

**PROFESSIONAL UNSUITABILITY BYLAW
FOR STUDENTS IN THE FACULTY OF EDUCATION**

BYLAW:	PROFESSIONAL UNSUITABILITY
Effective Date:	May 18, 2016; May 16, 2019
Revised Date:	May 18, 2016; November 22, 2018; April 24, 2019
Review Date:	September 1, 2026
Approving Body:	Senate
Authority:	<i>University of Manitoba Act - Article 16(1)d</i>
Implementation:	Dean delegated to the Associate Dean (Undergraduate)
Contact:	Associate Dean's Office (Undergraduate), Faculty of Education
Applies to:	Students in the Faculty of Education

1.0 Reason for Bylaw

The University of Manitoba Faculty of Education has a social mandate to ensure that students are caring, skilled educators who are worthy of the public trust endowed upon them. In fulfilling this mandate, the Faculty of Education has developed comprehensive programs of education and experience to ensure that graduates meet these high expectations. Unlike non-professional education programs, the Bachelor of Education ("B.Ed.") and Post-Baccalaureate Diploma in Education ("PBDE") degrees require students to uphold the high standards of professional practice expected of all teachers in action, word, intent, and spirit.

2.0 Rule/Principle

2.1 As members of the University community, 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.

2.2 Grounds under which a student may be reviewed under the Professional Unsuitability Bylaw may include, but not limited to:

- a) practiced incompetently in a teaching or school setting in spite of efforts to support the student's development;
- b) compromised the student's professional judgment through self-interest or a conflict of interest;
- c) demonstrated behaviour or conduct with respect to pupils and/or teachers in schools, the student's colleagues, faculty or staff, or a member of the general public which is exploitive, destructive, or injurious;
- d) been under the influence of alcohol, cannabis/cannabis products, or illegal drugs or has abused prescription drugs which impairs essential teaching performance;
- e) 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 as per the University of Manitoba Accessibility Policy;
- f) acquired a criminal conviction which is of such a nature as to place in question the student's fitness for teaching; and/or
- g) 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.

3.0 Jurisdiction

- 3.1 This bylaw applies to Teacher Candidates enrolled in the Bachelor of Education (“B.Ed.”) program and students in the Post-Baccalaureate Diploma in Education (“PBDE”) program.
- 3.2 The Faculty of Education may require a student in any of the programs named in 5.1 hereof to withdraw from the Faculty, pursuant to the procedures set out in this bylaw when the student has been found unsuited, on consideration of competence or professional fitness, for the profession of teaching. A student may be required to withdraw from the program of studies (B.Ed. or PBDE) 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.
- 3.3 Conflict of Jurisdiction: If a question arises as to whether a matter falls within the academic regulations of the Faculty or this bylaw, or as to whether a matter is within the jurisdiction of the Student Discipline Bylaw of the University or this bylaw, as the case may be, the question shall be referred to the President of the University for final decision.

4.0 Professional Unsuitability Committee

- 4.1 There shall be established within the Faculty a standing committee of six (6) members known as the Professional Unsuitability Committee (“PUC”) to hear and determine matters of competence and/or professional suitability of B.Ed. and PBDE students with respect to professional practice. Membership in the PUC shall be as follows:
- a) Chair (non-voting, except in the case of a tie): a tenured faculty member to be appointed by the Dean, Faculty of Education;
 - b) two (2) full-time Faculty members, at least one of whom shall be tenured/tenure track, elected by the Council of the Faculty of Education;
 - c) one (1) B. Ed. student from the Faculty of Education, appointed by the Faculty of Education Student Council (“EdSC”), or one (1) PBDE student from the Faculty of Education, appointed by the Associate Dean (Graduate & Professional Programs, and Research), or their designate; and
 - d) two (2) certified teachers: one (1) appointed by the *Manitoba Teachers’ Society* (“MTS”) and one (1) appointed by the *Manitoba Federation of Independent Schools* (“MFIS”).
- 4.2 The length of term of committee members shall be as follows:
- a) Faculty members shall be appointed for a two (2) year term;
 - b) Representatives from the teaching profession shall be appointed for a two (2) year term; and
 - c) Undergraduate students and PBDE students shall be appointed for a one (1) year term.
- 4.3 Except for the provision contained in section 6.3, a quorum of the PUC shall be four (4) members of the Committee and the Chair, as set out in section 4.1.
- 4.4 PUC is a separate entity from the Faculty of Education’s Local Disciplinary Committee, the Faculty of Education’s Committee on Student Standing.

