

UNIVERSITY OF MANITOBA PROCEDURE

Procedure:	STUDENT NON-ACADEMIC MISCONDUCT AND CONCERNING BEHAVIOUR
Parent Policy:	Student Discipline Bylaw
Effective Date:	September 1, 2016
Revised Date:	September 1, 2018
Review Date:	September 1, 2028
Approving Body:	Board of Governors
Authority:	Student Discipline Bylaw
Responsible Executive Officer:	President
Delegate:	University Secretary
Contact:	University Secretary
Application:	Students, Faculty/College/School Councils, Unit Heads, Academic Staff and Employees

Part I Reason for Procedure

- 1.1 The reason for this Procedure is to:
- (a) Articulate the University's expectation that all Students act in a fair and reasonable manner toward their peers, the faculty, staff, administration and the physical property of the University;
 - (b) Outline the jurisdiction for each Disciplinary Authority dealing with the Non-Academic Misconduct of Students;
 - (c) Provide a fair and thorough investigation process for allegations of Non-Academic Misconduct;
 - (d) Coordinate an action plan for Students exhibiting Concerning Behaviour that includes supports and a clear referral mechanism for members of the University Community.

Part II Procedure Content

Definitions

2.1 The following terms are defined for the purpose of this Procedure:

- (a) "**Academic Staff**" refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.
- (b) "**Appeal Procedure**" means the Student Discipline Appeal Procedure.
- (c) "**Bylaw**" means the Student Discipline Bylaw.
- (d) "**College**" means a Professional College as defined under the Definitions of Academic Units Policy.
- (e) "**Disciplinary Action**" means the specific disciplinary actions available for each Disciplinary Authority under Table 3.
- (f) "**Disciplinary Authority**" means the discipline authority designated to determine a matter of student discipline for Non-Academic Misconduct under Table 2.
- (g) "**Discrimination**" has the same meaning as defined in section 2.3 of the RWLE and Sexual Assault Procedure.
- (h) "**Faculty**" means a Faculty as defined under the Definitions of Academic Units Policy.
- (i) "**Harassment**" refers to Personal Harassment, Human Rights Based Harassment, and/or Sexual Harassment as defined in section 2.10 of the RWLE and Sexual Assault Procedure.
- (j) "**Non-Academic Misconduct**" has the same meaning as defined in section 2.5 of this Procedure.
- (k) "**Procedure**" means this Student Non-Academic Misconduct and Concerning Behaviour Procedure.

- (l) **"School"** means a "School of the University" or a "School of a Faculty", as those terms are defined under the Definitions of Academic Units Policy.
- (m) **"Sexual Assault"** has the same meaning as defined in section 2.1 of the Sexual Assault Policy.
- (n) **"STATIS"** means the Student/Staff Threat Assessment Triage Intervention Support team established pursuant to section 2.11 of the Violent or Threatening Behaviour Procedure.
- (o) **"Student"** means any of the following individuals:
 - (i) **Admitted** – an individual who has accepted an offer of admission to the University;
 - (ii) **Current** – an individual who is either registered in course(s) or in a program of studies at the University or is eligible to continue in their studies at the University either because the individual meets minimum academic performance requirements or will be eligible to continue after discharging a financial hold or serving suspension;
 - (iii) **Former** – an individual who has graduated from the University or who has withdrawn (either voluntarily or was required to withdraw).
- (p) **"Student Advocate"** is a member of the University's Student Advocacy Office who provides Students with information on their rights and responsibilities, as well as assistance with resolving problems or concerns resulting from actions or decisions taken by the University.
- (q) **"Table 2"** refers to Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct, which follows the Bylaw.
- (r) **"Table 3"** refers to Table 3: Disciplinary Actions and Disciplinary Authorities, which follows the Bylaw.
- (s) **"UMSS"** means the University of Manitoba's Security Services.
- (t) **"Unit"** means a Faculty, School, College, institute, centre, academic support unit (for example, libraries) or administrative unit whose Unit Head reports to the President or a Vice-President, Associate Vice-President or Vice-Provost. An academic department within a Faculty/College/School is not a Unit as the term is used within this Procedure.
- (u) **"Unit Head"** refers to the individual with direct supervisory authority over a Unit, including Deans, Directors, the University Librarian, the President, Vice-Presidents, Associate Vice-Presidents and Vice-Provosts with respect to their Units.

