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| Title: | Student Non-Academic Misconduct Policy |
| Policy Area: | Students |
| Policy Number: | Policy Number |
| See also:  (related policies) | *Discrimination, Bullying and Harassment Policy*  *Sexual Violence and Misconduct Policy*  *Violent and Threatening Behaviour Policy*  *Protection of Privacy Policy* |

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| Effective Date of Policy: | January 1, 2022 |
| Approval Date: | Select approval date. |
| Applies to: | Students of Okanagan College |
| Approving Body: | Board of Governors |
| Supersedes: | Student Non-Academic Conduct Policy |
| Authority: | [*College and Institute Act*](http://www.bclaws.ca/civix/document/id/complete/statreg/96052_01) |

The following are responsible for the administration of this policy

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| Primary Office: | Contact: |
| Vice President, Students | Executive Assistant to the Vice President |

# Policy Statement

## When students become members of the Okanagan College community, they are granted the opportunity, and accept the responsibility, to learn about their chosen area of study, the College, and themselves. Okanagan College is committed to supporting student success and well-being within all areas of learning and development.

## Students are expected to take responsibility for their actions and to set expectations for others to do the same.

## Students are expected to commit to principles of integrity, justice, equity, diversity, and inclusivity, and to demonstrate these principles in all conduct.

# Purpose

## The purpose of the **Student Non-Academic Misconduct Policy** is to establish standards and processes that will be enacted when student conduct fails to promote a positive, safe, and respectful learning environment. When a complaint of misconduct is received, the College will determine if the Policy has been violated and apply corrective measures as needed.

# Confidentiality

## Confidentiality is an important principle in creating an environment where those who have experienced or witnessed violations of the **Student Non-Academic Misconduct Policy (the Policy)** can feel safe to disclose and seek support.

## The privacy and confidentiality of all members of the College Community involved in any report of violations of the **Student Non-Academic Misconduct Policy** will be protected by the College to the extent permitted under applicable law.

## The College does not make disclosures of information related to Complaints except as necessary and is reasonable within the circumstances.

## The College acknowledges the right of the Respondent(s) to know the Complaint against them and to have the right to respond to the Complaint.

# Scope

## The **Student Non-Academic Misconduct Policy** applies to all Okanagan College students.

## This Policy applies to Students of the College while engaging in College-Related Activities.

## College-Related Activity includes an activity occurring on College property, whether rented, leased, or owned, including student residences; when using College owned or operated property or equipment, including but not limited to phones, computers, or computer networks; at College sanctioned events or conducted under the authority of the College.

## To be a College-Related Activity the activity must have a real and substantial connection to the College or College-related functions, whether the activity occurred on College property, in person, or online.

## Disruption of instructional activities, including examinations, may be dealt with initially by the appropriate instructor, faculty member or proctor as a matter of classroom management.

## Minor behaviour problems in the classroom and elsewhere should be addressed directly by an employee implementing informal resolution processes. Subject to the rules of confidentiality, other Okanagan College departments and/or relevant academic areas may be consulted during an informal resolution process. Where a resolution cannot be reached through this informal process, a report will be filed to initiate a Complaint under the Student Non-Academic Misconduct Policy.

## When students are subject to the professional standards related to their programs of study and/or placements, their conduct in these contexts will be addressed first by the Office of the Dean or Director of the student’s program. If the behaviour escalates or places others at risk, the student’s conduct may be addressed under the Student Non-Academic Misconduct Policy.

## The conduct of students who live in College residences is also governed by the [**Residence Contract and Community Standards**](https://www.okanagan.bc.ca/sites/default/files/2020-08/residence_handbook_2020-21.pdf).

## All students are subject to local, provincial, and federal laws. If the College becomes aware of conduct that might be criminal in nature, the College may refer the incident to local law enforcement.

## Nothing in this Policy prevents anyone, including professional licensing bodies and the College, from proceeding with civil, administrative, or criminal actions independent of any action taken under this Policy.

## Any reference to a position in this Policy includes any person that may be appointed as a designate to that position.

# Definitions:

## For the purposes of this policy, the following definitions apply:

**“Appeals Panel”** is composed of members of the Student Conduct Committee who are convened to hear Appeals on the decision of a Hearing Panel. Student Conduct Committee members who sit on a Hearing Panel cannot also sit on an Appeals Panel for the same student.

