

College Procedure

PROCEDURE TYPE:	Academic
PROCEDURE TITLE:	Student Conduct
PROCEDURE NO.:	ADMIN 248.1 (formerly ACAD 115.1)
RESPONSIBILITY:	Vice-President, Student Affairs
APPROVED BY:	Durham College Leadership Team (DCLT)
EFFECTIVE DATE:	April 2015
REVISED DATE(S):	September 2015
REVIEW DATE:	March 2016

1. Introduction

Complaints alleging breaches of the Durham College Student Conduct Policy 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 this procedure 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.

2. Procedure

2.1. 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 the Student Conduct 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.

2.2. Interim and Emergency Measures

2.2.1. 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 2 (page 3) of this procedure.

2.2.2. 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), vice-president Student Affairs, and associate vice-president, Academic Planning are notified in writing of any emergency measures placed on student(s).

2.2.3. 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.

2.3. 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.

2.4. Informal Resolution

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.

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.

2.5. Informal Resolution Process

- 2.5.1. 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.
- 2.5.2. 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.
- 2.5.3. 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.

2.6. 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.

2.6.1. Student Conduct Committee Membership

- a) Director, Career Development and Cooperative Education -- Chair
- b) Dean -- identified for a 2 year term (substitute to be identified in the event that the student accused of violating the Student Conduct policy is registered in the dean's school).
- c) Student Affairs representative – 2 year term.
- d) Student Representative – selected by the committee from campus wide applications – 1 year term.
- e) Student Representative (alternate) to be available in the event of a conflict of interest. Selected by the committee from campus wide applications – 1 year term.

2.6.2. 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.

2.7. 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.

- 2.7.1. 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.
- 2.7.2. The student will be provided the opportunity to address the complaint in person with the committee.
- 2.7.3. In cases where more than one student is accused, the Committee Chair may decide to hold separate hearings for each student.
- 2.7.4. 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 1 business day in advance of the hearing if the student intends to bring an advisor and must provide the name of the advisor.
- 2.7.5. 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.

2.8. 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 of:

- 2.8.1. 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.

- 2.8.2. Evidence of procedural irregularity in the investigation of the incident or its disposition.

2.9. 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.

2.9.1. 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, Academic;
- b) The vice president, Academic will chair the appeal committee which includes the director, Student Academic Learning Services or the director, Athletics and Recreation (determined on a rotating basis or based on potential conflict of interest), and a student representative (typically the alternate from the Formal Resolution Committee process).
- c) The chair will forward the appeal documentation to the members of the committee.

2.10. Hearing

Appeals shall be heard within 10 business days of the receipt of an application to appeal.

The appellant, the individual who filed the complaint, and the college may be represented by an advisor. The advisor may provide advice or make the presentation on behalf of either party, provided that only one person speaks. The spokesperson may call upon the party it is representing to provide testimony.

The spokesperson must be identified at the beginning of the appeal, and cannot be changed during the appeal except under unusual circumstances. If a complainant and/or any subjects of a complaint engage legal counsel during this process, the complainant(s) and/or subjects of the complaint shall be responsible for their legal costs incurred during this process.

2.10.1. Included in Hearing

The process to be followed in the hearing will be outlined by the chair at the commencement of the hearing. Following introductions by the chair, the hearing will commence and include:

- a) An opportunity for the student to outline the reason for the appeal by elaborating on any new evidence or perceived procedural irregularity.
- b) An opportunity for the committee to clarify any issues raised by directing questions to the other party through the chair.
- c) Such other practices and procedures deemed appropriate at the discretion of the chair.

2.10.2. Disposition:

The appeals committee may order:

- a) Alteration or additions to imposed sanctions; or
- b) Reversal or upholding of the original decisions.

2.10.3. The Decision:

The appeals committee shall render its decision with reasons in writing within 5 business days of the completion of the hearing. The written decision shall be provided to the 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.

3. Roles and responsibilities

- 3.1. It is the responsibility of the vice-presidents, Academic and Student Affairs to ensure that this procedure is fully implemented.
- 3.2. It is the responsibility of complainants to report any alleged non-academic misconduct to the Office of Campus Safety within 15 business days.
- 3.3. 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.
- 3.4. 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.
- 3.5. It is the responsibility of the director, Office of Campus Safety to document incidents, as appropriate.

- 3.6. 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.
- 3.7. It is the responsibility of the associate vice-president, Academic Planning to schedule a hearing to review cases of non-academic misconduct resulting in a formal process.
- 3.8. If a student is sanctioned for violations of the Student Conduct policy 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.

4. Accessibility for Ontarians with Disabilities Act (AODA) Considerations

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

5. Related policies, procedures and directives

- Durham College Academic Integrity Policy ACAD-101
- Durham College Acceptable Use of Information Technology Policy ADMIN-206
- Durham College Freedom of Information and Protection of Privacy Policy ADMIN-222
- Durham College Harassment and Discrimination Policy ADMIN-202
- Durham College Recognition of Student Organizations Policy ADMIN-205
- Durham College Risk Management Policy ADMIN-223
- Durham College Security Policy ADMIN-212
- Durham College Sexual Violence Policy ADMIN-244 and procedure ADMIN-244.1
- Durham College Students-at-Risk Policy ACAD-114
- Durham College Student Conduct Policy ADMIN 248 (formerly ACAD-115)
- Durham College Workplace Violence Prevention Policy EMPL-313
- Ontario Human Rights Code