- (v) **"University"** refers to the University of Manitoba.
- (w) **"University Community"** means all Board of Governors members, Senate members, Faculty/College/School Councils, employees, anyone holding an appointment with the University, Students, volunteers, external parties, contractors and suppliers.
- (x) **"University Matter"** has the same meaning as defined in section 2.3 of this Procedure.
- (y) **"Violence"** means:
 - (i) The attempted or actual exercise of physical force against a person; or
 - (ii) Any threatening statement or behaviour that gives a person reasonable cause to believe that physical force will be used against the person.

SCOPE

- 2.2 This Procedure applies to a Student's non-academic conduct in relation to any University Matter.
- 2.3 **"University Matter"** means any activity, event, or undertaking in which a member of the University Community participates which has a substantial connection to the University, such as:
 - (a) University-related activities or events, including but not limited to:
 - (i) Any activity or event on property owned or controlled by the University;
 - (ii) The leasing of space, including student residence rooms, on property owned or controlled by the University;
 - (iii) The offering of any service by the University, including educational services;
 - (iv) Student placements, practica, or clinical training;
 - (v) University research activities, whether on or off campus;
 - (vi) Student and/or employee exchanges arranged in connection with the University;
 - (vii) Social events or networking, where matters regarding the University or members of the University Community are a significant focus of the activity;

- (viii) University field trips, travel-study tours, service-learning activities, and similar activities;
- (b) Activities or events involving members of the University Community, where the actions of those members of the University Community may reasonably reflect upon or affect the University, including but not limited to:
 - (i) Any aspect of the employment or engagement of employees and contractors for roles and projects substantially connected to the University;
 - (ii) Participation on a committee or board as a representative of the University;
 - (iii) Writings, photographs, artwork, audio or video recordings, and/or electronic communications, including communications through social media, where matters regarding the University or members of the University Community are a significant focus of the communication;
 - (iv) Matters related to The University of Manitoba Students' Union, the Graduate Students' Association, and their affiliated student groups to the extent that it affects the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environments; or
 - (v) Matters of off-campus conduct that have, or might reasonably be seen to have an adverse effect on the proper functioning of the University or the rights of a member of the University Community to use and enjoy the University's learning and working environments.

NON-ACADEMIC MISCONDUCT

2.4 Any Student who engages in Non-Academic Misconduct in relation to a University Matter will be subject to discipline.

2.5 **"Non-Academic Misconduct"** means any conduct that has, or might reasonably be seen to have, an adverse effect on the integrity or proper functioning of the University or the health, safety, rights or property of the University or members of the University Community, such as:

- (a) Threats of harm or actual harm by any means (including electronic means) to another person, including but not limited to:
 - (i) Discrimination;
 - (ii) Hazing;

- (iii) Harassment;
 - (iv) Possession or use of dangerous objects, in violation of any applicable law;
 - (v) Sexual Assault;
 - (vi) Stalking behaviour, including repetitive behaviour directed at a specific person which reasonably causes that person alarm, distress, fear or a change of normal behavior;
 - (vii) Violence;
- (b) Property-related misconduct, including but not limited to:
- (i) Theft;
 - (ii) Threats to or damage of University property;
 - (iii) Vandalism;
- (c) Inappropriate or disruptive behavior, including but not limited to:
- (i) Actions which habitually interfere with the learning environment or requires the inordinate time and attention of faculty and staff;
 - (ii) Alcohol or substance abuse;
 - (iii) Disorderly behaviour;
 - (iv) Indecent exposure;
 - (v) Unprofessional conduct;
- (d) Abuse of the process of University policies, procedures or regulations, including but not limited to:
- (i) Abuse of computer privileges;
 - (ii) Breach of student residence rules or regulations;
 - (iii) Failure to comply with a previously imposed Disciplinary Action;
 - (iv) Frivolous or vexatious complaints or appeals.

