

STUDENT Code *of* Conduct

FREEDOM • COURTESY
OBJECTIVITY • COMMUNITY • EQUITY • DIVERSITY • FAIRNESS
CIVILITY • RESPECT • DIGNITY • FREEDOM
COURTESY • OBJECTIVITY • COMMUNITY • EQUITY • DIVERSITY
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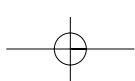
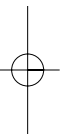
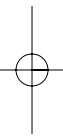


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1 Introduction

York University is a place of research, teaching and learning where people value civility, diversity, equity and respect in their interactions with one another. Freedom of speech, 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.

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 Conduct & Dispute Resolution, the responsibility for the administration of this Code of Student Conduct.

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 that encourages appropriate conduct.¹ The process the Code outlines for dealing with transgressions 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 instructive rather than punitive.

2 The Reason for a Student Code of Conduct

This Student Code of Conduct identifies those behaviours which, if left unchallenged and unchecked, would disrupt the academic purposes of the University, make the campus² less safe, diminish the dignity of individuals and groups, or erode essential freedoms. It applies specifically to students because the behaviours of non-student members of the University community are held to comparable standards of account by other statutes, policies, and contracts.

Nothing in this Code is intended as a method or excuse to suppress peaceful protest, civil debate, or lawful conduct, so long as that conduct is not prohibited by this Code

1. In this Code, "progressive discipline" means an incremental and proportionate approach to applying sanctions.

2. In this Code, "campus" includes all York University campuses, namely, Keele, Glendon, and York Professional Centres.

3 Application of this Code

This Code applies to non-academic student conduct. Academic student conduct is governed by University Senate policies and is beyond the scope of this Code.

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. For the purposes of this Code, “student” means a person who is registered and enrolled as a student at York University and who is therefore bound by University policies and regulations.

This Code applies to (a) conduct on University premises,³ 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 events where students are acting as delegates or designated representatives of the University, events held off-campus by a recognized student group, or events held off-campus by an unrecognized student group that is readily identifiable with the University or any part of it.

There may be additional community standards required of persons choosing to live in University residences. A breach of residence rules is a breach of this Code and will be dealt with in the same manner and process as breaches of rules on the rest of the campus.

The University reserves the right to determine if a matter should be addressed under this Code regardless of the actions of external agencies, such as the police, and may use information provided by such agencies.

4 Standard of Student Conduct

Students are expected to conduct themselves in a way that supports research, teaching and learning, and that promotes an atmosphere of civility, diversity, equity and respect in their interactions with others. They should strive to make the campus safe, to support the dignity of individuals and groups, and to uphold essential freedoms.

The following behaviours are prohibited. This list is not exhaustive but provides examples of breaches of the standard of conduct. This Code deliberately does not place violations in a hierarchy. The University views all complaints made under the provisions of this Code as serious.

- (a) **Breaking federal, provincial or municipal law, such as:** breaking into University premises; vandalism; trespassing; unauthorized use of keys to space on campus; unauthorized possession or use of firearms, explosives, or incendiary devices; possession or consumption of, or dealing in, illegal drugs; smoking of legal substances outside designated areas; illegal gambling; cruelty to animals; theft of University or private property including intellectual property; unauthorized copying of documents; possession of stolen property.
- (b) **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; stalking; hazing.⁴
- (c) **Disruption of, or interference with, University activities such as:** causing a substantial disorder; bomb threats; creating dangerous situations; making or causing excessive noise; proffering false identification or documentation; intentional misrepresentation; setting off false fire alarms; blocking exit routes.
- (d) **Damage to the property of the University or its members such as:** damaging or defacing University or another person’s property including computer systems and intellectual property; tampering with University fire extinguishing or prevention equipment.
- (e) **Violation 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.
- (f) **Abuse of, or disrespect for, the processes of this Code, such as:** 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 process; failure to comply with Code sanctions.
As a general principle, impairment by alcohol or illegal drugs is not a defence for prohibited behaviours.

