

Complete Policy Title:
**McMaster University Student Code of
Conduct**

Approved by:
Senate

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February 9, 1983

Responsible Executive:
**Associate Vice-President, (Student Learning
and Development) and Dean of Students**

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University Secretariat

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PREAMBLE

1. All students and student groups are expected to maintain a high standard of conduct based on the Statement of Student Rights and Responsibilities, attached as Appendix A, and that is appropriate to a community of scholarship and learning.
2. The purpose of this Student Code of Conduct is to outline the limits of conduct considered consonant with the goals and the well-being of the University community, and to define the procedures to be followed when students fail to meet the accepted standards of behaviour.
3. Students have a responsibility to familiarize themselves with the University regulations and the conduct expected of them while studying at McMaster University.
4. The University reserves the right to take necessary and appropriate action to protect the safety and welfare of the campus community.

AUTHORITY OF SENATE FOR STUDENT CONDUCT AND DISCIPLINE

5. The authority for establishing a Student Code of Conduct lies with the Senate as defined in *The McMaster University Act, 1976*, S.O. 1976 chap. 98.

Section 13 states:

"The Senate has power to, ... (f) control and regulate the system of education pursued in the University and the conduct, activities and discipline, including suspension or expulsion, of the students thereof."

6. When University regulations are violated, the responsibility for final decisions regarding possible disciplinary action rests with certain officers and committees established by Senate to act on its behalf. The Associate Vice-President (AVP) Students and Learning and Dean of Students¹ will administer the Student Code of Conduct.

DEFINITIONS

7. When used in this Code:

"Dean of Students" means Associate Vice-President (AVP) Students and Learning and Dean of Students.

"Guest" means a person who is visiting a student on campus.

"Peer Conduct Board" see Appendix B.

"Peer Conduct Board Hearing" means the adjudication process carried out by the Peer Conduct Board.

¹ Effective July 1, 2013, until that date Associate Vice-President (AVP) Students and Learning and Dean of Students shall refer to the Associate Vice-President (Student Affairs) and Dean of Students.

“Primary Event Organizer” means the individual who is leading the planning and implementation of an Event under the Student Event Risk Management Policy.

“Student” means a person who is registered in a course of study approved by the Senate.

“Student Affairs Administrator” means an individual appointed by the Dean of Students to hear allegations of misconduct under the Code.

“Administrative Hearing” means the adjudication process carried out by the Student Affairs Administrator or the Dean of Students.

“Student Conduct Officer” and “SCO” mean an individual appointed by the Dean of Students to investigate allegations of misconduct.

“Student groups” means University Recognized Student groups and groups of student volunteers (e.g. Welcome Week representatives, etc.). (See *Policy on the Recognition of Student Campus Groups*.)

“Student Host” means a person who has a Guest on campus.

“University Premises” means buildings and lands owned, leased, operated, controlled or supervised by the University and includes places or facilities used for the provision of the University’s courses, programs or services or for University approved or sponsored events or activities.

“University Recognized Student Group” includes the following organizations: (i) student groups that have been recognized under the *McMaster Student Union Operating Policy – Clubs Recognition*; and (ii) student groups that have been recognized under the *University Policy on the Recognition of Student Groups*.

In this document, words in the singular may, when the context so warrants, signify the plural.

SCOPE

8. This Code applies to unacceptable conduct by students while on University Premises or when acting as a delegate or designated representative of McMaster University and/or of a student Group in events off campus.
9. Students are expected to be individually responsible for their actions whether acting individually or in a group.
10. The University reserves the right to take necessary and appropriate action to protect the safety and welfare of the campus community notwithstanding this Code. This may include taking necessary and appropriate action in cases where a student is accused of serious conduct, and there is a clear nexus to the campus community regardless of where the conduct occurred or is alleged to have occurred.

11. Any student found responsible for misconduct is subject to the disciplinary sanctions of this Code, regardless of the action or inaction of civil authorities.
12. A student host is responsible for the conduct of his/her Guest, including any violation(s) of this Code to the extent that s/he could have (i) reasonably foreseen the problem, and/or (ii) taken steps to prevent the violation, and/or (iii) minimized the effect of the Guest's behaviour.
13. Responsibility of Student Groups:
 - (a) Student groups may be held responsible for violations of the *Student Code of Conduct*. They may be held responsible for violations if the misconduct occurs
 - (i) on University Premises;
 - (ii) at events off-campus organized by the group.
 - (b) The leaders, officers or any identifiable spokesperson (hereinafter referred to as "leaders") of a student group may be held collectively and/or individually responsible when such violations are committed by persons associated with the group who have received consent or encouragement from the group's leaders or if those leaders knew that such violations were being or would be committed.
 - (c) The leaders of a student group may be directed to take action by the Dean of Students or other University official designated to prevent or end violations by the group or by any persons associated with the group. Failure to comply with a directive may be considered a violation of this Code, both by the leaders of the group and by the group.