2.6 Students will be subject to Disciplinary Action for any instance of Non-Academic Misconduct, regardless of whether such behaviour is covered by other University policies, procedures or bylaws. Matters relating to certain Non-Academic Misconduct may also be subject to additional policies, such as:

- (a) The Respectful Work and Learning Environment Policy and the RWLE and Sexual Assault Procedure when the matter relates to Discrimination, or Harassment;
- (b) The Sexual Assault Policy and the RWLE and Sexual Assault Procedure when the matter relates to Sexual Assault;
- (c) The Violent or Threatening Behaviour Policy and Procedure when the matter relates to Violence, hazing, stalking behaviour, or the possession or use of dangerous objects in violation of any applicable law;
- (d) The Use of Computer Facilities Policy and Procedure when the matter relates to abuse of computer privileges;
- (e) The Campus Alcohol Policy and Procedure when the matter relates to alcohol or substance abuse;
- (f) The student Residence Contract when the matter relates to a breach of student residence rules or regulations.

Jurisdiction of Disciplinary Authority

- 2.7 The specific jurisdiction of each Disciplinary Authority designated to determine an allegation of Non-Academic Misconduct is set out in Table 2.
- 2.8 For matters involving the Non-Academic Misconduct of an undergraduate Student, the Disciplinary Authority with the closest connection to the particular alleged Non-Academic Misconduct has jurisdiction over the matter, subject to section 2.10 of this Procedure. However, the Disciplinary Authority must inform the Unit Head of the Student's home Faculty/College/School, and the Vice-Provost (Students), prior to any investigation.
- 2.9 Matters involving Non-Academic Misconduct of a graduate Student must be referred directly to the Dean of the Faculty of Graduate Studies who shall, in turn, inform the dean and the department head of the Student's program, and the Vice-Provost (Students), prior to any investigation.
- 2.10 When the alleged Non-Academic Misconduct, if proven on a balance of probabilities, would:
 - (a) Constitute a second instance of Non-Academic Misconduct by the Student; or
 - (b) Be of such severity as to warrant a Disciplinary Action that is not available to the Disciplinary Authority with the closest connection to the matter under Table 2 (e.g. Department Head);

the matter shall be referred to the next appropriate Disciplinary Authority under Table 2 (e.g. Dean/Director) for investigation and decision.

- 2.11 If a question arises as to which Disciplinary Authority should hear a particular case, the question must be referred to the President for resolution.
- 2.12 If the Non-Academic Misconduct relates to a criminal offence, the Disciplinary Authority must provide relevant information to UMSS for potential follow-up by the appropriate policing authority.

Notice to Vice-Provost (Students)

- 2.13 Before initiating an investigation, the Disciplinary Authority will advise the Vice-Provost (Students) of the following:
 - (a) An allegation of Non-Academic Misconduct has been received;
 - (b) The nature of the Non-Academic Misconduct;
 - (c) The name of the Student alleged to have committed the Non-Academic Misconduct; and
 - (d) The intention of the Disciplinary Authority to initiate an investigation in accordance with this Procedure.
- 2.14 The Vice-Provost (Students) will review this information and advise the Disciplinary Authority if he or she feels the matter should be referred to STATIS before the investigation is conducted.