“**Appellant**” is a student found to be in violation of this Policy who is initiating an appeal of Okanagan College’s initial decision.

“**Balance of Probabilities**” is the standard of proof used during the course of a Student Non-Academic Misconduct process whereby a decision is made as to whether a violation is more likely than not to have occurred

“**Behavioural Contract**” is an agreement between a student who has engaged in prohibited behaviour and Okanagan College that outlines conditions the student must follow to continue their studies. The contract may be for a specified period or for the full duration of the student’s program.

## **“Bullying” is** any inappropriate action, conduct, or comment by a person towards another person that the person responsible for the action or comment knew or reasonably ought to have known would cause the other person to be humiliated or intimidated but excludes:

any reasonable action taken by the College, or by an instructor, faculty member, or person in a similar position, relating to the management and direction of Students in the classroom, the management of Student conduct, or the management, direction, assignment, or supervision of academic work**.**

“**Community Service**” is service work carried out by a student who has been found to have violated this Policy that contributes to the College community or to an approved service organization that agrees to work with the student.

“**Complainant**” is an individual who initiates a complaint.

**“Developmental & Educational Assignment”** A Respondent may be required to participate in activities that promote deeper understanding of the impact of their actions. Assignments may include but are not limited to, leadership development, health and safety programs, reflective learning or personal success activities, projects, or other assignments as applicable.

**“Discrimination”** means discrimination based on a person’s sex, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sexual orientation, age, gender identity or expression, or criminal conviction unrelated to the person’s employment or program of study, any other prohibited grounds identified under the BC Human Rights Code.

“**Employee**” is a full-time, part-time, term or contract faculty member, instructor, support staff or administrator of Okanagan College.

“**Expulsion**” means permanent removal from Okanagan College of a student who has engaged in prohibited behaviour. The student may not be allowed to register in the future.

**“Forfeiture of Awards”** is the loss of the right to current or future awards or Okanagan College funded scholarships or bursaries as a result of misconduct.

**“Harassment**”, which includes bullying, means any inappropriate action, conduct, or comment by a person towards another person that the person responsible for the action or comment knew or reasonably ought to have known would cause the other person to be humiliated or intimidated.

**“Hearing Panels”** are composed of members of the standing Student Conduct Committee and are convened to review Complaints of Major Incidents of Misconduct and to determine if Sanctions should be applied as a result of the misconduct.

**“Interim Sanctions”** may be imposed on a student accused of misconduct pending the outcome of the Non-Academic Misconduct process.

**“Major Infraction”** is behaviour that has a significant negative impact on members of the College community but does not pose an immediate threat to health and safety**.**

**“Minor Infraction”** is behaviour that has a limited impact on the rights or academic experience of others but may create a disturbance or impact the operation of the campus community. Where there are multiple minor infractions in a single incident, or a Respondent is found responsible for the same minor infraction repeatedly, the Infraction may be considered as a Major Infraction.

“**Okanagan College Student Union**” (OCSU) is the membership organization at Okanagan College representing students across Kelowna, Penticton, and Salmon Arm campuses.

“**Probation**” is a written reprimand in effect for a period of time with clear conditions that a student must meet to maintain their status at Okanagan College and to avoid additional sanctions

“**Procedural Fairness**” refers to the right of a Complainant and Respondent to have an opportunity to be heard, to be aware of all evidence considered by the decision maker, the right to respond and the right to have a decision made by an impartial decision maker.

“**Respondent**” is a student against whom an allegation has been made under this Policy.

“**Reparation**” is compensation paid by a student who has engaged in prohibited behaviour to make up for a loss, damage, or injury. This may include service, payment of money or replacement of property.

“**Representative**” - Complainants and Respondents may engage a Representative to assist them throughout the process of filing or responding to a complaint. A Representative may be a student representative from the OCSU or VSA OC, an employee of the institution, or an outside Representative of the student’s choice.

“**Restrictions**” means the revoking of privileges to access or use Okanagan College facilities and services for a designated period of time and/or prohibiting contact with specified Okanagan College community member(s).

“**Sanctions**” are disciplinary actions implemented by Okanagan College when a student engages in non-academic misconduct. The objective of Sanctions is to deter future violations.

“**Student**” refers to any person enrolled as a student at Okanagan College.

**“Student Conduct Committee”** is a standing committee of Okanagan College employees and students from which the members of a Hearing Panel or Appeals Panel is selected.