RELATED POLICIES

14. The following are governed by codes of conduct or regulations and disciplinary procedures separate from this *Student Code of Conduct*:

Normally the policies listed below act independently of one another. In serious circumstances, more than one of these policies may apply. Any question of the application of this Code or related policies shall be determined by the Dean of Students in conjunction with the administrator of the other policy or policies. Where the alleged violation is processed solely under this Code the sanctions in the other relevant policy or policies shall be incorporated in their entirety into the terms of this Code.

- (a) human rights offences (including sexual harassment and discrimination);
- (b) academic dishonesty offences;
- (c) offences under the *Residence Code of Conduct*;
- (d) professional behaviour offences under professional programs' respective Codes of Conduct;
- (e) library offences;

- (f) parking offences;
- (g) offences by students holding Teaching Assistantships, acting in their role as Teaching Assistants (such students should note that additional provisions about their status as University employees are contained in their collective agreement between McMaster University and CUPE, Local 3906);
- (h) offences under the *Athletic Code of Conduct*;
- (i) violations of any UTS policy;
- (j) violations under the *University Policy on the Recognition of Student Groups*.

PROHIBITED CONDUCT

15. The primary objective of this Code is not to be punitive but rather to be a guideline for appropriate behaviour in a diversified educational environment. The conduct described in Sections 17 and 18 constitute violations under this Code.

BEHAVIOUR PRIMARILY RELATED TO A HEALTH CONDITION

16. In circumstances where there are reasonable grounds to believe that a student's behaviour is primarily related to a health condition the Dean of Students, in his/her sole discretion, may divert consideration of the student's behaviour, at any time, to the process outlined in Appendix F.

This section applies to the following behaviour:

- (i) behaviour prohibited under this code;
- (ii) behaviour prohibited under any other University code of behaviour where the Dean of Students determines that the student's behaviour should be considered under this process;
- (iii) behaviour giving rise to a reasonable apprehension of a risk of harm to the student himself/herself or others in those circumstances where the University cannot reasonably assist in alleviating or sufficiently mitigating the risk to the student; and
- (iv) behaviour which substantially interferes with the student's ability to function in an educational setting, even with accommodation(s), if required, and/or the University's reasonable assistance.

MINOR OFFENCES

17. Minor Offences are actions by a student or a student group against McMaster community standards. Examples of Minor Offences listed in Appendix C. Possible sanctions for Minor Offences are listed in Section 38 (a) to (j).

MAJOR OFFENCES

18. Major Offences are actions by an individual or a student group which endanger the safety and/or security of another individual or the McMaster community or are actions which contravene any municipal, provincial or federal law. Examples of Major Offences are listed in Appendix D. Possible sanctions for Major Offences include all sanctions listed in Section 38.

PROCEDURES FOR HANDLING MISCONDUCT (as defined in Sections 7 and 8 above)

19. The existence of these procedures does not preclude any individual from proceeding under the laws of the land against another individual, nor does it preclude the Office of Security Services from carrying out its responsibilities. Proceedings under the *Student Code of Conduct* may be carried out prior to, simultaneously with, or following other off-campus proceedings, including civil or criminal proceedings, at the discretion of the Dean of Students.
20. The preferred approach to resolving issues of student misconduct is through informal resolution, especially for minor offences or where there are extenuating medical circumstances. Informal resolution can take place between the Student Conduct Officer (SCO) and the student where corrective action might be taken, without formal hearing proceedings. Other campus partners may be consulted in the informal resolution process, where appropriate and subject to confidentiality considerations (e.g. Student Wellness Centre, Faculty Offices).
21. An individual who thinks that prohibited conduct, as defined in this Code, has occurred should refer the case to the SCO. Normally an allegation of misconduct may not proceed through the subsequent steps described in this Code until the allegation is submitted in writing and duly signed.
22. Records of previous misconduct will be considered only when (i) determining who shall hear a case, and (ii) following a finding or admission of misconduct for the purposes of determining an appropriate sanction(s) or resolution.
23. All notices and other written communications under this Code to the student or any other member of the University shall be by personal delivery, regular mail, campus mail, priority post, courier or registered mail. If sent by regular mail, service will be deemed effective on the fifth day after the documents are mailed. If sent by campus mail, service will be deemed effective on the third day after the documents are mailed. In the case of students, all documents will be sent to the currently active address as recorded in the Registrar's Office, unless the student requests in writing that they be sent to another address.