3. In this Code, “University Premises” means buildings and/or land owned and/or occupied by the University.

4. In this Code, “hazing” means an act that endangers the mental or physical health and/or safety and/or dignity of a student, and done as a condition of membership

5 The Process for dealing with a Complaint

The University recognizes that many disputes can be resolved without resorting to the provisions of this Code. Wherever it is possible and proper to do so, members of the University community are encouraged to use polite and direct communication to encourage appropriate behaviour rather than invoking the following complaint process.

Initially every complaint made under this process will be directed to a Local Adjudicator in the relevant College, Faculty, Residence or Administrative Unit. For complaints that do not inherently belong in one of those areas, the Local Adjudicator will be a representative of the Office of Student Conduct. The Local Adjudicators will be appointed by the Vice-President Students.

The standard of proof required for a determination that there has been a breach of the Code will be “on a balance of probabilities,” meaning that the person(s) deciding a case must find that it is more probable than not that a contested allegation is established as fact, or not.

The Complainant has the right to attend any hearing on the matter where evidence he or she has provided is being used. The Complainant also has the right to know the outcome of the complaint process, unless the Local Adjudicator or University Tribunal finds that there are grounds to order otherwise.

Complainants and Respondents have the responsibility to ensure York University has their current contact information throughout any proceeding under this Code.

(a) Filing a Complaint.

- (i) Any person (a Complainant) may file a Complaint under this Code, alleging a violation of the standard of student conduct by a student.
- (ii) The Complaint must be in writing with the Complainant’s name attached to it; anonymous Complaints will not be taken forward.
- (iii) The Complaint must be filed within three months of the alleged violation of the Code unless the Local Adjudicator or the University Tribunal, upon first addressing the Complaint, considers it reasonable to extend that time limit.
- (iv) A Complaint must be filed with a Local Adjudicator.
- (v) When a Local Adjudicator receives a Complaint, he or she will assess whether it should be dismissed, or whether an investigation is warranted. Where an investigation is warranted, the student against whom the Complaint is made (the Respondent) will be given a copy of this Code so that he or she may be 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 will be kept confidential.

(b) Investigation of a Complaint.

The Local Adjudicator will gather the facts of the case by holding whatever meetings are appropriate.

A meeting may proceed without the Respondent being present provided that the Local Adjudicator is satisfied that the Respondent knew of the meeting.

The Respondent will be allowed a reasonable amount of time to consider the Complaint against him or her and to respond to it, and will be advised in advance, and given an opportunity to comment on, any sanctions that are being considered.

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

The written decision of the Local Adjudicator will be provided to the Complainant and the Respondent and will be filed with the Office of Student Conduct.

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 request that the Complaint be dealt with at a University Tribunal hearing. The Director of Student Conduct will decide whether the Complaint is to be dealt with at a University Tribunal hearing. If the Director of Student Conduct decides against the request, the Complaint will then be dealt with by a Local Adjudicator.

(c) Request for a University Tribunal Hearing following a Local Adjudicator’s Decision

- (i) Following a decision of a Local Adjudicator, a Respondent may request a hearing before the University Tribunal on the grounds that:
 - (1) the Local Adjudicator had no power under this Code to reach the decision or impose the sanctions he or she did;
 - (2) the Local Adjudicator made a fundamental error in procedure prejudicial to the Respondent;
 - (3) the Respondent has new evidence to present that could not reasonably have been presented earlier; or
 - (4) the Respondent is entitled to relief on compassionate not considered by the Local Adjudicator.

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

(ii) The request for hearing will be considered in written form only, and will either be granted or denied, by a single member of the University Tribunal, with written reasons.

(iii) All sanctions ordered by the Local Adjudicator will be suspended pending the decision of the University Tribunal as to whether a hearing will be granted. In cases which involve issues of safety and security of person or property, the Local Adjudicator may determine that the sanctions imposed will stay in effect from the time that the decision was made pending the completion of the University Tribunal proceedings.

(iv) If the University Tribunal denies the request for a hearing, the sanctions will immediately become enforceable as of the date of that decision.

