

# STUDENT RIGHTS & RESPONSIBILITIES



**PARTNERSHIP**

Conflict resolution

**EDUCATION**  
Building communities



**SUPPORT**  
Mentors and peers

**ACCOUNTABILITY**  
Restoring balance





# Student Rights & Responsibilities

## **(a) Students have the following rights:**

- (i) The right to academic pursuit as the primary reason for students to be at York.
- (ii) The right to participate in activities for students at the University, without harassment, intimidation, discrimination, disruption or acts of violence.
- (iii) The right to freedom of inquiry, expression and assembly on campus.
- (iv) The right to engage and participate in dialogue and to examine diverse views and ideas.
- (v) The right to fair procedures in proceedings under this Code.
- (vi) The right to respect for one's person and property.
- (vii) The right to privacy of personal information (see definitions in Section 17).

## **(b) Students also have the following responsibilities:**

- (i) The responsibility not to disrupt or interfere with University activities (e.g. academic activities such as classes, University programs, student co-curricular activities and tabling).
- (ii) The responsibility to behave in a way that does not harm or threaten to harm another person's physical or mental wellbeing.
- (iii) The responsibility to uphold an atmosphere of civility, honesty, equity and respect for others which values the inherent diversity in our community.
- (iv) The responsibility to consider and respect the perspectives and ideas of others, even when the student does not agree with their perspectives or ideas.
- (v) The responsibility to respect the property of others including the property of the University.
- (vi) The responsibility to be fully acquainted with and adhere to University policies, procedures or rules.
- (vii) The responsibility to respect the privacy of personal information of others and treat disciplinary outcomes as confidential.
- (viii) The responsibility to obey public laws.

The identified rights and responsibilities listed are interdependent and interconnected. For example, "The right to freedom of inquiry, expression and assembly on campus" and "The right to engage and participate in dialogue and to examine diverse views and ideas" are not separate from "The right to respect for one's person and property" and "The responsibility to behave in a way that does not harm or threaten to harm another person's physical or mental wellbeing." Where there is a tension between rights and responsibilities that are linked, those involved must recognize the need to achieve an appropriate balance.

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## 1

## INTRODUCTION

York University is a place of research, teaching and learning where people value civility, diversity, equity, honesty and respect in their direct and indirect interactions with one another. Freedom of expression, freedom of association, freedom to study and to learn, freedom to engage in research, and the freedom to write and to publish are all recognized as central to the mission of the institution. It is acknowledged that these values can only be meaningful, and these freedoms fully realized, in an atmosphere of safety and security. All York students have rights and responsibilities as outlined in this document and are expected to uphold the identified values for the benefit of the entire York community.

Since their inception, universities have been recognized as clearly distinguishable communities within the larger community and have dealt with issues of misconduct internally. Under the York University Act, 1965, paragraph 13(2)(c), the President has the power to formulate and implement regulations governing students and student activities. The President has assigned to the Vice-President Students, through the Office of Student Conflict Resolution, the responsibility for the administration of this Code of Student Rights & Responsibilities.

The Code of Student Rights & Responsibilities operates in accordance with the basic principles of conflict resolution and procedural fairness. The Office that administers this Code upholds a philosophy and practice that is intended to balance support, accountability and education for participants in any dispute resolution process.

This Code has been developed through extensive consultation with students, staff and faculty, and affirms their stated values of equity and respect. It is based on a model that supports a progressive discipline approach which encourages appropriate conduct. The Code outlines a process for dealing with transgressions and is designed to be perceptibly fair, easy to understand and transparent. In addition, the sanctions it proposes have been developed through community consultation and are understood to be reasonable and suitable for a wide variety of misconduct. Wherever possible and appropriate, sanctions will be corrective and educative.

## 2

## THE REASON FOR A CODE OF STUDENT RIGHTS & RESPONSIBILITIES

This Code of Student Rights & Responsibilities is intended to be educative and promote accountability among students toward their peers and other members of the York community.

This Code identifies those behaviours that are disruptive to the educational purposes of the University, make the campus less safe, diminish the dignity of individuals and groups, and the enjoyment of their rights. It applies specifically to students because the behaviours of non-student members of the University community are held to comparable standards of account by provincial laws, University policies and their unions' collective agreements. Information about how to address a concern or a complaint regarding a faculty or staff member can be found at <http://www.yorku.ca/oscr/csrr/faqs>.

York is committed to civil discourse and the free and open exchange of ideas between community members and as such, nothing in this Code is intended as a method or excuse to suppress peaceful protest, civil debate or other lawful conduct so long as student responsibilities as outlined in Section 4 are being upheld.

# 3

## APPLICATION OF THE CODE OF STUDENT RIGHTS & RESPONSIBILITIES

This Code applies to non-academic student conduct. Academic student conduct is governed by University Senate policies, found at <http://www.yorku.ca/secretariat/policies/>, and is beyond the scope of this Code.

This Code applies to (a) conduct on University premises, and (b) conduct not on University premises but which has a real and substantial link to the University. Examples of such a link would be: University-organized or University-sanctioned off-campus events; University-organized or University-sanctioned events where students are acting as delegates or designated representatives of the University; or off-campus behaviour that has implications that will or may adversely impact a University community member on campus from a safety/security of person perspective.

This Code applies to students and student groups, and all references to “student” include “students” and “student groups.” Student hosts are responsible for the conduct of their guests and the University expects and requires that they discourage inappropriate behaviour. All students and student groups are bound by University policies and regulations. Presidential Regulation 4 and Presidential Regulation 5 ([www.yorku.ca/univsec/policies/](http://www.yorku.ca/univsec/policies/)) are examples of policies related to Student Groups and Organizations. For individuals who are both students and employees of the University, the Office of Student Conflict Resolution will consult with the appropriate offices to determine whether or not the conflict or incident in question falls into the purview of the Code of Student Rights & Responsibilities.