“**Student Wellbeing Group**” consists of a sub-set of the Violent and Threatening Behaviour Response Team. The Student Wellbeing Group will convene when a student’s conduct raises concern for the student’s wellbeing.

“**Support Agreement**” a Respondent who is found to be responsible for a violation of this policy may receive a recommendation from the Director, Student Services or from a Hearing Panel to access campus supports for future success. Services may include, but are not limited to, Aboriginal Services, Accessibility Services, Counselling Services, Learning & Success Centre and Student Graduate and Co-op Employment Centre.

“**Suspension**” is temporary removal from Okanagan College for up to one (1) calendar year of a student who has engaged in prohibited behaviour. Suspension includes a student being excluded from classes and/or other activities for a specific period of time. It may also exclude the student from a campus or Okanagan College owned or controlled property.

“**Vernon Students’ Association**” (VSA OC) is the membership organization at Okanagan College representing students who are registered at the Vernon campus.

“**Warning**” is a written notification that continuing or repeating certain conduct will result in further disciplinary action up to and including suspension or expulsion from Okanagan College.

“**Withholding of credential**” is the refusal to award a student who has engaged in prohibited behaviour their credential, e.g., course credit, certificate, diploma, degree, etc., until the conduct review process is completed.

# Student Conduct

## Student non-academic misconduct includes, but is not limited to:

* + - * 1. Failure to provide proper identification to an employee acting within the scope of their position while on campus. (For example, security, residence staff, exam proctor.)
        2. Creating a disturbance in a public place such as unreasonable noise or non-threatening behavior. This does not preclude students’ right to assemble for lawful protest; however, outside of the disruption caused by lawful assembly, the Policy is otherwise in full force during such an assembly.
        3. Failure to properly monitor the conduct of their guests.
        4. Illegal or unauthorized use of, damage to, or removal of College equipment, facilities, or services.
        5. Conduct that interferes with College learning environments or operations.
        6. Intentionally supplying false information to avoid taking responsibility for conduct, or to intentionally defraud the institution or members of the College community.
        7. Failure to comply with reasonable direction of College employees acting within the performance of their duties.
        8. Unauthorized possession or use of alcohol and/or illegal drugs on College premises.
        9. Sale of alcohol, drugs or narcotics on College premises.
        10. Breach of a behavioural contract or failure to comply with sanctions assigned as an outcome of a non-academic misconduct review.
        11. Distribution of malicious material or material known to be untrue about employees or students.
        12. Filing a false or vexatious complaint under this Policy or any other Okanagan College policy.
        13. Possession, or the threat of possession, of firearms or other dangerous weapons or replicas, or possession of harmful chemicals not for the purpose of sanctioned academic activities.
        14. Tampering with emergency equipment.
        15. Expression of indecent, profane, or vulgar language or obscene actions.
        16. Coordination of, or participation in, hazing or initiations.
        17. Conduct which meets the definition of Bullying, Discrimination or Harassment as defined in this Policy.
        18. Violation of College policies, rules or regulations including, but not limited to the ***Responsible and Appropriate Use of Information Technology Resources*** **Policy** and applicable ***Health and Safety Plans.***
        19. Committing unlawful acts.

## Any member of the Okanagan College community who is the subject of, or witness to, conduct that violates the Student Non-Academic Misconduct Policy may file a Complaint. All complaints will be forwarded to the Director of Student Services.

## At the discretion of the Director, Student Services, a complaint of violations of the **Student Non-Academic Misconduct Policy** may be assessed as either Minor or Major infractions depending on the severity of the conduct and the impact that the conduct has on individuals, the campus community, or the College.

* Minor infractions of the Policy will be reviewed and acted on by the Director, Student Services.
* Major infractions of the Policy will be reviewed by a Hearing Panel or, where both the Complainant and Respondent agree, referred for mediation.

## Conduct that causes or may endanger the physical, emotional, or psychological health or safety of a member of the College community will be referred immediately to the Regional Deanfor investigation under the **Violent and Threatening Behaviour Policy.**

# Procedures

## **Responding to Conduct of Concern** - It is the right and responsibility of every community member to respond to conduct that has a negative impact on themselves or other members of the community. Any member of the College community who is the subject of, or witness to, conduct that is within the scope of the **Student Non-Academic Misconduct Policy** or any other College policy may ask the individual responsible for the conduct to stop the conduct and may file a formal Complaint.