INTERIM SUSPENSION

24. In exceptional circumstances, e.g. where the health and safety of the student or members of the University community are compromised, the Provost or designate may alter or suspend the rights of a student to be present on campus or to attend classes for an interim period before the case is resolved under this Code.

25. Within seventy-two (72) hours following the imposition of interim suspension, the student shall be informed in writing of the reasons for the suspension. The student shall also be afforded the opportunity to respond to the allegations being made against him or her. Following that opportunity to respond, the Provost or designate will then reassess the decision to suspend, and either revoke or continue it.
26. The alleged violation that led to the interim suspension shall be investigated and heard in accordance with the procedures contained within this Code.

INVESTIGATIONS AND OUTCOMES OF INVESTIGATIONS

27. The SCO shall commence an investigation within seven (7) working days of receipt of the written allegation of misconduct unless the SCO determines that the seriousness of the alleged offence warrants that it may be referred to an appropriate body for investigation. An investigation shall include an opportunity for the student involved to respond to the alleged violation(s).
28. If the SCO concludes that there has not been misconduct, s/he shall not proceed. All parties will be informed in writing and there will be no further proceedings. The individual alleging the misconduct may request that the SCO's decision be reviewed by the Student Affairs Administrator. If s/he determines the case should proceed, it will be forwarded to the Peer Conduct Board for a Hearing.
29. If the student admits to the alleged violation, the SCO may, after completing the investigation,
 - (a) Levy a sanction consistent with those levied in similar cases, up to and including those listed in Section 38 (a) to (h) and notify the student in writing of the decision, or
 - (b) Direct the case in accordance with Section 30 below if in the SCO's opinion the sanction should be more severe than in (a) above, or if the case otherwise warrants a hearing, or
 - (c) Direct the case to proceed in accordance with section 34 (b) where a student requests a Review Meeting and the student has established to the satisfaction of the SCO that s/he has extenuating medical circumstances that may have contributed to the behaviour.
30. If the SCO concludes there is sufficient evidence of alleged misconduct, the student will be so informed in writing and shall have the opportunity to choose to have the matter adjudicated by the Student Affairs Administrator or Peer Conduct Board Hearing². However, if the SCO concludes the seriousness of the alleged offence or the number of offences in the accused student's record warrants, s/he will refer the case to the Dean of Students for an Administrative Hearing.
31. Every reasonable effort will be made to notify the student of a hearing date within ten (10) business days after the student responds to Section 27. In the event that the student fails to respond as directed, the SCO shall proceed to arrange an Administrative Hearing. The student shall be

² Every effort shall be made to hear cases during the school year when the PCB is available; however, when the PCB is unavailable, the case may be heard by an Administrative Hearing at the discretion of the SCO. Between May and August, all cases shall be heard by way of an Administrative Hearing. The Administrative Hearing process may be varied to accommodate the Student who cannot attend personally in Hamilton, in accordance with Appendix E.

notified in writing of the date and place of the Hearing. The Hearing will be scheduled at least two (2) business days after receipt of the notification.

PROCEDURES FOR HEARINGS

32. Procedural Guidelines for hearings under this Code are outlined in Appendix E and F respectively.

BURDEN AND STANDARD OF PROOF

33. At each stage of decision-making under this Code, the onus of establishing that there has been a violation of the Code or misconduct by the student shall be on the University authority. Decisions will be based on a preponderance of evidence, meaning the evidence shows it is more likely than not the alleged violation occurred. The degree of probability should be proportionate to the seriousness of the allegations and the gravity of the potential sanctions.

FINDINGS OF HEARINGS

34. The Student Affairs Administrator or the Peer Conduct Board or the Dean of Students may take action within the following terms:

- (a) Refer the case, if appropriate or necessary, to McMaster Security Services for further investigation;
- (b) Direct the case to Appendix F where a student has established that he/she has medical circumstances that may have contributed to the behaviour;
- (c) Following an Administrative Hearing, the Student Affairs Administrator or the Dean of Students may:
 - (i) dismiss the case, or
 - (ii) make a finding of misconduct and impose a sanction(s) contained in Section 38.

The decision of the Dean of Students is final unless the decision imposes a sanction of suspension or expulsion (see Section 44).

- (d) Following a Peer Conduct Board Hearing, the Peer Conduct Board may recommend to the Student Affairs Administrator any of the actions outlined in Section 34 (c) (i) and (ii). The Student Affairs Administrator shall accept the Peer Conduct Board's recommendation except where:
 - (i) there has been substantial procedural error(s), in which case the matter will be referred back for re-hearing, or
 - (ii) the sanction is not consistent with the sanctions imposed in similar cases, in which case, s/he, after hearing from the student and the Chair of the Peer Conduct Board, as appropriate, may substitute her/his decision as to the sanction.