Code proceedings may be instituted against a student charged with conduct that potentially violates both the Criminal Code of Canada and this Code of Student Rights & Responsibilities. Proceedings may be carried out prior to, simultaneous with, or following civil or criminal proceedings off-campus at the discretion of the Office of Student Conflict Resolution. Determinations made or sanctions imposed under this Code may not be subject to change because criminal charges were dismissed, reduced or resolved in favour of or against the Respondent.

The University reserves the right to:

- (a) determine whether or not a matter should be addressed under this Code;
- (b) take necessary and appropriate action to protect the safety and welfare of individuals on campus or the campus community as a whole notwithstanding this Code;
- (c) use information provided by external agencies such as the police or the courts;
- (d) determine whether or not behavioural restrictions should be put in place regardless of the location of the incident or the actions of external agencies such as the police or the courts.

The University may also invoke, in place of or in addition to its own procedures, civil, criminal or other remedies which may be available to it as a matter of law.

## 4

## COMMUNITY STANDARDS FOR STUDENT CONDUCT

All students have the rights and responsibilities articulated in the preamble. In keeping with these rights and responsibilities, students are responsible for conducting themselves in a way that supports research, teaching and learning, and upholding an atmosphere of civility, diversity, equity and respect in their interactions with others. Students should strive to make the campus safe, to support the dignity of individuals and groups, and to uphold individual and collective rights and responsibilities.

More information about the “Guide to Community Membership” can be found at [http://www.yorku.ca/president/reports/community\\_guide\\_2003.html](http://www.yorku.ca/president/reports/community_guide_2003.html).

Examples of behaviours that fall below the standard of conduct that is expected of all students are provided below. This list is not exhaustive but provides examples of breaches of community standards of conduct.

**Breach of University Policies, Procedures or Rules, such as:** Residence Rules; Temporary Use of University Space Policy; Policy on Computing and Information Technology Facilities; Policy on the Sale, Service and Use of Alcoholic Beverages on Campus; Parking and Transportation Policy; unauthorized use of identification to obtain goods or services.

**Abuse of, or disrespect for, the processes of this Code, such as:** bringing unfounded complaints with malicious, frivolous or vexatious intent; failure to comply with the reasonable requests of a University representative; failure to attend meetings or hearings regarding alleged breaches of this Code; retaliation against any participant in the Code process; failure to comply with Code sanctions.

**Disruption of, or interference with, University activities, such as:** causing a substantial disorder; bomb threats; creating dangerous situations (intentional or not); making or causing excessive noise; disrupting classes, events or examinations; proffering false identification or documentation; intentional misrepresentation; setting off false fire alarms; blocking exit routes.

**Damage to the property of the University or its members, such as:** damaging or defacing University property or another person’s property including computer systems and intellectual property; tampering with University fire alarm systems or fire extinguishing equipment.

**Conduct that would be recognized as a breach of the law and/or disregard for the health and safety of the University community or its members, such as:** breaking into University premises; vandalism to University premises or property or another community member’s property; misappropriation or unauthorized possession of personal property of a York University community member; trespassing, including unauthorized use of keys to space on campus; unauthorized possession or use on campus of firearms or of a dangerous implement (e.g. a hunting knife, explosives or incendiary devices); possession or consumption of, manufacturing of, or dealing in, illegal drugs; underage drinking; smoking in areas where it is prohibited; illegal gambling; cruelty to animals; misappropriation of University or private property including intellectual property; possession of what could reasonably be considered misappropriated property.

**Threats of harm, or actual harm, to a person’s physical or mental wellbeing, such as:** assault; verbal and non-verbal aggression; physical abuse; verbal abuse; intimidation; sexual assault; harassment (including physical harassment, sexual harassment, and harassment through e-mail and other digital and social media); stalking; hazing.

It is important to note that the Housing and Residence Life teams are committed to providing a safe, secure environment in which students can live and learn. Within the residence community, the *Residence Handbook* (<http://www.yorku.ca/scld/reslife/residences>) outlines the residence policies and behavioural expectations which support this environment. Within the *Handbook* are Residence Community Standards that are founded upon the principles of respect and equality for all members of the residence community. A breach of the community standards outlined in the *Residence Handbook* is also a breach of this Code.

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

# 5

## THE PROCESS FOR DEALING WITH A BREACH OF COMMUNITY STANDARDS

### (a) Filing a Complaint

Any student, staff or faculty member (a Complainant) may file a complaint under this Code, alleging a breach of community standards by a student.

An online or pdf version of the complaint form can be found at <http://www.yorku.ca/oscr/pdfs/ComplaintForm>.

A hard copy format is available from the Office of Student Conflict Resolution.

- (i) The complaint must be in writing with the Complainant's name attached to it; a residence incident report or a security report may constitute a complaint. Anonymous complaints will not be taken forward.
- (ii) The complaint must be filed within 30 business days of the alleged violation of the Code unless the decision-maker (e.g. Local Adjudicator), upon first addressing the complaint, considers it reasonable to extend that time limit. Extensions are usually considered when there are extenuating circumstances related to the delay in lodging a complaint or if informal resolution was commenced within the 30-day time period.
- (iii) A complaint must be filed with the Office of Student Conflict Resolution or with designated Residence Life Staff members within the residence system.
- (iv) For cases involving personal safety, only the first name of the harmed party and Complainant may be provided to the Respondent.
- (v) The complaint will be considered and a determination will be made by the Office of Student Conflict Resolution as to whether the complaint is within the jurisdiction of this Code. If the complaint does not fall within the jurisdiction of this Code, the complaint will be dismissed and the Complainant will be informed.

### (b) Responding to a Complaint

After it is determined by the Office of Student Conflict Resolution that a complaint falls within the jurisdiction of the Code, the person against whom the complaint is made (the "Respondent") will be notified of the complaint against him or her. The Respondent will be advised of the available options for achieving resolution and may be asked to await further information or guidance from an Office staff person. If a complaint proceeds to an adjudicative process, the Respondent will be referred to this Code as well as a point person in the Office who will provide relevant information to the Respondent about how to prepare for any dispute resolution process.