University Tribunal

(a) University Tribunal Composition

The members of the Tribunal are students, faculty, and staff volunteers appointed by the Vice-President Students to serve for a two-year term, renewable once, unless terminated earlier by the Vice-President Students.

Each Tribunal Hearing panel will be comprised of three persons, one of whom will be a student. They will elect a Chair for the proceedings.

(b) University Tribunal Hearing Process

Tribunal Hearings provide an opportunity for a balanced airing of facts. 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 Tribunal Hearing panel is not bound to observe strict legal procedures, but in order to ensure that its procedures are as fair as possible in the context of University circumstances and traditions it shall comply with the following procedural guidelines:

- (i) The Office of Student Conduct presents the Complaint and any supporting documentation and witnesses, including the Complainant, to the Tribunal Hearing panel.
- (ii) The Respondent has the opportunity to ask questions of any witnesses. Members of the Tribunal will also have the opportunity to ask questions of the presenter and the witnesses.
- (iii) After the Office of Student Conduct 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.
- (iv) The Office of Student Conduct and the Tribunal panel will have the opportunity to ask questions of the Respondent and of any witnesses.

(v) Both the Office of Student Conduct and the Respondent then explain their respective interpretations of the evidence presented.

(vi) Both the Office of Student Conduct and the Respondent will have the opportunity to suggest what sanctions, if any, they believe are appropriate to the matter before the Tribunal.

(vii) Whenever possible, decisions of the Tribunal will be made orally immediately following the hearing. The decision will then be put in writing no more than 14 days from the end date of the hearing and delivered to the Respondent and the Complainant by regular mail, Express Post, or email and filed with the Office of Student Conduct.

(viii) Notwithstanding paragraph (vii) above, where the Complaint concerns an alleged threat to the safety or disruption to the well-being of other residents on University property, the decision will be rendered within two business days after the Tribunal hearing and delivered to the Respondent's room in residence.

(a) Student Rights at a University Tribunal Hearing

- (i) The right to bring an advocate or adviser. This may be any person chosen by the Respondent to help present his or her case. Where possible, the name of the advocate or adviser should be provided to the Office of Student Conduct at least two days prior to a hearing.
- (ii) The right to see all the evidence that the Office of Student Conduct will present and to know what sanctions, if any, the Office will request.
- (iii) The right to challenge the suitability of any member of the Tribunal panel based on a reasonable apprehension of bias against the Respondent's case. The Tribunal 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 Conduct to reschedule the hearing with a new panel.
- (iv) The right to have his or her case heard in a timely manner, meaning that except in exceptional circumstances (such as University holiday closure) the Respondent will have a hearing within 20 business days⁵ of the determination that the Complaint will be heard by the University Tribunal.
- (v) The right to prior notice of hearing of at least seven days, unless there are special circumstances (as determined by the Office of Student Conduct), in which case the matter may be heard before the seven-day notice period has elapsed.
- (vi) The right to notice: hearing notice will be hand-delivered, or sent by email or regular mail or Express Post. It is the student's respon-

5. In this Code, "business days" means Monday to Friday, except for the holidays stated in the University Calendar or unforeseen closures due to weather, emergencies, or work stoppages.

sibility to ensure that the University has his or her current 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.

(vii) The right to a "private" hearing as explained in section 6 (b).

Appeals of University Tribunal decisions

(a) The student or the University may appeal a University Tribunal decision to the Appeal Panel on one or more of the following grounds only:

- (i) that the University Tribunal had no power under this Code to reach the decision or impose the sanctions it did;
- (ii) that the University Tribunal panel made a fundamental procedural error seriously prejudicial to either party;
- (iii) the Appellant has new evidence to present that could not reasonably have been presented earlier; or
- (iv) that the Appellant is entitled to relief on compassionate grounds not considered by the University Tribunal panel.

(b) The grounds for appeal, including all supporting information must be described and delivered in writing to the Director of Student Conduct within 14 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 7 days will be given to each party to prepare and deliver their materials.

It is the student's responsibility to ensure that the University has his or her current 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.

