

# **Professional Unsuitability By-Law for Students in the Faculty of Education**

**June 24, 2009**

## **Preamble**

In general, students are obligated to act with integrity and diligence in carrying out their professional responsibilities, and their behaviour and conduct in relation to others ought to be characterized by consideration, respect and good faith.

## **1.00 Jurisdiction**

- 1.01 This By-Law applies to teacher candidates enrolled in the Bachelor of Education (B.Ed.) program, students in the Post-Baccalaureate Diploma in Education (PBDE) program, and students in the Internationally Educated Teachers (IET) program.
- 1.02 The Faculty of Education may require a student in any of the programs named in 1.01 hereof to withdraw from the Faculty, pursuant to the procedures set out in this By-Law when the student has been found unsuited, on consideration of competence or professional fitness, for the practice of teaching. A student may be required to withdraw at any time throughout the academic year or following the results of examinations at the end of any academic term. The right to require a student to withdraw prevails notwithstanding any other provision in the Faculty's Rules or Regulations.
- 1.03 Grounds which may require disciplinary action

A student may require disciplinary action from the Faculty when he/she has:

- practiced incompetently in a teaching or school setting in spite of efforts to support his/her development; and/or
- compromised his/her professional judgment through self-interest or a conflict of interest; and/or
- demonstrated behaviour or conduct with respect to pupils and/or teachers in schools, his/her colleagues, faculty or staff, or a member of the general public which is exploitive, destructive, or injurious; and/or
- been under the influence of alcohol or illegal drugs or has abused prescription drugs while participating in any activity related to the practice of teaching; and/or
- acquired a criminal conviction which is of such a nature as to place in question his/her fitness for teaching; and/or
- a physical or mental condition which impairs essential teaching performance, recognizing that reasonable accommodation for the special needs of individuals is required by the Manitoba Human Rights Code; and/or

- engaged in behaviour or conduct that if engaged in by a practising certified teacher would likely result in disciplinary action, including suspension or revocation of the certificate to teach, by the appropriate authorities.

#### 1.04 Conflict of Jurisdiction

If a question arises as to whether a matter falls within the academic regulations of the Faculty or this By-Law, or as to whether a matter is within the jurisdiction of the Student Discipline By-Law of the University or this By-Law, as the case may be, the question shall be referred to the President of the University for final decision.

### 2.00 Professional Unsuitability Committee (PUC)

2.01 There shall be established within the Faculty a standing committee of six members known as the Professional Unsuitability Committee (PUC) to hear and determine matters of competence and/or professional fitness of undergraduates for the practice of teaching. Membership in the PUC shall be as follows:

- Chair (non-voting, except in the case of a tie): a tenured faculty member to be appointed by the Dean, Faculty of Education;
- two full-time faculty members, at least one of whom shall be tenured/tenure track, elected by the Council of the Faculty of Education;
- one B. Ed. student from the Faculty of Education, appointed by the Faculty of Education Student Council, and one PBDE student from the Faculty of Education, appointed by the Assistant Dean PBDE, or his/her designate; and
- two certified teachers, one appointed by the *Manitoba Teachers' Society* and one appointed by the *Manitoba Federation of Independent Schools*.

2.02 The length of term of committee members shall be as follows:

- Faculty members shall be appointed for a two-year term;
- Representatives from the teaching profession shall be appointed for a two-year term; and
- Undergraduate students and PBDE students shall be appointed for a one-year term.

2.03 Except for the provision contained in section 4.03, a quorum of the PUC shall be four (4) members of the Committee and the Chair, as set out in section 2.01.

### 3.00 Referral

3.01 Anyone affiliated with the Faculty of Education or the schools and/or institutions with which the Faculty works who has a concern about the professional unsuitability of any student defined in 1.01 shall complete the Professional Unsuitability Referral Form (see attached) and shall append a typed report to the form documenting the alleged incident(s). The form and the attached report shall be submitted to the Associate Dean (Undergraduate Programs) who, if he/she deems it appropriate, will refer the matter to the Dean or his/her designate.

- 3.02 The Dean (or his/her designate) shall refer matters within five (5) working days, which in his/her opinion involve conduct or circumstances described in Article 1.01 and 1.02 herein, to the PUC.
- 3.03 On receipt of a referral from the Dean of the Faculty or his/her designate, the PUC shall:
- i) consider whether just cause exists to suspend the student while the matter is being determined and if so, to issue an interim suspension to the student;
  - ii) send a Notice of Hearing with a copy of the submitted Professional Unsuitability Referral Form, the attached report signed by the individual who has filed the complaint, and any commentary from the Dean or Associate Dean to the student named pursuant to article 4.01.
  - iii) at all times act expeditiously to complete the hearing;
  - iv) determine whether any of the grounds requiring withdrawal under Article 1.01 and 1.02 exist after hearing the matter pursuant to this By-Law; and
  - v) make a disposition in accordance with Article 6.00 herein.
- 3.04 Once a referral has been made to the PUC, its proceedings may continue notwithstanding that the student has subsequently voluntarily withdrawn from the Faculty or has refused to participate in the proceedings.