35. The decision of the Student Affairs Administrator or the Dean of Students shall be communicated in writing to the parties and to any other University officer deemed appropriate or necessary by the Student Affairs Administrator or the Dean of Students. Where appropriate, the student shall also be advised of any right to appeal.
36. A decision takes place immediately and filing an appeal will not stay the implementation of any sanction imposed.
37. It is the responsibility of the Student Affairs Administrator to ensure the implementation of the sanction.

SANCTIONS

38. Sanctions may be used independently or in combination for any single violation. Repeated and/or multiple violations shall increase the severity of sanctions applied. Sanctions are listed in order of severity from least severe to most severe.
 - (a) **Written Warning:** This sanction is a notice given to an offending student indicating the date, time, and nature of the offence. Such behaviour must stop and repeat offences may result in more severe sanctions.
 - (b) **Educational Sanctions:** Completion of specific activities as deemed appropriate. These may include, but are not limited to, service to the University or greater community, participation in educational seminars, written assignments, and written or oral apologies.
 - (c) **Restitution:** This sanction requires restitution to be made to another student(s) or the University for any loss or damage to personal or University property.
 - (d) **Behavioural Contract:** A set of behavioural expectations, terms and conditions that is developed with the student and signed by the Student and the Office of Student Conduct and Community Standards. With his/her signature, the student is agreeing to the expectations being placed upon him/herself and is aware that any breach of this contract constitutes an offence and may result in more serious sanctions including suspension or expulsion from the University.
 - (e) **Behavioural Bond:** Students are required to provide a sum of money up to a maximum of \$500.00 for a specific period of time [maximum one (1) academic year] and sign and abide by a contract as outlined in Section 38 (d) of this document. If, at the end of that time, the student has not breached the contract, the money will be returned. If they do breach the contract, any money collected will be used by the Office of Student Conduct and Community Standards for educational purposes and more severe sanctions may be imposed.
 - (f) **Fines up to \$500.00:** Fines may be applied for the following purposes: to students for failure to complete an assigned sanction; who are found in violation and refuse to participate in or fail to complete alternative sanctions; for violation of Major B (up to \$130.00); repeat offences. In addition, repeat offences may result in increased fines. Any

money collected will be used by the Office of Student Conduct and Community Standards for educational purposes.

- (g) **Loss of Privileges:** Loss of specified privileges for a designated time period. The lost privileges may include, but are not limited to, parking privileges, library restrictions, access to athletic facilities, and extra-curricular activities.
- (h) ***Persona Non Grata (PNG):*** *Persona non grata* is the designation given to an individual who is denied the privilege of entering specific parts of the University. If PNG individuals are found or seen in the area they are denied, then they will be subject to a charge by McMaster Security Services under the Trespass to Property Act.
- (i) **Suspension:** Loss of all academic privileges at the University for a specified period of time and/or until imposed conditions are met. The student is eligible to return after this time but may be required to fulfill specified non-academic conditions upon return. The suspension is noted on the student's transcript (see Section 47 for further details).
- (j) **Expulsion:** Loss of all academic privileges at the University for an indefinite period. The expulsion is noted on the student's transcript (see Section 48 for further details).

APPEALS

39. Appeals are to be filed in letter format and are to be submitted to the Department of Student Affairs within ten (10) business days of receiving the decision. The appeal must contain a copy of the decision, a full statement of the grounds for the appeal, the outcome sought, and any relevant supporting documentation.

- (a) Grounds for an appeal may include but are not limited to:
 - (i) The evidence did not warrant the finding of responsibility;
 - (ii) The procedures in this Code were not properly followed;
 - (iii) New evidence was found which could not reasonably have been presented earlier;
 - (iv) The sanction(s) was not appropriate for the behaviour which occurred.

40. Parties to the appeal shall include:

- (a) the Appellant who shall be the student or student group, and
- (b) the Respondent who shall be the University authority or officer whose decision is being appealed.

41. Appeals shall be heard as follows:

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- (a) The SCO's decision as to sanction (Section 29) may be appealed to the Student Affairs Administrator.
 - (b) Decisions of the Student Affairs Administrator may be appealed to the Dean of Students.
42. The individual or body considering the appeal may, after reviewing the case:
- (a) uphold the findings and/or sanctions;
 - (b) reverse the findings;
 - (c) reverse or modify the sanctions; or
 - (d) determine that there was a procedural error and ask the original individual or body to re-hear the case.
43. All appeal decisions will be communicated to the student in writing, with reasons and, where appropriate, the student shall be advised of any further right of appeal.
44. Decisions of the Dean of Students pursuant to Sections 34 (c) and 34 (e) that impose a sanction of suspension or expulsion may be appealed to the Senate Board for Student Appeals. Refer to the [Student Appeals Procedures](#) (also available from the University Secretariat).