Notice to the Student

- 2.15 After consultation with the Vice-Provost (Students), the Student who is the subject of a disciplinary matter will be informed in writing by the Disciplinary Authority (with a copy to the University's Registrar) that:
 - (a) An investigation is proceeding in accordance with this Procedure, the nature of the matter being investigated, that the Student may be subject to Disciplinary Action, and that a hold will be placed on the Student's record in accordance with section 2.16 of this Procedure until the allegation is investigated;
 - (b) The Student will be given an opportunity to respond to the allegation and, if a meeting is scheduled, notice will be provided as to who will be present on behalf of the University at the meeting;
 - (c) The Student may seek advice and representation from a Student Advocate, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University Community not receiving payment for appearing,

a member of the Student's immediate family, or other support person as may be appropriate. It is the sole responsibility of the Student to determine the adequacy of the Student's representation;

- (d) Failure to respond by a specified date will result in the matter being considered without the Student's response;
- (e) The Student may obtain a copy of this Procedure, the Bylaw and related procedures. These documents are available online or from the Office of the University Secretary or the Student Advocacy office;
- (f) The Student has a right to appeal in accordance with the Bylaw and Appeal Procedure.

Student Records

2.16 The Disciplinary Authority will request that the Registrar place a hold on the Student's record to prevent the issuance of transcripts, transfers between Faculty/College/School and changes in registrations until the alleged Non-Academic Misconduct is investigated. Until a decision has been made and any appeal process available under the Bylaw has concluded, the Student shall be permitted to continue in the course or program and the Disciplinary Authority must ensure the Student's work continues to be graded normally and is unaffected by the allegation of Non-Academic Misconduct, subject to sections 2.25 and 2.26 of the Bylaw.

Investigation Procedure

2.17 Subject to section 2.18 of this Procedure, the Disciplinary Authority will, either personally or through a designate, conduct an investigation into the allegations of Non-Academic Misconduct in any manner that he or she deems appropriate to the nature of the alleged Non-Academic Misconduct, the seriousness of the issues involved, and any admissions made during the investigation. This may include some or all of:

- (a) Interviewing witnesses;
- (b) Reviewing documents and records (both paper and electronic);
- (c) Reviewing photographs, audio, and video recordings;
- (d) Examining physical evidence;
- (e) Arranging for testing of physical evidence;
- (f) With the consent of participants, arranging for medical or psychological evaluations; and/or

- (g) Submitting a Third Party Data Access Request Form to IST regarding accessing electronic systems and consulting with Access and Privacy Office as required to facilitate the request.
- 2.18 The Disciplinary Authority may choose not to personally investigate where the issue has been or may be investigated pursuant to another University policy, procedure or bylaw.
- 2.19 The Disciplinary Authority will conduct the investigation in accordance with the principles of procedural fairness and natural justice. In particular, the Disciplinary Authority will ensure that:
- (a) The Student must be informed of the allegations against him or her, including, subject to section 2.34 of this Procedure, having access to all documentary and other evidence relied upon by the Disciplinary Authority and knowing the identity of the complainant;
 - (b) The Student must be provided an opportunity to respond to the allegations;
 - (c) While strict rules of evidence do not apply, appropriate weight must be given to evidence based on its credibility and reliability; and
 - (d) Witnesses may wish to consult with or respond through an advocate (which may include legal counsel, a union representative, or a Student Advocate, as may be appropriate).
- 2.20 The Disciplinary Authority (or designate) may meet with the Student to present the facts/evidence concerning the allegation and to give the Student an opportunity to respond to the allegation and present his/her explanation of the matter. The Disciplinary Authority will give notice to the Student as to who will be present on behalf of the University at such a meeting.

Decision

- 2.21 The Disciplinary Authority will inform the Student that a written decision letter will be sent normally within five (5) working days of receiving the Student's response. If the Student does not respond within a reasonable time, the Disciplinary Authority will consider the matter and make a decision in the absence of the Student's response and based on the information that is available.
- 2.22 At the conclusion of the investigation, the Disciplinary Authority will inform the Student of his or her decision in writing and will include, at minimum, the following:
- (a) A summary of the allegation of Non-Academic Misconduct;
 - (b) A summary of the process and key timelines in the investigation;

- (c) A summary of the key evidence obtained through the investigation, including the response of the Student to the allegation;
- (d) An indication of which key evidence was considered credible and reliable;
- (e) A conclusion as to whether, on a balance of probabilities, the Non-Academic Misconduct occurred;
- (f) A summary of the reasons for the conclusion;
- (g) A summary of any Disciplinary Action instituted in accordance with the Bylaw and section 2.23 of this Procedure; and
- (h) If Disciplinary Action is taken, information about the right to appeal, the time period for appeal, and the person and contact information for the submission of an appeal, in accordance with the Bylaw.

