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APPROVED BY:	Durham College Leadership Team
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1. Introduction

Articulation of student rights, explicit expectations for student conduct and fair and transparent procedures for early intervention create the foundation for all students to share in a positive and supportive experience at Durham College. Identifying quickly, and responding effectively to, instances of non-academic misconduct, is vital to maintaining a respectful and inclusive learning environment.

2. Purpose

This policy and procedure articulates the responsibilities of students at Durham College, and provides a framework for addressing non-academic misconduct by students.

3. Definitions

Refer to [Durham College's Standard Definitions](#).

4. Policy statements

The mission, vision and values of Durham College will be the basis for the implementation and enforcement of this policy.

- 4.1. The Office of Campus Safety is responsible for accepting complaints and initiating the investigation of complaints.
- 4.2. Upon enrolment, students have responsibilities while they are on any Durham College facility, or engaged in College related activities off-campus. Students are responsible for their own actions and choices. Student responsibilities include, but are not limited, to the following:
 - 4.2.1. Complying with federal, provincial, and municipal laws and regulations.
 - 4.2.2. Complying with all College and program policies and procedures, included but not limited to the Sexual Violence and Harassment and Discrimination policies and procedures.

- 4.2.3. Respecting the rights of other members of the campus community, including students, staff, faculty and visitors to Durham College. Maintain a respectful learning environment.
- 4.2.4. Behaving according to the College's values.
- 4.2.5. Demonstrating personal integrity, professionalism and accountability at all times.
- 4.2.6. Complying with directions of any College employee in the proper performance of his or her duties.
- 4.2.7. Refraining from making allegations or complaints against other members of the College community that are deemed to be false, frivolous, and vexatious or in bad faith.
- 4.2.8. Refraining from retaliating against individuals for participating in proceedings under this policy.
- 4.2.9. Refraining from representing the College, unless authorized to do so.
- 4.2.10. Arranging appropriate childcare, as children are not permitted to attend class or related activities.
- 4.2.11. Seeking express permission, in advance, from the professor and accepting responsibility for the behaviour of any guest(s) they bring to class, either physically or digitally.
- 4.2.12. Refraining from unauthorized or surreptitious recording and/or dissemination of photographs, video recordings, and/or audio recordings.
- 4.2.13. Refraining from any other activity that would constitute a breach of privacy.
- 4.2.14. Demonstrating respect for persons and property at all times.
- 4.2.15. Demonstrating respectful digital citizenship.
- 4.3. Durham College shall provide information and guidance about the nature of, and sanctions for, non-academic misconduct.
- 4.4. All suspected instances of non-academic misconduct shall be reported in writing to the Office of Campus Safety within 15 business days of the misconduct being identified.
- 4.5. Allegations of misconduct shall be investigated by the Office of Campus Safety using the principles of procedural fairness.

- 4.6. Documentation made in relation to investigations shall be maintained within the Office of Campus Safety.
- 4.7. Any member of the community has the right to make a complaint without fear of reprisal.
- 4.8. Students alleged to have committed an act of non-academic misconduct have the right to appeal the sanction.
- 4.9. Students who knowingly, reasonably ought to have known, or recklessly breach this policy are subject to sanctions. Sanctions for breaches of this policy shall be based on a progressive discipline approach to encouraging appropriate conduct and shall be commensurate with the nature of the offence. Sanctions shall range from verbal and/or written warnings to dismissal from the College.

5. Procedure

- 5.1. Complaints alleging breaches of the policy statements will be addressed in the manner noted below. Subjects of a complaint will be presumed innocent and investigations will be done impartially using the principles of procedural fairness. Decisions regarding non-academic misconduct will be made based on the balance of probabilities that the misconduct at issue was committed. The Student Conduct Committee identified in the procedure below has been authorized to levy the sanctions, as indicated.

At all stages of the process, a subject of a complaint may choose to have one (1) advisor present for proceedings. Advisors shall identify themselves at the beginning of any proceedings. Either the subject or the subject's advisor (not both) will take the lead in the proceedings and questions may be directed to either.

When a formal allegation of non-academic misconduct is submitted, the manager, Student Conduct and Campus Investigations (or designate) will review the allegation and may decline to proceed with an investigation in cases where the resulting opinion is:

- a) The allegation falls within the jurisdiction of another policy, procedure or regulation and it is more appropriate to proceed under that policy, procedure or regulation;
- b) The allegation does not constitute a violation of, or is outside the scope of, non-academic misconduct, as defined by the Student Conduct policy and procedure;
- c) An unreasonable amount of time has elapsed since the alleged incident such that it would preclude resolution of the allegation;
- d) The allegation has been adequately addressed by another process;

- e) The allegation could more appropriately be addressed through conflict resolution coaching, mediation, or other non-disciplinary options;
- f) The allegation is being addressed by another process and it is unreasonable to put the allegation in abeyance pending the outcome of such a process;
- g) The allegation is deemed trivial, false, frivolous or vexatious.