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

The Appeal Tribunal may assess the written material before an oral hearing is held, and if it has concluded that the appeal cannot succeed on any of the grounds provided in (a) above, the appeal may be dismissed without an oral hearing.

(c) Non-monetary sanctions apply pending the outcome of any appeal (monetary sanctions are automatically suspended pending the outcome of the appeal). No compensation will be made if a non-

monetary sanction is overturned on appeal. The Appellant may apply to the Appeal Panel to stay the operation 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 some more immediate response is required, application may be made to the Director of Student Conduct.

(d) The Appeal Panel The Appeal Panel will be comprised of three members from the University Tribunal. They will not be any of the same members who heard the original case.

(e) The Appeal Panel will hear the appeal within 20 business days except in exceptional circumstances, and will give the student and the Office of Student Conduct notice of the time and place of the appeal hearing.

(f) The Appeal Panel will render a written decision no more than 14 days from the end of the Appeal Panel Hearing, disposing of the appeal by:

- (i) allowing the appeal;
- (ii) affirming or modifying the Tribunal decision;
- (iii) affirming, reducing or increasing the sanctions appealed against; or
- (iv) requiring that the Tribunal conduct a new hearing or reconsider some pertinent aspect of its decision.

(g) The written decision of the Appeal Panel will be delivered to the student, the Office of Student Conduct and the Complainant by regular mail, Express Post, or email and filed with the Office of Student Conduct.

(h) The Appeal Panel decision is final and binding.

(i) Respondents have the following rights at an Appeal Panel Hearing:

- (1) The right to bring an advocate or adviser. This may be any person chosen by the student to help present his or her case. Where possible, the name of the advocate or adviser should be provided to the Office of Student Conduct at least two days prior to a hearing.
- (2) The right to challenge the suitability of any member of the Appeal Panel based on a reasonable apprehension of bias against the student's case. The Appeal 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 Conduct to reschedule the hearing with a new panel.
- (3) The right to have the appeal heard in a timely manner.
- (4) The right to a "private" hearing as explained in section 6(b).

8 Records

A record of final decisions made under this Code will remain in the Office of Student Conduct and Dispute Resolution.

9 Sanctions

The following sanctions 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 Local Adjudicators

The following sanctions may be imposed by Local Adjudicators:

- (i) reprimand,
- (ii) an apology and/or statement of regret to the person making the Complaint,
- (iii) an apology and/or statement of regret to a larger community (eg. team, classmates),
- (iv) educative requirements, such as community service, reflective essay, or research on a specified topic,
- (v) behavioural undertaking which may be secured by a deposit of money up to \$500,
- (vi) restrictions on behaviour,
- (vii) fines up to \$250,
- (viii) full restitution for damage up to \$500,
- (ix) loss of non-essential Services,⁶
- (x) relocation to other University housing.

(b) Additional Sanctions that may be imposed by the University Tribunal

In addition to the sanctions listed in 8(a) above, the University Tribunal may impose the following sanctions:

- (i) fines up to \$1000,
- (ii) restitution,
- (iii) campus restrictions,
- (iv) removal from University residence,
- (vi) suspension,
- (vii) expulsion.

6. In this Code, "non-essential services" means services that are not essential to the completion of academic requirements.

10 Emergency Measures

If the Director of the Office of Student Conduct determines that the presence at the University of a student poses a risk to safety and security, he/she may impose an immediate suspension of up to 10 days. The student will be notified of the decision to invoke an emergency suspension.

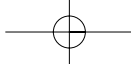
If, after further investigation, it is determined that the student continues to pose a risk to safety and security, the Director of the Office of Student Conduct can, with the agreement of the Vice-President Students, suspend a student for more than 10 days to a maximum of 60 days. A Tribunal hearing must be commenced within 60 days.

Where a student has been charged under the Criminal Code of Canada, the maximum number of days 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.

Alternatively, campus and/or behavioural restrictions short of full suspension may be applied in lieu of suspension.

11 Review of this Code

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



Office of Student Conduct & Dispute Resolution
W128 Student Services Centre
416-736-5231
www.yorku.ca/scdr

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