2.23 Where there is a finding of Non-Academic Misconduct, the Disciplinary Authority will consider any previous findings of Non-Academic Misconduct before determining the appropriate Disciplinary Action under the Bylaw. In the case where the Disciplinary Authority is not the Unit Head of the Faculty/College/School in which the Student is registered, the Disciplinary Authority will determine the appropriate Disciplinary Action in consultation with the Unit Head of that Faculty/College/School.

2.24 The Disciplinary Authority will send a copy of their decision to the Registrar, to the Vice-Provost (Students), and to the Unit Head of the Faculty/College/School in which the Student is registered.

Appeals

2.25 Students have a right to appeal Disciplinary Actions in accordance with the Bylaw and the Appeal Procedure.

CONCERNING BEHAVIOUR

2.26 "**Concerning Behaviour**" means any behaviour that, while not indicative of a clear immediate threat, gives rise to a reasonable apprehension that the Student may engage in conduct harmful to him- or herself or to others, including but not limited to:

- (a) Threats of self-harm;
- (b) Worrisome behavioral changes in an individual, such as changes in appearance, social withdrawal or isolation, apparent detachment from reality, or inordinate interest in or discussion of violent themes or events.

- 2.27 Where a Student is exhibiting Concerning Behaviour, members of the University Community must report such behaviour to their Unit Head, a member of STATIS, and/or UMSS. The Unit Head of the Student's Faculty/College/School of registration must be consulted and that Unit Head should, where appropriate:
- (a) Ensure the Student receives timely voluntary counselling referrals through existing support services at the University, such as the Student Support Case Manager, Student Counselling Centre, University Health Services, and/or the Faculty Counselling Services (College of Medicine);
 - (b) Use this Procedure, the Student Discipline Bylaw and other policies, procedures and bylaws as appropriate where additional action is necessary to deal with Concerning Behaviour.
- 2.28 Members of the University Community must report incidents of Concerning Behaviour to UMSS and STATIS where a Student's Concerning Behaviour is affecting the various services and administration offices of the University, or where the Concerning Behaviour is of a nature or quality that likely will result in:
- (a) Serious harm to the Student or substantial deterioration of the Student's health; or
 - (b) Serious harm to another person or property;
- 2.29 When reporting concerns to STATIS or UMSS, individuals should attempt to provide the following information:
- (a) Description of the Concerning Behaviour;
 - (b) Name of the Student exhibiting the Concerning Behaviour; and
 - (c) Indication of what action has been taken to date (if applicable), including a description of any meetings with the Student and any assistance provided, including referrals.
- 2.30 Information regarding Concerning Behaviour that is received during the Student application process must be referred to the Executive Director of Enrolment Services or the Dean of Graduate Studies, as appropriate. If the information is of serious concern to the respective Executive Director of Enrolment Services or the Dean of Graduate Studies, he/she may seek the advice of the University Legal Counsel and may initiate a staff conference of STATIS.
- 2.31 If a Student does not accept personal responsibility for their Concerning Behaviour or will not accept appropriate referral for voluntary counselling, the Unit Head should proceed as follows:
- (a) Advise the Student to seek professional help; and

- (b) Contact the Executive Director of Student Support if the Student refuses to voluntarily seek professional help. The Executive Director of Student Support may consult with colleagues to determine whether or not an involuntary psychiatric assessment is advisable according to mental health legislation and regulations.