5.2. Submitting a Complaint

Faculty, staff, students and visitors to Durham College who have reason to believe that an individual(s) has engaged in behaviour that would constitute a breach of this policy shall submit an incident report to the Office of Campus Safety through Security.

All reports shall:

- a) Be made in writing or in person at the Security Desk (Note: if this creates confidentiality issues, the student may call the Security Desk to make alternative arrangements).
- b) Provide fullest possible disclosure of all information known at the time of the report being submitted.
- c) Be made within 15 business days of the alleged non-academic misconduct being known, except in exigent circumstances at the discretion of the Manager, Student Conduct and Campus Investigations or designate.

5.3. Interim and Emergency Measures

5.3.1. Interim Measures

In cases where there is reasonable apprehension that the safety of self and/or others is endangered, damage to College property is likely to occur, or the unrestricted presence of the student(s) would be disruptive to the legitimate operations of the College, the Director, Campus Safety or delegate is authorized to invoke Interim Measures. These measures are in no way to be construed as indicative of guilt, and shall remain in effect pending the outcome of the student conduct process. Interim Measures will be designed specifically to address circumstances identified in the preliminary fact-finding, and may include but are not limited to, access restrictions, exclusion from activities or events, and non-communication orders.

The Director, Campus Safety or delegate shall:

- a) Contact the appropriate emergency medical and/or law enforcement services in cases where there may be an immediate danger to a complainant, a subject of the complaint or others.
- b) Without unreasonable delay, notify the student(s) of interim measures and the reasons for them. When possible, restrictions from campus or suspensions will be delivered in person, as well as in writing via DCMail.
- c) Advise the student in writing that any substantiated reported breach of an interim measure may result in emergency measures pursuant to Section 5.3.2 of this procedure.

5.3.2. Emergency Measures

In cases where there is reasonable apprehension that the safety of self and/or others is endangered, damage to College property is likely to occur, or where the continued presence of the student(s) would be disruptive to the legitimate operations of the College, the Director of Campus Safety or delegate is authorized to immediately suspend a student or students from the College. These measures are in no way to be construed as indicative of guilt, and shall remain in effect pending the outcome of the student conduct process, or such earlier time as warranted in regard to all of the circumstances.

The Director, Campus Safety or delegate shall:

- a) Contact the appropriate emergency medical and/or law enforcement services in cases where there may be an immediate danger to a complainant, a subject of the complaint or others.
- b) Without unreasonable delay, notify the subject(s) of the complaint of the emergency measures and the reasons for them. When possible, notice of emergency measures will be delivered in person, as well as in writing via DCMail.
- c) Advise the subject(s) of the complaint in writing that they have the right to submit a request for review of the emergency measure invoked. This request must be in writing and submitted to the Director, Campus Safety within five (5) business days. An extension to the five (5) business days may be requested in exceptional circumstances such as hospitalization or incarceration by making a request in writing to the Director, Campus Safety.

- d) When in receipt of a request for review of the invoked emergency measure consult with the complainant and other relevant stakeholders to determine if the aforementioned institutional and individual apprehensions can be addressed by way of interim measures. Upon receipt of a request for review the Director, office of Campus Safety will provide a written response to the suspended student within five (5) business days.
- e) Ensure the respective school Dean(s) and Vice-President Student Affairs, are notified in writing of any emergency measures placed on student(s).

5.3.3. Investigation of a Complaint

- a) Subjects of a complaint shall be notified in writing via College email (DCMail) by the Manager, Student Conduct and Campus Investigations, or designate, that a complaint has been filed.
- b) Once notified, the subject of a complaint shall make themselves available to the manager, Student Conduct and Campus Investigations, or designate, within three (3) business days of a request to meet, except under exigent circumstances.
- c) During an investigation, both a complainant and a subject of a complaint will be invited to submit documentation to the Manager, Student Conduct and Campus Investigations.
- d) Subjects of a complaint who withdraw from Durham College courses or programs at any time during this process waive the College's responsibility for action within prescribed timelines established in this procedure. Decisions shall be made and, where applicable, sanctions may be levied, in absentia.
- e) Subjects awaiting a formal resolution to a complaint who withdraw or are eligible to graduate from Durham College before a complaint is resolved and/or sanctions are implemented shall not be permitted to re-enroll, receive transcripts, or where applicable, graduate, until the issue is resolved. Students wishing to return to the College must initiate the discussion with the Associate Vice-President, Academic Planning.