STUDENT'S STATUS - TRANSCRIPTS, REGISTRATION, AND NOTATIONS

45. While under investigation for a violation of the *Student Code of Conduct*, a student shall not be permitted to withdraw formally from the University.
46. The SCO shall inform the Office of the Registrar when charges of misconduct are made against a student. While under investigation for misconduct, the student will not be issued transcripts directly, but, at the student's request, transcripts will be sent to institutions or potential employers. If the student is subsequently found to be in violation of the *Student Code of Conduct* and the sanction results in suspension or expulsion and a notation is made on the transcript, the recipients of the transcript will be so informed.
47. In the case of suspension the notation will read: "Suspended for Student Code of Conduct Violation by the Senate for ___ months (Date)." A student may petition Senate to remove the transcript notation after the minimum time specified by the Dean of Students or Senate Board for Student Appeals, as the case may be, when the suspension was imposed has elapsed.
48. In the case of expulsion the notation will read: "Expelled by the Senate for Student Code of Conduct Violation." If the Senate at some later date reinstates the student, this will be followed by the notation: "Reinstated by the Senate (Date)." Such a notation may be removed from a student's transcript on petition to Senate, but not before five (5) years after the penalty commences.

RECORDS

49. Records shall be kept by the Dean of Students for all cases for seven years, unless it is concluded that there has been no misconduct, or that there is insufficient evidence to support the allegation. Any time a sanction has been imposed or a Resolution Agreement entered into, the records, audiotape, and notes of the SCO, the Student Affairs Administrator and the Dean of Students shall be kept and may have a bearing on the sanction levied in a future case. It is at the Dean of Student's discretion to keep a file for longer than seven years.
50. Decisions of the SCO, the Student Affairs Administrator and the Dean of Students, including a summary of the misconduct and the sanction, shall be reported, anonymously and in statistical form, annually to Senate.
51. Records kept by the Dean of Students will only be released to other academic institutions if the student has signed a request to release information.

APPENDIX A: STATEMENT ON STUDENT RIGHTS AND RESPONSIBILITIES

Complete Policy Title: **Student Rights and Responsibilities**

Policy Number (if applicable): **n/a**

Approved by: **Senate**

Date of Most Recent Approval: **May 24, 1995**

Revision Date(s):

Position Responsible for Developing
and Maintaining the Policy: **Dean of Students**

Contact Department: **University Secretariat**

POLICY

McMaster University is a community dedicated to furthering learning, intellectual inquiry, the dissemination of knowledge, and personal and professional development. Membership in this community implies acceptance of the principle of mutual respect for the rights, responsibilities, dignity, and well-being of others, and a readiness to support an environment conducive to the intellectual and personal growth of all who study, work and live within it.

The University regards and treats students as responsible individuals who are free to organize their own lives, behaviour and associations, subject to the laws of the land and to University regulations. These laws and regulations exist in order to ensure the rights of all members of the McMaster community. With respect to students, these rights, and the responsibilities that accompany them, include, but are not limited to, the following:

1. Of course, you retain all your ordinary RIGHTS as a citizen when you become a member of the University community. By the same token, as a student you continue to have the RESPONSIBILITY to abide by all Federal, Provincial and Municipal laws and regulations in addition to the University's own policies. The University may decide to impose and enforce its own discipline procedures, pursuant to its policies, in addition to any enforcement procedures of civil authorities.
2. Subject to availability of the University's resources, you have the RIGHT to participate unhindered in the academic, intellectual, cultural and social life of the University. You have the RESPONSIBILITY to respect the rights of others to the same participation by refraining from actions that threaten or disrupt classes, meetings, events or other academic activities, or that prevent others from freely expressing their views.
3. Pursuant to the laws of Canada and Ontario, you have the RIGHT to the safety and security of your person in an environment free from harassment, intimidation, discrimination

or assault. You have the RESPONSIBILITY to treat others with respect and to refrain from acts of harassment, intimidation, discrimination or assault.

4. Pursuant to the laws of Canada and Ontario, you have the RIGHT to the safety and security of your personal property. You have the RESPONSIBILITY to refrain from acts of theft, wilful destruction or vandalism of the property of others.
5. Subject to your compliance with University policies and rules, you have the RIGHT to the free and peaceful use of University property, grounds and facilities for all legitimate purposes. You have the RESPONSIBILITY to respect and maintain the integrity of such property, grounds and facilities so they may be equally available to others.