5.0 Referral

- 5.1 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 3.1 shall complete the *Professional Unsuitability Referral Form* [Appendix 1] and shall append a typed report to the form documenting the alleged incident(s) and/or concerns. The form and the attached report shall be submitted to the Associate Dean (Undergraduate Programs) who, if they deem it appropriate, will refer the matter to the Dean or their designate. In no circumstances will a referral be based on anonymous allegations or materials. Anonymous material and allegations are defined as those where authorship has not been disclosed to both the committee and respondent.
- 5.2 The Dean (or their designate) shall refer matters within five (5) working days, which in their opinion involve conduct or circumstances described in Article 2.2 and 3.2 herein, to the PUC.
- 5.3 On receipt of a referral from the Dean of the Faculty or their designate, the PUC shall:
- a) 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;
 - b) 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 6.1;
 - c) at all times act expeditiously to complete the hearing;
 - d) determine whether any of the grounds requiring withdrawal under Article 2.2 and 3.2 exist after hearing the matter pursuant to this bylaw; and
 - e) make a disposition in accordance with Article 8.0 herein.
- 5.4 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.

6.0 Notice and Due Process

- 6.1 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. Students should be notified of the opportunity to seek advice and representation from Student Advocacy or the University of Manitoba Student Union ("UMSU"). Such a hearing will be held no sooner than ten (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.
- 6.2 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.
- 6.3 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 their case. Where the Chair of the PUC receives such concerns, they shall, before the hearing, convey the concerns to every member of the PUC and inform any member identified by the student that they have 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 4.3 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 4.1 unless the quorum specified in 4.3 exists.

6.4 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.

7.0 Hearing Procedures

- 7.1 The student may appear in-person and may choose to be represented or accompanied by a Student Advocate, University of Manitoba Student Union (“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.
- 7.2 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.
- 7.3 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.
- 7.4 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 they are called.
- 7.5 The student, who is the subject of the hearing, shall not be required to give evidence but if the student elects to do so, then members of the PUC may question the student.
- 7.6 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.
- 7.7 The Chair of the PUC shall vote only to break a tie.
- 7.8 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.

8.0 Disposition of the Matter

- 8.1 After hearing all the evidence, the PUC shall meet in closed session to:
- a) consider the evidence;
 - b) 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);
 - c) if the allegations are established to the satisfaction of the PUC, determine the appropriate disposition of the matter; and
 - d) 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.

8.2 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:

- a) determine that no further action be taken;
- b) 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;
- c) reprimand the student in writing;
- d) order that the written reprimand be recorded on the student's academic history/transcript for a period of up to five (5) years;
- e) require that a written apology and/or retraction be made;
- f) require the student to withdraw from the Faculty for a specified period of time;
- g) expel the student from the Faculty indefinitely;
- h) attach conditions that must be fulfilled before any application for re-admission to the Faculty will be considered; and/or
- i) expel the student from the Faculty with no right to apply for re-admission to the Faculty.

8.3 Sections 8.2 (f), (g), (h), and (i) may be noted on the student's history/transcript.

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

8.5 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, the appropriate Associate Dean, if deemed appropriate, the Director of the School Experiences Office.

9.0 Appeals

9.1 If the student wishes to appeal a disposition of the PUC (including any notation on their transcript), such appeal may be made to the Senate Committee on Appeals in accordance with the procedures of that body.

9.2 In the event of an appeal, the PUC may recommend that the implementation of the decision be suspended until such time as the Senate Academic Appeals Committee has disposed of the matter.

9.3 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.

10.0 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 retained confidentially in the Dean's office for one (1) year after the appeal period has ended. After that date, all documents related to the matter will be destroyed.

11.0 Amendments

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

12.0 Review

12.1 Formal bylaw reviews will be conducted every ten (10) years.

12.2 In the interim, this bylaw may be revised or rescinded if the Approving Body deems necessary.

12.3 If this bylaw is revised or rescinded, all Secondary Documents will be reviewed as soon as reasonably possible in order to ensure they:

- (a) comply with the revised bylaw; or
- (b) or are, in turn, rescinded.

13.0 Cross References

Cross referenced to:

- 1) Professional Unsuitability Referral Form [Appendix 1]
- 2) University of Manitoba Act – Article 16(1)d