5.4. Disposition

When a complaint is filed, the Office of Campus Safety will assess the complaint to determine if the complaint meets the criteria for:

- a) An informal resolution by the Office of Campus Safety; OR
- b) A formal resolution by the Student Conduct Committee.

5.5. Informal Resolution

5.5.1. When a complaint is received by the Office of Campus Safety, the complaint will be assessed to determine if it has merit and/or if the complaint is of a minor nature and can be disposed of administratively by mutual consent of the parties involved and on a basis acceptable to the Director, Office of Campus Safety.

5.5.2. A complaint is deemed to be of a minor nature where the offence involves minor disruptive behaviour, minor misuse of equipment or resources, minor damage to property or facilities, and/or minor noncompliance with any College rule, regulation or policy, provided the offence does not jeopardize the health, safety or security of members of the College community.

5.6. Informal Resolution Process

5.6.1. The student who is the subject of the complaint shall be provided with an Investigative Summary by the Office of Campus Safety within ten (10) business days of the complaint being made and/or their notification of the complaint.

5.6.2. The Director, Office of Campus Safety will meet with the student and Manager, Student Conduct and Campus Investigations to review the findings to determine an agreed-upon resolution, normally within ten (10) business days of receiving the complaint and/or Investigative Report from the manager, Student Conduct and Campus Investigations.

5.6.3. The accused student is entitled to be accompanied by an advisor at the student's expense. The Director, Office of Campus Safety must be notified a minimum of one (1) business day in advance of the hearing if the student intends to attend with an advisor and to provide the name of the advisor. The Director, Office of Campus Safety may determine any of the following resolutions or any combination thereof:

- a) No sanction.
- b) A verbal or written warning.

- c) A verbal or written apology.
- d) Restitution.
- e) A conduct contract.
- f) Probation.

The Office of Campus Safety will prepare a written record of the resolution to be sent to the student. A copy of the resolution will be kept on file in the Office of Campus Safety.

At any time, the student, the Director, Office of Campus Safety or the Manager, Student Conduct and Campus Investigations may refer the matter to the Student Conduct Committee.

Disposition of minor complaints by the Office of Campus Safety shall be final with no option to appeal.

5.7. Formal Resolution

Where the complaint is determined to have merit and cannot be resolved under the criteria of the Informal Process, the complaint shall be referred to the Student Conduct Committee for review. The Committee will be comprised of the Chair, one Dean, one Student Affairs staff member and one student, drawn from the Student Conduct Standing Committee.

5.7.1. Student Conduct Standing Committee Membership

- a) Director, Scheduling, Test Centre and Student Conduct Committee -- Chair
- b) Three (3) Deans, each identified for a 2-year term to ensure no conflict of interest in the event that the student accused of violating the Student Conduct policy is registered in the Dean's school and one Dean to be available as a member of the Appeals Committee if required
- c) Three (3) Student Affairs representatives – 2-year term.
- d) Three (3) Student Representatives – selected by the Committee from campus wide applications – 1-year term.

5.7.2. Sanctions

Upon completion of the Committee's review the Committee may impose any of the following sanctions or combination of sanctions:

- a) Loss of privileges.
- b) Restitution.
- c) Community service.
- d) Suspension from one or more College facilities/services.
- e) Permanent restriction from one or more College facilities/services.
- f) Suspension from class(s).
- g) Suspension from the College.
- h) Timetable adjustments.
- i) Expulsion from the College.
- j) Other sanctions, which are consistent with College policy.

5.8. Formal Resolution Committee Process

The student who is the subject of the complaint shall be provided with an Investigative Summary within fifteen (15) business days of the complaint being made and/or their notification of the complaint. Where there are extenuating circumstances, as determined by the Office of Campus Safety, an investigation may require additional time. The subject of the complaint will be notified in writing of any delay.

5.8.1. The student who is the subject of the complaint upon receipt of the Investigative Summary shall make themselves available to meet with the Student Conduct Committee within (5) business days of receiving the Investigative Summary. The meeting will be scheduled by the Committee Chair.

5.8.2. The student will be provided the opportunity to address the complaint in person with the committee.

5.8.3. In cases where more than one student is accused, the Committee Chair may decide to hold separate hearings for each student.

5.8.4. The accused student is entitled to be accompanied by an advisor at the student's expense. The Committee Chair must be notified a minimum of one (1) business day in advance of the hearing if the student intends to bring an advisor and must provide the name of the advisor.