### (c) Role of the Office of Student Conflict Resolution

The role of the Office is to administer the Code of Student Rights & Responsibilities. The Office provides advice, training and resources to Complainants, Respondents, Witnesses, Mediators, Restorative Justice Circle Facilitators, Local Adjudicators, Peer Review Board members and University Tribunal members.

Dispute Resolution Advisers (DRA) co-ordinate and provide informal resolution processes such as advice, conflict coaching, conciliation, mediation and restorative justice circle processes. DRAs also provide procedural support for Local Adjudication cases. The DRAs will provide resources and neutral advice to all parties (Complainants, Respondents, Witnesses and decision-makers) to help ensure that the processes meet the procedural guidelines outlined in this Code.

Respondents and Complainants may also seek advice from a Peer Support Team member and this can be co-ordinated through the Office of Student Conflict Resolution.

### (d) Options for Addressing a Complaint

The University recognizes that many disputes can be resolved without resorting to the procedures in this Code. Wherever it is possible and proper to do so, members of the University community are to be

encouraged to use constructive communication to encourage appropriate behaviour rather than invoking the complaint process. At the discretion of the Office staff and depending upon available resources, other options may include informal conflict resolution, peer mediation and a restorative justice circle process. Options can be discussed with a DRA who will provide general information and guidance.

If the case falls into the Code's jurisdiction, then the Office may:

- (i) refer the complaint to an Informal Resolution process;
- (ii) refer the complaint to Local Adjudication;
- (iii) refer the complaint to a Peer Review Board (for residence cases only); or
- (iv) refer the complaint to a University Tribunal.

Typically, informal resolution options will be explored before the matter is referred to an adjudicative process.

## 6 INFORMAL RESOLUTION

There are several options for resolving a matter informally. A DRA will assess the case and recommend a resolution option. Options may include providing advice, conflict coaching, conciliation, mediation and restorative justice circle. Within the residence community, according to the criteria outlined in the Residence Community Standards document, Dons and Residence Life staff members are empowered to attempt informal resolution before referring a matter to an adjudicative process. If either party does not respond to a notice for an informal resolution meeting, then the matter will normally proceed to adjudication.

Informal resolution processes are confidential and personal information and admissions shared within the process may not be used by either party against the other in an adjudicative process unless otherwise stipulated. If the parties arrive at a mutually agreeable resolution, then the resolution/agreement may be shared with the appropriate third parties or decision-makers, but the content of the process remains confidential.

Facilitators of any informal resolution process provide a forum for participants to discuss the complaint, the impact of the incident/dispute, and develop a resolution that may include but is not limited to sanctions listed in Section 14 of the Code. If informal resolution is successfully reached and compliance (if applicable) is achieved, then the file will be closed.

In the case of mediation and restorative justice circle processes, where a resolution is not reached, the case will normally proceed to an adjudicative process. Also, where a resolution has been reached but the resulting agreement is not complied with, compliance measures outlined in Section 14 (e) will be invoked or the matter may be referred to an adjudicative process. Refer to <http://www.yorku.ca/oscr> for more details about these services.

# 7

## LOCAL ADJUDICATION

When a Local Adjudicator receives a complaint, he or she will initiate an investigation.

The Local Adjudicator may find that the case is appropriate for informal resolution and, as a result, may invoke that process. The Local Adjudicator may be the person who facilitates early settlement and/or an informal resolution process; however, he or she may also refer the matter to an alternative person or process.

When adjudication is undertaken, the Respondent will be directed to the Code and informed of his or her rights and responsibilities. The Respondent will also be given a copy of the complaint including the name of the Complainant. Contact information for the Complainant and Respondent will be kept confidential.

For cases involving allegations of danger to personal or community safety, the Office of Student Conflict Resolution or a Local Adjudicator may order interim behavioural restrictions.

### **(a) Referral of a Complaint to the University Tribunal**

If, at any time after receiving a complaint, the Local Adjudicator is of the opinion that the nature of the complaint makes resolution by the Local Adjudicator inappropriate, the Local Adjudicator may refer the complaint to be dealt with at a University Tribunal hearing.

### **(b) Investigation**

The Local Adjudicator will gather the facts of the case by meeting separately with the parties, and if necessary, with any relevant Witnesses that have been identified. Normally the Adjudicator will meet first with the Complainant and Witnesses for the Complainant before meeting with the Respondent. The Local Adjudicator will also review relevant policies and any relevant documents and information that are provided to him or her.

Sanctions that may be considered are outlined in Section 14. The Respondent will be given an opportunity to comment on the appropriateness of any sanctions that are within the authority of the Local Adjudicator and which may be applicable in his or her situation.

When a response is required, the Respondent must respond by the deadline and in the manner (i.e. in person or writing) required by the Local Adjudicator. Where a meeting has been scheduled to enable the Respondent to be heard in person on the matter by the Local Adjudicator, but the Respondent does not attend despite having been informed of the appointment in writing, the Local Adjudicator may proceed without scheduling another such meeting and may reach a decision on responsibility based on the information and documentation she or he has received and reviewed.

### **(c) The Standard of Proof**

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

### **(d) The Decision**

If the Local Adjudicator determines that there has been a breach of this Code, then sanctions may be imposed. The Local Adjudicator will issue a written decision stating the reasons for the decision within 10 business days from the date on which the Respondent is advised of the decision.

The written decision, which will include the reasons for the decision, of the Local Adjudicator will be provided to the Respondent. The written decision may also be provided to the Complainant unless the Local Adjudicator or University Tribunal finds that there are grounds to order otherwise. In such cases, the Complainant will be provided with a summary of the material details of the decision that relate to the Complainant. The decision will be filed with the Office of Student Conflict Resolution which is the Office of Record for conduct-related matters.