APPENDIX B: PEER CONDUCT BOARD

The Peer Conduct Board is normally made up of twenty (20) McMaster University undergraduate, graduate, or part-time students in good academic standing.

Each Peer Conduct Board member shall be appointed for a renewable one-year term.

The members of the Peer Conduct Board shall be selected annually (or more often, if required) by a selection process to be determined each year by Student Affairs. The process shall include advertising the positions in appropriate student publications.

All Peer Conduct Board members shall receive appropriate training to discharge their responsibilities.

The Hearing of a case referred to the Peer Conduct Board shall be before a panel of a minimum of three members (the Panel). The Panel shall choose one member as the Chair (the Chair). This person serves to chair the deliberation portion of the hearing and ensures that a decision is made in a timely fashion.

No one shall serve on a Panel who has any direct interest or prior involvement in the case under consideration. Both the student and the Panel member who feels there is a conflict are expected to express this to the Facilitator prior to the beginning of the hearing.

APPENDIX C: MINOR OFFENCES

Minor Offences include, but are not limited to:

- (a) making excessive noise;
- (b) engaging in any kind of communication towards another individual or group which may be considered to be intimidating, and/or degrading;
- (c) smoking in non-designated areas according to the *University Smoking Policy*;
- (d) abusing or hindering the *Student Code of Conduct* process;
- (e) engaging in disruptive behaviour. Disruptive behaviour is behaviour in class or out of class which, for any reason, disrupts the class work of others or invades the rights of others;
- (f) failing to comply. Possible infractions include furnishing false information to a University official or failing to take reasonable steps to prevent a problem situation from occurring or if it occurs, to prevent it from escalating to a more serious level;
- (g) any unauthorized entry or presence in a University building;
- (h) assisting with or conspiring in any prohibited conduct as defined in this Code; and
- (i) failing to complete a sanction for a minor offence.

APPENDIX D: MAJOR OFFENCES

Major Offences include, but are not limited to:

- (a) contravening the *Liquor Licence Act* (LLA) and/or the *McMaster Alcohol Policy* as it relates to the consumption by and/or service to individuals under 19 years of age. Possible infractions include, but are not limited to, possessing and/or consuming alcohol in a public place, distributing alcoholic beverages to individuals who are under 19 years of age, and any unsafe practice related to alcohol use (determined by Student Affairs);
- (b) possessing, using, selling, or being under the influence of illegal drugs and/or the use of medication for purposes other than those for which they were prescribed;
- (c) possessing, storing or using and/or misusing any firearm, weapon hazardous material or explosive substance;
- (d) failing to comply. Possible infractions include, but are not limited to, failing to comply with the direction of McMaster Security Services officers or University officials, furnishing false information to a University official, etc.;
- (e) fraud. Possible infractions include, but are not limited to, misusing any kind of identification card, credit card, meal card, smart card, password, and/or telephone calling card, furnishing false information;
- (f) vandalism. Tampering, defacing or damaging property that is not one's own, including, but not limited to, intellectual property, computer files and programs, property of the University, and personal property;
- (g) stealing, possessing or copying property that is not one's own, including, but not limited to, intellectual property, computer files and programs, property of the University and personal property;
- (h) engaging in disruptive behaviour. Disruptive behaviour is behaviour in class or out of class which involves substantial disorder and/or disrupts the operation of the University;
- (i) engaging in physical actions which are threatening, physically abusive and/or compromise the safety and security of an individual and/or group;
- (j) engaging in verbal or non-verbal behaviour or communication toward an individual or group which is considered to be intimidating, harassing and/or discriminatory;
- (k) tampering with fire and emergency equipment including, but not limited to, fire bells, fire extinguishers, fire hoses, disconnecting or blocking fire alarms, blocking or wedging open fire and smoke doors, blocking exit routes, stairwells and corridors, etc.;
- (l) setting unauthorized fires;
- (m) any unauthorized use of University facilities and/or equipment;

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- (n) trespassing: fraudulently gaining or attempting to gain entry on University property;
 - (o) any misuse of University keys;
 - (p) publicly displaying and/or making pornographic material available anywhere on the University campus;
 - (q) failing to follow risk management procedures as contained in the *Student Event Risk Management Policy*; and
 - (r) failing to complete a sanction for a major offence.