5.8.5. The Committee will review the investigative report, hear from the complainant, the student accused of a policy violation and, where necessary, meet with other interested parties.

A copy of the decision will be kept on file in the Office of Student Affairs. A copy may be sent in confidence to other administrative units on a need to know basis where those units are involved in assisting the student to execute the sanctions or where the student consents to release the information to assist in a counselling or health related matter.

5.9. Appeals

A student may appeal a decision of the Student Conduct Committee regarding non-academic misconduct within five (5) business days of the written decision being provided.

Appeals shall be permitted on the grounds that:

5.9.1. The sanction is unduly harsh or arbitrary or not consistent with precedent.

5.9.2. New evidence relevant to the decision is available, but through no fault of the sanctioned student, was not presented at the time of the investigation.

5.9.3. There is evidence of procedural irregularity in the investigation of the incident or its disposition.

5.10. Appeal Application

To commence an appeal, the student must complete an appeal application through the office of Risk Management and Insurance and provide a letter of explanation outlining the reason for the appeal clearly describing the new information, or evidence of a procedural irregularity, along with all relevant documentation, including the decision of the Student Conduct Committee.

This documentation shall be referred to as the appeal application package.

5.10.1. Processing of the Appeal

Once the appeal application package is complete:

- a) The Manager of Risk Management and Insurance will review the appeal application package, determine if the grounds for an appeal have been presented, and if appropriate forward it, as soon as possible, to the office of the Vice-President, Student Affairs;
- b) The Appeal Committee will be made up of one (1) Dean (Chair), one (1) Student Affairs staff member, and one (1) student representative who was not involved in the original hearing and have no conflict of interest with the student.
- c) An Appeal is not a rehearing. It is a written review of the formal hearing.
- d) The decision of the Appeal Assessment Committee is final.
- e) The chair will forward the appeal documentation to the members of the committee for review.

5.11. Disposition:

The Appeals Committee may

- a) Request that a new Student Conduct Committee be established to hear the case. Members of the new Student Conduct Committee will not be the same members as the first committee. All relevant information will be shared with the new Student Conduct Committee.
- b) Uphold, reduce, increase or dismiss the original sanctions.

5.12. The Decision:

The Appeals Committee shall render its decision with reasons in writing within five (5) business days of the completion of the hearing. The written decision shall be provided to the Vice-President, Student Affairs, Director of Campus Safety, and/or the school Dean/Director, and/or the Office of Strategic Enrollment Services (Registrar), as required. The decision is final and binding on all parties, with no further appeal allowed.

6. Roles and responsibilities

- 6.1. It is the responsibility of the Vice-Presidents, Academic and Student Affairs to ensure that this policy and procedure is fully implemented.
- 6.2. It is the responsibility of complainants to report any alleged non-academic misconduct to the Office of Campus Safety within 15 business days.
- 6.3. It is the responsibility of the Manager, Student Conduct and Campus Investigations or designate, to evaluate and then respond to the complaint within a timeframe and in a method appropriate to the situation as stated in this procedure.
- 6.4. It is the responsibility of the Manager, Student Conduct and Campus Investigations, or designate, to notify students, in writing, of any interim conditions based on the alleged breach of conduct.
- 6.5. It is the responsibility of the Director, Office of Campus Safety to document incidents, as appropriate.
- 6.6. It is the responsibility of the subject of a complaint to make themselves available for a meeting with the manager, Student Conduct and Campus Investigations, or designate, within three (3) days of being notified of the alleged breach of conduct, and to provide any additional information that might inform the situation.
- 6.7. It is the responsibility of the Director, Career Development and Cooperative Education to schedule a hearing to review cases of non-academic misconduct resulting in a formal process.
- 6.8. If a student is sanctioned for violations of the Student Conduct policy and procedure and wishes to appeal the decision, it is said student's responsibility to initiate an appeal with five (5) business days of the written decision being provided.

7. Accessibility for Ontarians with Disabilities Act considerations

Accessibility for Ontarians with Disabilities Act (AODA) standards have been considered in the development of this policy and procedure and it adheres to the principles outlined in the College's commitment to accessibility as demonstrated by the Accessibility Plan (ADMIN-203).

8. Non-compliance implications

Non-compliance with this policy may place students at risk, impact the learning environment and/or result in a sanction.

9. Communications plan

- A message will be posted on ICE alerting employees when new or revised policies and procedures are added to ICE.
- A message will be posted on MyCampus alerting students when new or revised policies and procedures are added.

10. Related forms, legislation or external resources

- Ontario Human Rights Code