## 8

**PEER REVIEW BOARD (residence cases only)**

In the residence community, Dons and Residence Life staff will play a key role in trying to resolve issues informally where possible. The Don's role in informal resolution and addressing levels of prohibited behaviour are outlined in more detail at <http://www.yorku.ca/sclld/reslife/residences>.

Where a case cannot be dealt with through informal resolution, the matter will be referred to either Local Adjudication or the Peer Review Board (PRB).

Residence cases are directed to the PRB in one of two ways. First, a Residence Life staff member or Local Adjudicator may determine that a case can appropriately be decided upon by peers and directly refer a case to the PRB. Second, any Complainant or Respondent who resides in residence may advise the Local Adjudicator that he or she would prefer to have their case heard by peers, at which time the Adjudicator would refer the case to the Board providing that the parties can attend the allotted hearing date and time.

**(a) Peer Review Board**

The Peer Review Board (PRB) provides an opportunity for a balanced airing of the case as presented by the various parties to the hearing. The hearings are held in "private", i.e. restricted to persons who have a direct role or interest in the hearing or persons who are acting as Witnesses. At the discretion of the Chair, other persons may be admitted to the hearing for training purposes or other reasonable considerations. An assigned PRB Adviser will attend the hearing in order to provide administrative support and procedural guidance to the PRB.

The PRB shall determine whether or not the Respondent's conduct has met or fallen below the standard of conduct outlined in the Code of Student Rights & Responsibilities or the Residence Community Standards outlined in the *Residence Handbook*. PRB members will ask questions during the hearing to clarify the information being presented so as to assist in their determination of whether or not there has been a breach, and if so, to determine what level of harm has occurred and how that harm can be addressed including the appropriate resolutions and sanctions. The PRB will promote education about the impact on others of behaviour which falls below the standard of conduct outlined in this Code. The PRB will apply educative resolutions and sanctions whenever possible and appropriate.

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

Further details about the Peer Review Board and its proceedings can be found at <http://www.yorku.ca/sclld/reslife/residences>.

**(b) Peer Review Board Composition**

Student volunteers are appointed as members of the PRB for a one-year term by the Vice-President Students upon recommendation of a selection committee. Terms are renewable for up to three years. The selection committee will comprise the following representatives: PRB Adviser, Don and PRB member. The appointment may be terminated earlier by the same representatives that comprise the selection committee.

Quorum for each PRB will be at least three and no more than five members, one of whom will be a Student Chair. One non-voting Board Adviser will also attend the hearing.

# 9

## REQUEST FOR A REVIEW OF A LOCAL ADJUDICATION OR PEER REVIEW BOARD HEARING

### (a) The Request

Following a decision of a Local Adjudicator or a Peer Review Board, a Respondent may request a hearing or a review the decision or imposed sanctions on the grounds that:

- (i) the Local Adjudicator or Peer Review Board had no authority under this Code to reach the decision or impose the sanctions he or she did;
- (ii) the Local Adjudicator or Peer Review Board made a fundamental error in procedure prejudicial to the Respondent;
- (iii) the sanctions are unnecessarily punitive and/or do not fit the violation for which the Respondent has been found responsible or would benefit from a review on compassionate grounds (this ground may only result in a review of sanctions);
- (iv) the Respondent has new evidence to present that could not reasonably have been presented earlier.

The request must include detailed reasons and be in writing. Requests must be delivered to the University Tribunal, c/o the Director of the Office of Student Conflict Resolution, within 10 business days after the date on which the Local Adjudicator's written decision, with reasons, was issued.

### (b) The Decision

The request for hearing or a review of the decision or sanctions will be considered by a University Tribunal in written form only. This University Tribunal will render a written decision with reasons no more than 10 business days from the date of the hearing. The University Tribunal has the authority to do the following:

- (i) grant or deny a hearing (Local Adjudication, Peer Review Board or University Tribunal);
- (ii) affirm the original decision;
- (iii) affirm, reduce or increase the assigned sanctions; or
- (iv) require that the Local Adjudicator or Peer Review Board conduct a new hearing or reconsider some pertinent aspect of its decision. The subsequent hearing cannot be subject to a new request for a review under this Section of the Code and its decision will be final and binding.

**c) Sanctions ordered by the Local Adjudicator or Peer Review Board** will be suspended pending the decision of the University Tribunal as to whether a hearing will be granted; however, the following sanctions will stay in effect:

- (i) behavioural restrictions (e.g. no-contact order, ban from a building);
- (ii) residence relocation;
- (iii) residence probation;
- (iv) residence suspension;
- (v) removal from residence;
- (vi) any sanctions that a Local Adjudicator or PRB have specified are for safety or security reasons.

Notwithstanding that a student is appealing the sanction of removal from residence, the student may still be expected to vacate the residence as ordered. Housing issues may be discussed with the Office of Student Conflict Resolution.

**d) If the University Tribunal denies the request** for a hearing or chooses not to modify the sanctions, then the original sanctions will immediately become enforceable as of the date of the Local Adjudicator or PRB's decision.

**e) The decision of the University Tribunal is final and may not be appealed.**

## 10

**UNIVERSITY TRIBUNAL****(a) University Tribunal Composition**

The members of the University Tribunal (UT) are students, faculty and staff volunteers appointed by the Vice-President Students upon recommendation by a selection committee comprising University Tribunal members, one of whom will be a student. University Tribunal members may serve for a renewable two-year term, unless terminated earlier by the Vice-President Students upon recommendation by a panel comprising the same representatives that make up the selection committee.

Quorum for a University Tribunal Hearing panel will be three persons, one of whom will be a student. They will elect a Chair for the proceedings. In rare circumstances where a Tribunal matter continues over a period of time and one Tribunal member becomes unavailable for unavoidable reasons such as a medical emergency, the remaining two Tribunal members may complete the proceeding with the consent of the parties. If the Tribunal member who is unavailable was the Chair of the proceeding, one of the remaining two members will become the Chair.