#### **4.00 Notice and Due Process**

- 4.01 Within ten (10) working days after receipt of the referral, the Chair of the PUC shall inform the student in writing of the grounds for referral to the PUC, as well as the membership of the PUC and the date, time, and place for the hearing by the PUC of the matters set out in the referral. Such a hearing will be held no sooner than 10 working days from the date the student is notified of the referral and the notice of the hearing shall be sent by registered mail to the last known address of the student as found on the Faculty's records. The notice from the Chair shall include a statement to the effect that if the allegations contained in the referral are established to the satisfaction of the PUC, the student may be required to withdraw from the Faculty.
- 4.02 The student may provide a written response to the alleged grounds. Such written response shall be provided to the chair of the PUC no later than five (5) working days before the hearing date.
- 4.03 The student also has the right no later than five (5) working days before the hearing date to raise concerns to the Chair in writing about any member on the PUC whom the student believes will not be able to be objective in the consideration of his/her case. Where the Chair of the PUC receives such concerns, he/she shall, before the hearing, convey the concerns to every member of the PUC and inform any member identified by the student that he/she has the right to respond to the concerns in writing. The Chair shall convene the PUC, excluding

any Committee member identified by the student, to determine whether or not a change in the membership of the PUC shall be made. In the event that the quorum specified in 5.06 is not achieved for this determination, the remaining Committee membership may decide this matter and, if circumstances dictate, the Chair may make this determination alone. Where the PUC or its Chair decide that a change in the membership of the PUC shall be made, a replacement or replacements will be made in accordance with 2.01 unless the quorum specified in 5.06 exists.

- 4.04 A member of the PUC shall not be disqualified from sitting as a member of the PUC hearing the matter by reason only that such member has had previous contact with the student or has prior personal knowledge of the matter.

### **5.00 Hearing Procedures**

- 5.01 The student may appear in person and may choose to be represented or accompanied by a Student Advocate, UMSU representative, legal or other counsel. Should the student choose to be represented or accompanied by a Student Advocate, legal or other counsel, written notification must be provided to the Chair no later than five (5) working days prior to the hearing date. In cases where legal counsel is involved, it shall act solely in an advisory capacity.
- 5.02 The Faculty may also choose to have legal counsel present to act in an advisory capacity and where it does so, the Chair of the PUC shall advise the student no later than five (5) working days prior to the hearing date.
- 5.03 The student and the Faculty, and/or their respective representatives excluding legal counsel) shall have the right to call, hear and cross-examine witnesses, to submit other evidence, and to have access to all documents submitted to the PUC for consideration. Written notice to call any witness shall be given to the other party prior to the hearing.
- 5.04 The hearing shall be closed to all persons except the members of the PUC, the student, the designated representatives of the student and/or Faculty, and any witness, as he/she is called.
- 5.05 The student, who is the subject of the hearing, shall not be required to give evidence but if he/she elects to do so, then the student may be questioned by members of the PUC.
- 5.06 A simple majority of Committee members hearing the matter is required for any finding or for the determination of the appropriate disposition of the matter.
- 5.07 The Chair of the PUC shall vote only to break a tie.

5.08 Members of the PUC shall be bound by confidentiality in respect of information received in Committee. Information will be disclosed only as is reasonably necessary to implement the investigation, the resolution or the terms of any disposition imposed, or as required by law.

## **6.00 Disposition of the Matter**

6.01 After hearing all the evidence, the PUC shall meet in closed session to:

- i) consider the evidence;
- ii) make its findings using a balance of probabilities standard (i.e. the claim against the student is more likely to be true than not true based on the evidence presented);
- iii) if the allegations are established to the satisfaction of the PUC, determine the appropriate disposition of the matter; and
- iv) if the allegations are not established to the satisfaction of the PUC, dismiss the matter and/or make any other recommendation that the PUC deems appropriate.

6.02 The PUC may make any disposition it deems appropriate in the circumstances. Without limiting the generality of the foregoing, the following options, alone or in combination, may be recommended to the Dean:

- i) determine that no further action be taken;
- ii) allow the student to remain in the program and attach conditions prescribing future conduct by the student. Such conditions to remain in effect for any period of time the PUC deems appropriate;
- iii) reprimand the student in writing;
- iv) require the student to withdraw from the Faculty for a specified period of time;
- v) require the student to withdraw from the Faculty indefinitely;
- vi) attach conditions that must be fulfilled before any application for re-admission to the Faculty will be considered;
- vii) require the student to withdraw from the Faculty with no right to apply for re-admission to the Faculty; and

6.03 Sections 6.02 (iv), (v), and (vii) may be noted on the student's transcript.

6.04 At the time of graduation, the student may request to the PUC to have the notation removed from the transcript.

6.05 The results of the hearing and the reasons for the disposition of the PUC shall be conveyed in writing to the student, the Student Advocate, and/or the designated representative of the student where applicable, with copies to the Dean of the Faculty.

## **7.00 Appeals**

- 7.01 If the student wishes to appeal a disposition of the PUC (including any notation on his/her transcript), such appeal may be made to the Senate Committee on Appeals in accordance with the procedures of that body.
- 7.02 In the event of an appeal, the PUC may recommend that the implementation of the decision be suspended until such time as the matter has been disposed of by the Senate Academic Appeals Committee.
- 7.03 Notwithstanding the above, if the President of the University is satisfied that it is in the best interests of the University, the President may at any time make an order, subject to final disposition of the appropriate review authority, suspending the student from participating in any program of the University.

**8.00 Records**

A record of any finding of professional unsuitability and/or disposition related thereto shall be kept on the student's academic file. All information relating to the case shall be kept confidentially in the Dean's office for one year after the appeal period has ended. After that date, all documents related to the matter will be destroyed.

**9.00 Amendments**

- 9.01 This By-Law may be amended by Senate alone, or by Senate after approval of such amendment(s) by the Education Faculty Council.