## At no time should any person put themselves at risk of harm in order to address the conduct of others. Any person who believes that they or anyone else is at ***immediate risk of harm*** should contact the Office of Campus Security or the Office of the Regional Dean immediately. When there is an ***imminent risk of harm***, call 911, then contact the Office of Campus Security.

## Filing a Complaint - A confidential Complaint may be filed in writing using the Report Form, <https://www.okanagan.bc.ca/security-incident-reporting-form>, or verbally by contacting:

* the Office of the Dean or Director of the Student’s program; or
* the Regional Dean; or
* the Director, Student Services; or
* the Office of Campus Security.

## In the event a Complainant withdraws their Complaint, the Complaint will be maintained in a secure file in the Office of the Director, Student Services for one (1) calendar year and then destroyed. The Complaint will be confidential unless it identifies behaviour that is of a threatening or violent nature that could place individuals at risk in which circumstance it will be referred to the Violent and Threatening Behaviour Policy.

# Assessment of the Complaint

## The Director, Student Services first determines whether the conduct is covered under the Policy. The Complaint may be dismissed if:

* there is insufficient information, or
* the information does not meet the criteria of an infraction as stated in Section 6.1, or
* the complaint is frivolous.

## Where a probable policy violation is identified, the Director, Student Services will determine if the infraction would constitute a Minor or Major Infraction of the Policy and will implement the associated procedures. *All sexual violence and misconduct complaints are considered major infractions and where a student is the respondent in a complaint, the investigation and adjudication will follow the process for Major Infractions under this policy.*

## When a student’s conduct could be considered a breach of both this Policy and the **Academic Integrity Policy,** the Program Dean or Continuing Studies & Corporate Training Director, and the Director, Student Services will determine jointly which Policy applies to the specific actions and will apply each Policy as appropriate.

# Process of Minor Infraction

## The Director, Student Services will meet with the Complainant within three (3) business days of receiving the complaint.

## The Director will subsequently contact the Respondent within three (3) business days following the meeting with the Complainant to schedule a meeting.

## Sanctions for Minor Infractions - If a determination is made that misconduct occurred and constitutes a Minor Infraction, the Director, Student Services may:

* + - * 1. Initiate a meeting between the parties involved to identify a mutually agreed upon r*esolution* to the incident. If a resolution is agreed to by all parties and compliance is achieved over an agreed to period-of-time, the file will be closed.
        2. Assign sanctions to the Respondent that are appropriate to the incident and allowable under Sanctions for Minor Infractions Section 12.1.

## Appeals – Sanctions for Minor Infractions may not be appealed.

# Process for a Major Infraction

## If a determination is made that it is probable that misconduct occurred and would constitute a Major Infraction, the Director Student Services will appoint an investigator to conduct an unbiased fact-finding and information-gathering process with all involved parties.

* + - * 1. The Investigator will normally meet with a Complainant within three (3) business days of the Complaint being filed to the Director.
        2. Following the meeting with the Complainant, the Investigator will provide written notice to the Respondent outlining the Complaint and the process for review of the complaint.
        3. The Respondent will be asked to provide a written response to the Complaint and to meet with the Investigator.
        4. The Investigator will obtain written reports and/or meet with any witnesses identified by the Complainant or by the Respondent.

## Investigations will be conducted in as timely a manner as possible, usually completed within 20 business days of the receipt of the Complaint.

## Investigations may not be conducted or may be deferred under any of the following circumstances:

* + - * 1. There is lack of clarity about the nature of the Complaint.
        2. There is concern for the safety, well-being, employment, or academic status of the parties involved.
        3. If the Respondent’s well-being is of concern and the Director, Student Services requests that a Student Well-Being Group be convened to review.
        4. Criminal proceedings are initiated and in process.

## The Investigator will provide a confidential report to the Director, Student Services. The Director will provide a report summary to the Complainant and the Respondent.

## If there is sufficient evidence to move the Complaint forward, the Director, Student Services will:

* + - * 1. Request the Student Conduct Committee to convene a Hearing Panel; or
        2. Where appropriate, advise the Respondent of the option to request mediation. A Respondent has 3 business days after being notified of the outcome of the Investigation to make a request for mediation.
* Where the Respondent requests mediation, the Complainant will have three (3) business days to choose to participate in mediation or decline to do so. If the Complainant agrees to mediation, the Director, Student Services will coordinate an appropriate mediation.
* If the Complainant does not agree to participate in a mediation, or if an agreed upon mediation is not successful, the Complaint is referred to the Student Conduct Committee.