**(b) University Tribunal Hearing Process**

University Tribunal Hearings provide an opportunity for a balanced airing of the case. The hearings are held in "private", i.e. restricted to persons who have a direct role or interest in the hearing, or persons who are acting as Witnesses. At the discretion of the Chair, other persons may be admitted to the hearing for training purposes or other reasonable considerations.

The University Tribunal Hearing panel's purpose is to provide a fair evaluation of the case and determine whether or not the Respondent is responsible for violating University regulations and to assign appropriate sanctions in the case where a student is found responsible. University Tribunal members will ask questions not only to determine whether or not there has been a breach, but also to determine what the impact of the behaviour was, the level of harm that has occurred and how that harm can be addressed. If a student is found responsible, then the University Tribunal will consider how the harm should be addressed and identify the appropriate sanctions.

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

The University Tribunal will attempt to make decisions by consensus. Where a decision proves to be challenging for the panel to achieve consensus, each member, including the Chair, will have one vote and decisions will be made by a majority vote.

Formal rules of procedure and evidence such as those applied in a criminal or civil court are not used in Code of Student Rights & Responsibilities proceedings. In order to ensure that its procedures are as fair as possible in the context of University circumstances and traditions, the University Tribunal shall comply with the following procedural guidelines:

- (i) The Chair introduces the other Tribunal members and explains how the hearing will proceed.
- (ii) The Chair reads a description of the alleged Code breach and the reason for the hearing.
- (iii) An opportunity is presented to the Respondent to admit or deny responsibility in whole or in part.
- (iv) The Complainant presents the complaint and any supporting documentation and Witnesses to the University Tribunal Hearing panel.
- (v) The Respondent has the opportunity to ask questions of the Complainant and any Witnesses through the Chair of the University Tribunal. Members of the University Tribunal will also have the opportunity to ask questions of the Complainant and his or her Witnesses. Alternative methods of hearing testimony and asking questions may be used in cases where potential traumatization of any party is a consideration (e.g. allegations involving physical violence, domestic violence, sexual assault, stalking).
- (vi) After the Complainant has presented the complaint, the Respondent will have the opportunity to present his or her response to the complaint, including any supporting documentation and Witnesses. Members of the University Tribunal will also have the opportunity to ask questions of the Respondent and the Witnesses.

- (vii) The Complainant has the opportunity to ask questions of the Respondent and his or her Witnesses through the Chair of the University Tribunal. Members of the University Tribunal will also have the opportunity to ask questions of the Respondent and the Witnesses.
- (viii) Both the Complainant and the Respondent then summarize the information that has been presented through documentation and Witnesses, explain their respective interpretations of that information and whether it shows that there has, or has not, been a breach of the standard of conduct contained in the Code.
- (ix) Both the Complainant and the Respondent will have the opportunity to suggest what remedies and sanctions, if any, they believe are appropriate to the matter before the University Tribunal.
- (x) The decision of the UT, with reasons, will be put in writing no more than 10 business days from the end date of the hearing and delivered to the Respondent and the Complainant by regular mail, Express Post or e-mail and filed with the Office of Student Conflict Resolution. Whenever possible, decisions of the University Tribunal will also be made orally immediately following the hearing.
- (xi) Variations from procedural guidelines within this Section shall not necessarily invalidate a decision, unless significant prejudice to a student or the University may result.

The Director (or Designate) of the Office of Student Conflict Resolution acts as the secretary to the University Tribunal and provides procedural guidance and resources for the Tribunal as required.

### **(c) Postponements**

A hearing may be postponed at the discretion of the University Tribunal if it has independent reasons to do so or upon the request of a party where the party satisfies the Tribunal that the postponement is necessary for a fair hearing to be held. When deciding whether or not to grant a postponement, the Tribunal may consider one or more of the following factors:

- (i) the timeliness of the request;
- (ii) the adverse impact, if any, of postponement on the parties;
- (iii) whether postponements have been previously granted in the case;
- (iv) the consent of the parties;
- (v) any other relevant factor(s).

The Tribunal may grant a postponement on such terms and conditions as it considers appropriate and fair. Any parties seeking a postponement shall seek the consent of the other key party or parties via the Office of Student Conflict Resolution before bringing a request before the Tribunal. Whether consent is obtained or not, the party seeking the postponement is required to contact the University Tribunal via the Director of the Office of Student Conflict Resolution and put the request in writing. The request must include the reasons for the request, any relevant documentation, and must state whether or not the other party consents to the postponement. A copy of the request will be forwarded by the Director to the Tribunal as well as to the other party.

A party making a request for postponement will give the University Tribunal and the other party written notice of their request as soon as possible.

Where possible, the University Tribunal will consider the request in advance of the original hearing date. Where this is impractical or impossible, the University Tribunal may consider the request as a preliminary matter on the hearing date. Either way, the University Tribunal will decide whether or not to grant the postponement request. If the request is denied, the hearing will proceed on the originally scheduled date.

The University Tribunal may, in its discretion, deny a postponement even though the parties consent.

### **(d) Sanctions**

Where the University Tribunal finds that a breach of the Code has occurred, it has the authority to impose any of the sanctions and make any of the recommendations outlined in Section 14, depending on the gravity of the breach of the standard of conduct in question.

Where a University Tribunal is persuaded, by the information it has heard and reviewed, that there is a risk that the Respondent will engage in future behaviour that is likely to cause harm to others in the University community, the Tribunal may impose behavioural restrictions, suspension or expulsion.