CONFIDENTIALITY

Obligations of Confidentiality by the University

- 2.32 In respect of an incidence of Non-Academic Misconduct or Concerning Behaviour, the University will not disclose the name of the complainant, the Student, or the circumstances related to the complaint to any person, other than where the disclosure is:
- (a) Necessary to investigate the complaint or take corrective action with respect to the complaint;
 - (b) Necessary to coordinate an action plan for a Student exhibiting Concerning Behaviour that includes supports and a clear referral mechanism for the Student; or
 - (c) Required by law.
- 2.33 Personal information that is disclosed under section 2.32 above in respect of an incidence of Non-Academic Misconduct or Concerning Behaviour will be the minimum amount necessary for the purpose.

Obligations of Confidentiality by the Disciplinary Authority

- 2.34 The Disciplinary Authority, in conducting the investigation, will comply with *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act* with respect to personal information and personal health information collected, used and disclosed in the course of the investigation. Where a Disciplinary Authority is unsure of whether they may disclose particular information, they may seek advice from the Access and Privacy Office.
- 2.35 The Disciplinary Authority will advise all persons involved with an investigation as to their obligations regarding confidentiality, and the protections available to them under this Procedure.

Obligations of Confidentiality by the Others

- 2.36 All persons involved in an investigation of an incident of Non-Academic Misconduct or Concerning Behaviour, whether as a witness or retrieving relevant information or documents, must keep confidential:
- (a) The existence and nature of the investigation; and

(b) Any information or documentation obtained as a result of the investigation; which information may only be disclosed to those who reasonably need to know. Where an individual is unsure of whether they may disclose particular information, they may seek advice from the Access and Privacy Office.

2.37 Notwithstanding section 2.36, the Complainant, the Respondent, and witnesses involved in the investigation may:

- (a) Obtain confidential advice (including advice from a Student Advocate or lawyer, as may be appropriate);
- (b) Disclose information to others only to the extent reasonably necessary to gather evidence and, in the case of an accused Student, to make full answer and defense to the allegations; and
- (c) Use information obtained independent of the investigation in any other forum.

Records Management

2.38 The Disciplinary Authority will maintain files with respect to each complaint in accordance with the Records Management Policy and Procedure.

Part III Accountability

3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Procedure is required.

3.2 The President is responsible for the implementation, administration and review of this Procedure.

3.3 Students, Faculty/College/School Councils, Unit Heads, Academic Staff and employees are responsible for complying with this Procedure.

Part IV Review

4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is September 1, 2028.

4.2 In the interim, this Procedure may be revised or repealed if:

- (a) the President or the Approving Body deems it necessary or desirable to do so;

- (b) the Procedure is no longer legislatively or statutorily compliant;
- (c) the Procedure is now in conflict with another Governing Document; and/or
- (d) the Parent Policy is revised or repealed.

Part V Effect on Previous Statements

- 5.1 This Procedure supersedes all of the following:
- (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein; and
 - (b) all previous Administration Governing Documents on the subject matter contained herein.

Part VI Cross References

- 6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
- (a) [Student Discipline Bylaw](#);
 - (b) [Table 2: Jurisdiction of Disciplinary Authorities for Non-Academic Misconduct](#);
 - (c) [Table 3: Disciplinary Actions and Disciplinary Authorities](#);
 - (d) [Student Discipline Appeal Procedure](#);
 - (e) [Respectful Work and Learning Environment Policy](#);
 - (f) [Sexual Assault Policy](#);
 - (g) [RWLE and Sexual Assault Procedure](#);
 - (h) [Residence Contract](#);
 - (i) [Violent or Threatening Behaviour Policy and Procedure](#);
 - (j) [Campus Alcohol Policy and Procedure](#);
 - (k) [Definitions of Academic Units Policy](#);
 - (l) [Records Management Policy and Procedure](#);

- (m) [Use of Computer Facilities Policy and Procedure](#);
- (n) [Third Party Data Access Request Form](#);
- (o) [Student Advocacy Office Policy](#);
- (p) [The Freedom of Information and Protection of Privacy Act](#), CCSM c. F175;
- (q) [The Personal Health Information Act](#), CCSM c. P33.5.
- (r) [Responsible Conduct of Research Policy and Procedures](#)