APPENDIX E: PROCEDURAL GUIDELINES FOR A HEARING

Hearings convened under this Code are not bound by strict legal procedures. The following procedural guidelines are designed to assist Parties in preparing and presenting their case(s) and to ensure that all Parties are fully aware of the evidence and are given a fair opportunity to be heard during the process. In the event that a Hearing is held to consider an appeal, these procedures should be modified appropriately and in accordance with the Code.

PARTIES TO A HEARING

1. Parties to a Peer Conduct Board or Administrative Hearing shall include the SCO or the Security Officer investigating the case and the student against whom the allegation of misconduct has/have been made.

NOTICE OF HEARING

2. The student shall be given reasonable written notice of the Hearing in accordance with Section 22 of this Code.

OPEN/CLOSED HEARINGS

3. Hearings are normally open to the public, but any Party to the proceeding may request a closed Hearing on the basis that an open Hearing may adversely affect his/her interests.
4. The Peer Conduct Board ("PCB") or the Student Affairs Administrator ("Administrator") (hereinafter collectively referred to as the "decision-maker") shall determine, in his/her/their sole discretion, whether sufficient cause for closing exists.

SCHEDULING OF A HEARING

5. An attempt shall be made to schedule the Hearing at a time and place convenient for all Parties. However, if a Party, who has been notified of a Hearing date, is absent without contacting the Department of Student Affairs or without providing a satisfactory explanation, the Hearing may proceed in his/her absence.

SIMILAR QUESTIONS OF FACT/POLICY

6. If two or more proceedings before the PCB or the Administrator involve the same or similar questions of fact or policy, the PCB or the Administrator may:
 - (a) combine the proceedings or any part of them, or
 - (b) hear the proceedings at the same time, or
 - (c) hear the proceedings one immediately after the other.

ADVISOR

7. The student shall have the right to have an advisor present at the Hearing. Such advisor may consult with the student, but shall not be allowed to speak at the Hearing. Advisors shall not include legal counsel for the purposes of these Hearings.

EVIDENCE

8. The student is entitled to receive, prior to the Hearing, reasonable particulars of the allegation(s) against him/her.
9. Parties to the Hearing have the right to present evidence, including written statements, in support of their case, prior to and at the hearing, and to see any written evidence presented at the Hearing.
10. The decision-maker may admit as evidence at a Hearing any oral testimony and any document, written statement or other thing, relevant to the subject matter of the proceeding. The PCB or the Administrator is not bound by the laws of evidence applicable to judicial proceedings.
11. The decision-maker may require the production of written or documentary evidence by the Parties or by other sources.
12. The PCB or the Administrator must not hear evidence or receive representations regarding the substance of the case other than through the procedures described in this Code.

WITNESSES

13. Parties to the Hearing have the right to call, question and cross-examine witnesses. Parties are responsible for producing their own witnesses and paying for any costs associated with their appearance.
14. Parties to the Hearing may submit witness statements as evidence. In the event that a party wishes to cross-examine a witness on his/her statement, the Hearing may be adjourned to permit the witness to appear. Alternatively, the Parties may consent to contacting the witness by telephone; provided that all Parties and the PCB or the Administrator can hear one another throughout the cross-examination of the witness.
15. The decision-maker may limit testimony and the questioning of witnesses to those matters it considers relevant to the disposition of the case.
16. The Witnesses will stay in the Hearing only while they are testifying and responding to questions.

RECORDING

17. Although the hearing shall be audio-taped in order to obtain an accurate record of the proceedings, such recording is done for convenience purposes only and the malfunction of the recording device or subsequent loss of the recording shall not invalidate, in anyway, the related hearing. The tape

shall be held in confidence by the Office of the Dean of Students for a period of three years from the date of the hearing. Any party to the appeal may request access to the tape and the reproduction thereof, upon reasonable notice and payment of the reasonable costs associated therewith.

ORDER OF PROCEEDINGS

18. The order of the Peer Conduct Board or Administrative Hearing proceedings shall be as follows:
- (a) The SCO shall present the findings of his/her investigation and shall call any witnesses. The student and the decision-maker shall be permitted to question each witness at the end of his/her testimony. The SCO shall be permitted to clarify any new points arising from such questioning.
 - (b) The student shall present his/her evidence and shall call any witnesses. The SCO and the decision-maker shall be permitted to question each witness at the end of his/her testimony. The student shall be permitted to clarify any new points arising from such questioning.
 - (c) The SCO may respond to any evidence presented by the student in (b) above.
 - (d) The parties will be permitted an opportunity to summarize their respective cases. The summary should address both the substance of the alleged violation and the appropriate sanction in the event that the allegation is determined to be valid.

On appeal the order remains the same.