## 11

## APPEALS OF UNIVERSITY TRIBUNAL DECISIONS

### (a) Grounds for Appeal

A student or the University may appeal a University Tribunal decision or request a review of any imposed sanction(s) to the Appeal Panel on one or more of the following grounds only:

- (i) the University Tribunal had no power under this Code to reach the decision or impose the sanctions it did;
- (ii) the University Tribunal made a fundamental procedural error seriously prejudicial to either party;
- (iii) the sanctions are unnecessarily punitive and/or do not fit the violation for which the Respondent has been found responsible or would benefit from a review on compassionate grounds (this ground may only result in a review of sanctions); or
- (iv) the Appellant has new evidence to present that could not reasonably have been presented earlier such as, but not limited to, evidence from an appropriate professional indicating that the appellant's behaviour was attributable to a previously unrecognized health problem. Where medical or psychological documentation is produced concerning health issues that pertain to safety and security considerations, the University reserves the right to refer the Appellant for assessment by an independent medical/psychological expert approved by the University (such as the Centre for Addiction & Mental Health).

The grounds for appeal, including all supporting information, must be described and delivered in writing to the Director of the Office of Student Conflict Resolution within 10 business days following the date on which the written decision of the University Tribunal was issued. The Respondent on Appeal will have an opportunity to make written submissions regarding the appeal. The Appellant will then have an opportunity to reply before a decision is rendered. A maximum of five business days will be given to each party to prepare and deliver their materials.

### (b) Composition of the Appeal Panel

The Appeal Panel will consist of three members from the University Tribunal, one of whom will be a student. None of them will have been on the panel that heard the original case.

### (c) Preliminary Assessment of the Materials

The Appeal Panel will do a preliminary assessment of the written material before holding an oral hearing. If it has concluded that the appeal cannot succeed on any of the grounds provided in (a) above, the appeal may be dismissed without further process such as either an oral hearing or further written hearing.

If the appeal relies on grounds (a) (i) (ii) or (iii) above and no other grounds, the hearing may be conducted in writing only. If the appeal relies on ground (iv) there will be an oral hearing.

### (d) Application of Sanctions

Only monetary sanctions are automatically suspended pending the outcome of the appeal. Non-monetary sanctions remain in force pending the outcome of the appeal. The Appellant may apply to the Appeal Panel to stay the enforcement of the sanctions pending the outcome of the appeal. The Appeal Panel will convene a hearing at the earliest possible date to deal with the request for a suspension of sanctions. Where a more urgent response is required, application may be made to the Director of the Office of Student Conflict Resolution.

### (e) Notice of the Hearing

The Appeal Panel will hear the appeal within 20 business days except in exceptional circumstances, and will give the parties notice of the time and place of the appeal hearing.

### **(f) Written Hearing**

The written hearing will be conducted within the 20 business day period outlined in (e) above. The Appellant and Respondent on Appeal will receive notice that the hearing will be a written hearing. The Appeal Panel will review the materials in closed session and then make a decision as per (h) below.

### **(g) Oral Hearing**

The oral hearing will follow the same general procedural guidelines as outlined in 10 (b): the Appellant will state his or her case first and the Respondent on Appeal will reply. It is not the purpose of the Appeal Hearing to re-hear the case, rather the scope of the hearing will be limited to the Appellant making a case that his or her grounds for Appeal have been met as per (a) of this Section. The Appeal Panel will make a decision as per (h) below.

### **(h) The Decision**

The appeal will be considered by an Appeal Panel. The Appeal Panel will render a written decision with reasons no more than 10 business days from the end of the Appeal Panel hearing. The Appeal Panel has the authority to do the following:

- (i) allow the appeal in part or in whole;
- (ii) affirm or modify the University Tribunal decision;
- (iii) affirm, reduce or increase the sanctions appealed against; or
- (iv) require that the original University Tribunal conduct a new hearing or reconsider some aspect of its decision.

The written decision of the Appeal Panel will be delivered to the Appellant, the Respondent on Appeal and the Office of Student Conflict Resolution by regular mail, Express Post or e-mail. The decision will be filed with the Office of Student Conflict Resolution.

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

## 12

## STUDENT RIGHTS AND RESPONSIBILITIES AT AN ADJUDICATIVE HEARING

### (a) Student Rights at a Local Adjudication, Peer Review Board (PRB), University Tribunal (UT) Hearing and Appeal Hearing

Respondents have the following rights:

- (i) The right to see all the documentation that the Complainant will present.
- (ii) The right to prior notice of hearing:
  - a. In the case of a Peer Review Board: notice of at least three business days.
  - b. In the case of a Local Adjudication: notice of at least five business days.
  - c. In the case of a University Tribunal: notice of at least seven business days.

Where there are circumstances that warrant more urgent handling, the notice period may be shortened at the discretion of the decision-maker (Local Adjudicator, Peer Review Board, University Tribunal or Appeal Panel).

The hearing notice will be hand-delivered, or sent by e-mail, regular mail or Express Post. The hearing will be “private” as explained in Section 10 (b).

- (iii) The right to have an Adviser:
  - a. During Local Adjudication and before the Peer Review Board, a student may bring an Adviser (e.g. friend, parent, or other support person). The Advisor may not speak on behalf of the student but may offer support and guidance to the student in the presentation of his or her case. The name and contact details of the Adviser should be provided to the designated Peer Review Board Adviser or Local Adjudicator at least three business days prior to the hearing date.
  - b. During the University Tribunal Hearing and in the University Tribunal Appeal Process, a student has the right to bring an Adviser or, if necessary, an Advocate. This may be any person chosen by the student to help present his or her case. Students are still expected to speak on their own behalf. The name and contact details of the Adviser or Advocate should be provided to the Office of Student Conflict Resolution at least five business days before the hearing.
  - c. A student is responsible for selecting as his or her Adviser a person whose schedule allows attendance on the scheduled date and time for the hearing. If a party wishes to request a postponement, he or she may do so by following the procedures outlined in Section 10 (c). Parties are asked to request dates as close as possible to the original hearing date so that the hearing is timely for both parties.

