Freedom of Information and Protection of Privacy Act* (Ontario) ("FIPPA").

A record of the case files and final decisions, including appeals, made under the Code will remain in the Office of Student Community Standards, separate from a student's academic file, for a period of up to three (3) years with the exception of records of sanctions listed in Section 2.2. The file of an expelled student shall be retained indefinitely.

All files are deemed confidential and are subject to the *Freedom of Information and Protection of Privacy Act* ("FIPPA"). Disclosure of case file information will be managed through the Freedom of Information ("FOI") and Privacy Office at the College, with the following exceptions:

- the disclosure of information to a Respondent prior to the hearing process
- a clearance check accompanied by a signed consent form for the purpose of granting acceptance for student leadership involvement/employment opportunities, or professional/registered industry selection processes

Whereby a Respondent has an employment relationship with the institution, Human Resources may be notified of an investigation and the outcome thereof.

8. Recording

Should a request be made and all parties agree, a hearing or an appeal hearing may be recorded. This is not common practice. Upon written request, a Respondent may review the audio recording and make appropriate arrangements for it to be transcribed on College property. Arrangements for a transcriber and all associated costs involved in the transcription will be the responsibility of the requesting individual.

9. Reporting

Humber's Office of Student Community Standards shall report annually to the Dean of Students Office summarizing the number of incidents and students involved, including the categories of prohibited conduct, the range of outcomes imposed by the institution, the number of appeals and the outcome of such appeals. The report will contain no identifying personal information. Portions of the report will be made publicly available.

10. Review Process

The Code of Student Community Standards and associated Procedure will be reviewed every five (5) years, or as requested by the Dean of Students or by the Code of Student Community Standards Review Committee, consisting of faculty, staff and students, including representation from the students' union. An editorial review will be conducted annually. Final approval of the Code will be made by the Executive Team.

Interpretations, comments and specific suggestions for amendments or additions to the code may be referred to Humber's Office of Student Community Standards.

References:

[Humber College Policies](#)

[The University of Guelph Policies](#)

[The University of Guelph-Humber Policies](#)