19. The decision-maker may alter the order described above in the interests of fairness to any or all parties.

ADJOURNMENT

20. The decision-maker may grant an adjournment at any time during the Hearing to ensure a fair Hearing.

PEER CONDUCT BOARD VOTING PROCEDURES

- 21.
- (a) Determination of offense or dismissal: The Peer Conduct Board panel shall attempt to work on a consensus basis, failing which a majority vote will govern. In the event that the members are evenly divided the Chair shall decide the outcome and forward a recommendation to the Administrator for decision.
 - (b) Recommended sanction: The Peer Conduct Board panel shall attempt to work on a consensus basis, failing which all recommendations for sanctions, with reasons, shall be forwarded to the Administrator for decision.

NOTIFICATION OF DECISION

22. The Student Affairs Administrator or Dean of Students shall notify the student, in writing, of their decision, with reasons, and any appeal rights. Notification shall generally occur within ten (10) working days of the Hearing.

APPROPRIATE PROCEDURES

23. Where any procedural matter is not dealt with specifically in this Code, the decision-maker may, after hearing submissions from the parties and considering the principles of fairness, establish an appropriate procedure.
24. Any procedural requirement contained in this Code may be waived with the consent of:
- (a) the decision-maker, and
 - (b) all the Parties to the Hearing.

APPENDIX F: BEHAVIOUR PRIMARILY RELATED TO A HEALTH CONDITION

The following guidelines are to be used in circumstances when there are reasonable grounds to believe that a student's behaviour is primarily related to a health condition.

GENERAL PROCEDURES APPLY

The general procedures contained in this Code shall continue to apply subject to the following exceptions:

- (a) the student's behaviour and the University's response shall be considered at a review meeting, rather than through a formal hearing;
- (b) the procedures may be reasonably modified to take into account the nature of the review provided that any modifications do not interfere with the parties' right to procedural fairness.

REVIEW MEETING

The Dean of Students, or his/her delegate, will select a multi-disciplinary team to assist him/her in considering the student's behaviour and the University's response at a review meeting. This team may include, but is not limited to, healthcare professionals and such other experts as the Dean of Students deems advisable. The student may bring a support person, other than a lawyer, to the meeting or the University may appoint a support person if the University determines that the student is in need of assistance.

DETERMINATION OF WHETHER BEHAVIOUR OCCURRED AND WHETHER IT IS RELATED TO A HEALTH CONDITION

- (a) Based on the evidence produced, the Dean of Students shall determine whether or not the behaviour has occurred. If s/he determines that the behaviour has not occurred, there will be no further action taken and the meeting will be concluded.
- (b) If the Dean of Students determines that the behaviour has occurred, the team will consider whether there are reasonable grounds or sufficient medical evidence to believe that the behaviour is primarily related to a health condition and/or a disability under the Human Rights Code. In order to make this determination, the student may be requested to submit, in confidence, additional relevant documentation to establish the behaviour is related to a health condition. The student does not have to provide medical documentation. However, absent sufficient medical documentation, the student may not be eligible for reasonable accommodation or it may not be reasonable to conclude the behaviour is related to a health condition.

If the Dean of Students determines that there are no reasonable grounds, the case will be redirected back to the appropriate process. This determination does not preclude the student from raising his/her health condition as a possible mitigating factor to be considered in any subsequent sanctioning decision.

RESPONSES TO STUDENT'S CONDUCT

- (a) Where a student's behaviour is determined to be primarily related to a health condition, the University will make every reasonable effort to enable the student to continue his/her studies.
- (b) For students with a relevant disability, the University shall ensure that the student is appropriately accommodated.
- (c) In determining an appropriate response to a student's behaviour, the Dean of Students may review any previous, relevant, University decisions under this policy or any other behavioural code.
- (d) The Dean of Students may respond to the student's behaviour in whatever manner s/he deems appropriate, recognizing both the needs of the student and the needs of the campus community including but not limited to a behaviour contract and/or restrictions on a student's access to parts of campus, and/or a reduced course load, or, in extreme cases, withdrawal from the University as described in the section below.

VOLUNTARY OR INVOLUNTARY WITHDRAWAL

Voluntary or involuntary withdrawal occurs when a student agrees, or is required to temporarily discontinue studies at the University for either a specified time and/or until imposed condition(s) are met. One such condition may require the student to provide proof of fitness to return to school in a form approved by the University. Once the time has expired and/or the conditions have been met, the student is not required to re-apply for admission unless the Faculty can establish, to the satisfaction of the Dean of Students, that it is reasonable to do so as a result of the lapse of time. Students who return after a voluntary or involuntary withdrawal pursuant to this process may be required to fulfill other specified academic and non-academic conditions upon return.