### (b) Additional Student Rights at a University Tribunal or University Tribunal Appeal Hearing

- (i) Students have the right, before the merits of the case are heard, to challenge the suitability of any decision-maker hearing the case if there is a reasonable apprehension of bias against the Respondent’s case. If such a challenge is made, the individual decision-maker or whole panel will determine if a reasonable apprehension of bias is warranted. Its decision will be final. If it does find a reasonable apprehension of bias, it will direct the Office of Student Conflict Resolution to appoint a new panel member or reschedule the hearing with a new panel member or a newly constituted panel.
- (ii) A student has the right to have his or her case heard in a timely manner, meaning within approximately 20 business days after the determination that the complaint will be heard by the University Tribunal and alternative resolution measures have been unsuccessful, except where emergency measures have been invoked or in other exceptional circumstances (such as University holiday closure).
- (iii) Under the provisions of the Ontario Human Rights Code and the Accessibility for Ontarians with Disabilities Act, students with disabilities may require reasonable accommodation in relation to

a Code proceeding. In such cases, the student is required to provide medical or psychological documentation to Counselling & Disability Services (CDS) at York. With student consent, CDS will confirm and specify the functional impairment and, where applicable, will specify the accommodation that is required.

### **(c) Student Responsibilities at Any Adjudicative Hearing**

- (i) At least three business days before a Local Adjudication, two business days before a Peer Review Board and at least five business days before a University Tribunal, parties must:
  - a. Deliver original documentary evidence and any written submissions about them that the party wishes to provide in advance.
  - b. Advise of any Witnesses that will be attending at the party's request.
  - c. Advise whether or not parties will be bringing a support person/Adviser to the hearing.
- (ii) Respondents are expected to attend hearings in person even if they have an Adviser. Failure to attend a hearing may result in the case being heard and determinations made in the absence of the Respondent's own in-person evidence.
- (iii) A student is responsible for selecting as his or her Adviser a person whose schedule allows attendance at or near the scheduled date and time for the hearing so that the hearing is timely for both parties.
- (iv) It is the student's responsibility to provide the University with his or her current and actively used contact information. If a student fails to receive any notice under this Code by reason of the student's own failure to meet this requirement, such notice will still be treated as valid and effective.

# 13

## **RECORDS**

A record of the case files and final decisions made under this Code will remain in the Office of Student Conflict Resolution.

# 14

## **SANCTIONS**

The sanctions outlined below may be imposed for a breach of the Code. More than one sanction may be imposed concurrently for a single breach. When a sanction is being imposed, prior breaches of the Code may be considered.

### **(a) Sanctions That May Be Imposed by the Local Adjudicator and Peer Review Board**

The following sanctions may be imposed by Local Adjudicators and Peer Review Board:

- (i) reprimand;
- (ii) educative requirements, such as community service, reflective essay or research on a specified topic;
- (iii) refundable fine of up to \$500;
- (iv) restrictions on behaviour;
- (v) fines up to \$250;
- (vi) full restitution for damage up to \$500;

- (vii) loss of non-essential services;
- (viii) relocation to other University housing;
- (ix) residence suspension (up to five days);
- (x) denial of residence eligibility.

### **(b) Additional Sanctions that may be Recommended by the Local Adjudicator and Peer Review Board**

In addition to the sanctions listed in Section 14(a) above, the Local Adjudicator or Peer Review Board may recommend the following sanctions to the Assistant Director, Residence Life (or Designate):

- (i) residence probation;
- (ii) removal from residence.

The Assistant Director, Residence Life may not apply these sanctions in the absence of a recommendation from a Peer Review Board or Local Adjudicator.

### **(c) Additional Sanctions that may be Imposed by the University Tribunal**

In addition to the sanctions listed in 14(a) and 14(b) above, the University Tribunal may impose the following sanctions:

- (i) fines up to \$1,000;
- (ii) campus restrictions;
- (iii) full restitution;
- (iv) suspension;
- (v) expulsion.

### **(d) Recommendations and Agreements**

Decision-makers may also make recommendations and/or acknowledge agreements made by the parties. For example:

- (i) Refer parties to counselling services and other potential sources of support such as financial aid.
- (ii) Recommend participation in a conflict resolution or a restorative justice circle process.
- (iii) Recommend or assisting with the preparation of an apology or statement of regret to a harmed party or to a symbolic representative of a community on campus (e.g. team, classmates) according to specified guidelines and with the agreement of the Respondent.

### **(e) Compliance**

Failure to comply with assigned sanction(s) within the specified timeframes, or failure to comply with an agreement entered into by a Respondent to resolve a complaint, may result in an automatic fine of up to \$100 for each sanction or resolution not complied with. These fines are in addition to the allowable amount that a decision-maker has the authority to assign. This fine may be added to the Respondent's student account.

# 15

## EMERGENCY MEASURES

The purpose of this Section is to permit the University to act promptly and effectively to safeguard members of the University community.

If the Vice-President Students (or Designate) has reason to believe a student may cause harm to himself or herself or to another campus community member or that the student's presence at the University poses or may pose a risk to safety and security, he or she may invoke emergency measures by immediately imposing a range of restrictions, up to and including suspension for up to 10 business days.

The Vice-President Students is not required to hold a hearing prior to invoking emergency measures; however, every reasonable effort will be made to notify the student of the steps being considered and gather input from the student prior to invoking emergency measures. The student will be notified of the decision to invoke emergency measures in person, by telephone or in writing (including by e-mail).

If a student appears to be at risk of harming others or himself or herself, then a Dispute Resolution Adviser (DRA) and the Vice-President Students may also convene a meeting with the Student-At-Risk Committee (SARC) in order to help determine the best course of action to enhance safety. Where applicable, the SARC may also recommend on- and off-campus referrals to support both the Respondent and any affected parties.

As soon as possible after emergency measures have been invoked, and within the allotted 10 day period or as soon as reasonably possible after contact with the student has been established, whichever happens earlier, a Dispute Resolution Adviser will meet with the Respondent, the Complainant and any relevant Witnesses to gather additional information about the case. This information will be provided, in writing, to the Vice-President Students for review and may result in a lifting, a modification or continuation of the emergency measures.

In the case of a full suspension, a University Tribunal shall convene within the initial 10-business-day period to determine whether or not the suspension should continue, under what modifications or conditions, if any, and the length of time the period should continue pending a full hearing and determination on the matter.

The Vice-President Students (or Designate) may extend restrictions for an additional 30 business days or until a hearing on the matter can be held, whichever occurs first. A University Tribunal hearing must be commenced as soon as possible, but within 40 business days from the first imposition of emergency measures.

The University Tribunal may limit a student's access to the University until a comprehensive threat assessment has been conducted. Notwithstanding the results of that assessment by qualified professionals, the student may still be held accountable for the past behaviour that either led to the emergency measures or had a negative impact on the University or its members.

When a student has been charged under the Criminal Code of Canada, the time limits in this Section may be extended to take into account the scheduling of criminal proceedings, depending on the nature and severity of the offence with which the student is charged. Refer to Section 3 for more details on cases involving criminal charges.

# 16

## REVIEW OF THIS CODE

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

## 17

## DEFINITIONS

**Appeal** refers to a process for requesting a hearing to formally change an official decision or sanction imposed by the University Tribunal which adheres to specific grounds outlined in the Code.

**Appeal Panel** is a panel comprised of three members from the University Tribunal including faculty, staff and student and will review and hear appeals of University Tribunal decisions. The Appeal panel members will not be the same members who heard the original case.

**Appellant** is the person who appeals the decision of the University Tribunal.

**Business Day** means Monday to Friday, except for the holidays stated in the University Calendar or unforeseen closures due to weather, emergencies or work stoppages.

**Board Adviser** refers to a designated staff person who attends Peer Review Board hearings and panel meetings to provide procedural guidance and support to Peer Review Board panel members. The Board Adviser may speak at a hearing and ask questions of parties to the hearing however the Board Adviser is non-voting and does not make decisions related to complaints.

**Campus** includes all York University campuses, namely, Keele, Glendon, and York Professional Centres.

**Campus Restrictions** refer to restrictions or limitations on the student privileged access to campus, or areas of campus, including residence and housing buildings on campus. Campus restrictions may also apply to buildings, Faculties, departments, schools, divisions and programs including programs abroad.

**Complainant** refers to a role that may be taken by the person directly impacted by a conflict or incident, a Witness to the conflict or incident, or a concerned University representative. In the Peer Review Board (PRB) process, a Complainant may be a staff person presenting a complaint or incident to the PRB.

**Conciliation** refers to a voluntary process of addressing disputes with the help of a third party who meets with the parties separately in an attempt to help resolve their differences. Conciliation may or may not involve a face to face meeting between disputing parties.

**Conflict Coaching** is one-on-one process designed to help individuals identify skills and actions to constructively manage or address a specific conflict or dispute.

**Denial of Residence Eligibility** refers to a sanction which removes a student's ability to live in residence in subsequent academic years.

**Emergency Measures** are measures that are put in place when a student is determined to pose a risk to safety and security at the University.

**Expulsion** refers to permanently removing a student from the University.

**Hazing** is defined as an act that endangers the mental, physical health, safety and/or dignity of a student and performed as a condition of membership or during Orientation at the University,

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

**Non-essential Services** means services that are not essential for students to complete their academic requirements.

**Peer Mediation** refers to a conflict resolution process facilitated by student peers of a student Respondent and student Complainant.

**Peer Support Team** refers to a group of trained students who offer peer advice about the Code of Student Rights & Responsibilities as well as other functions such as peer mentoring and peer mediation.

**Personal Information** means information about an identifiable individual, including:

- (a) information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- (b) information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;

- (c) address, telephone number, fingerprints or blood type of the individual;
- (d) correspondence between the University and the student sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence; and
- (e) personal opinions or views of the individual except where they relate to another individual and the views or opinions of another individual about the individual.

**Private**, used in the context of this Code, means that hearings are considered “private” and they are restricted to persons who have a direct role or interest in the hearing or persons acting as witnesses.

**Probation** refers to a set of restrictions imposed in lieu of a more serious sanction or sanctions. Failure to abide by a probation order may result in the application of more serious sanctions.

**Refundable Fine** refers to an imposed fine which may be secured by a deposit of money of up to \$500 which will be cancelled and the money returned if the student complies with the Code and/or an outlined behavioural standard over a specific period of time.

**Respondent** refers to a student against whom a complaint has been filed under the Code of Student Rights & Responsibilities.

**Respondent on Appeal** refers to the party who was the opposing party to the Appellant in the University Tribunal proceeding that is the subject of the appeal.

**Residence Suspension** refers to the act of temporarily removing a student from University residence housing.

**Restitution** refers to a sum of money paid or services rendered in compensation for loss or damages caused.

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

**Restorative Justice Circle** is a practice of restorative justice which involves bringing together direct and indirect parties, support persons, and relevant university staff into a “circle” to talk about the incident, identify harms that have been caused and collectively determine how those harms ought to be addressed.

**Restrictions on Behaviour** refers to restricting a student’s behaviour. Restrictions may include, but are not limited to:

- a no-contact order;
- ban from establishment that serve alcohol;
- ban from non-essential activities (e.g. involvement in a student club, studying on campus, drinking alcohol on campus);
- ban from a residence floor or building;
- an order to sign in and out with Security when attending campus.

**Student** refers to a person who is registered as a student at York University and who is therefore bound by University policies and regulations. “Student” also refers to persons living in a York residence although not enrolled at York.

**Student Group** refers to student organizations recognized by the University, including student college councils and the student government.

**Suspension** refers to a temporary barring from the University for a specified time (e.g. 10 days, one semester, one academic year).

**University** and **Institution** mean York University and all of its Faculties, departments, campuses, schools, divisions and programs including programs for study abroad.

**University Premises** includes all land, buildings, facilities and other property owned, in the possession of, used or controlled by York University.



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