## The Chair of the Student Conduct Committee will convene a Hearing Panel within 10 business days of the Chair receiving the Investigator’s report.

* + - * 1. The Hearing Panel may issue one of the following decisions based on the preponderance of evidence:
* That on the Balance of Probabilities, the Respondent did not violate the Student Non- Academic Misconduct Policy;
* That on the Balance of Probabilities, the Respondent violated the Student Non-Academic Misconduct Policy.
  + - * 1. If a determination is made that, on balance of probabilities, the misconduct occurred, the Hearing Panel may assign sanctions to the Respondent as described in Section 12.2. of this Policy.

# Suspension and Expulsion

## A Hearing Panel may make a recommendation to the President of the College that a student be suspended or expelled.

## If the President does not accept a recommendation for Suspension or Expulsion, the matter will be returned to the original Hearing Panel to determine appropriate actions.

## If the President does accept the recommendation for Suspension or Expulsion, a student suspended or expelled may file an Appeal to the Okanagan College Board of Governors.

## An Appeal must be filed with the Board Secretary within 10 business days of an email of the President’s decision being sent from the Office of the President to the Respondent. An Appeal must clearly state the reasons for the Appeal and may be filed based on one or more of the following:

* + - * 1. There is new information that was not available during the original investigation.
        2. The process as outlined in Sections 10, 11 & 12 in these Procedures was not followed.
        3. The Sanction applied was too severe for the circumstances.

# Sanctions for Infractions

## When a determination is made that misconduct occurred Sanctions may be applied to the Respondent.

## Sanctions for Minor Offences include any one or combination of the following:

* An apology
* A written warning
* Probation
* Restrictions
* Reparation

## Sanctions for Major Offences include any one or combination of the following:

* Probation
* Restrictions
* Developmental and Educational Assignment
* Community Service
* Support Agreement
* Course De-Registration
* Forfeiture of Awards
* Suspension
* Expulsion

# Appeals

## Where a Respondent is found responsible for Major Infractions and the sanction is other than a recommendation for Suspension or Expulsion, the Respondent may appeal if:

* + - * 1. There is new information that was not available during the original investigation.
        2. The process as outlined in Sections 10, 11 & 12 in these Procedures was not followed.
        3. The Sanction applied was too severe for the circumstances.

## An Appeal must be filed in writing or in a verbal report to the Office of the Vice President, Students within 10 business days of the decision on the outcome of the Hearing Panel having been emailed to the Respondent.

## All restrictions applied as Sanctions during the Investigation and Hearing Panel process remain in effect during the Appeal process.

## The Vice President, Students determines whether an appeal is based on criteria stipulated in Section 13.1. and on the Balance of Probabilities, there is sufficient reason to question the initial decision.

## Appeals Panel - When an appeal of a Hearing Panel decision is granted, the Vice President, Students will convene an Appeal Panel within 10 business days.

## The Appeals Panel may, at its discretion, convene a full hearing to meet with the Respondent, Complainant, and all Witnesses*.*

## The Appeals Panel may issue one of the following decisions based on the preponderance of evidence:

* Deny the appeal
* Uphold the original decision and sanctions as stipulated following the original investigation
* Request the investigation be re-initiated
* Require that the Hearing Panel be re-convened for failure to follow process
* Modify the Sanctions

# Accommodation

Any student involved in the **Student Non-Academic Conduct Policy** procedure may request disability related accommodation regarding their participation in any part of the conduct review process by contacting the Office of Student Services. Accommodation will be provided in accordance with the Human Rights Code – British Columbia.

# Change of Status

A student who is accused of a violation of the Student Code of Conduct, who withdraws from the College or who completes their program of study may be prevented from registering in future classes or their credential may be withheld until the Student Code of Conduct process is completed.

# Records

All information and records pertaining to a Complaint, Investigation, Sanction or Appeal under the **Student Non-Academic Misconduct Policy** are kept in accordance with the Privacy Act, BC. Records are maintained in the Student Services office separate from student academic files. The student conduct file of an expelled student is retained indefinitely.

Records of Suspension or Expulsion are included on a student’s official College transcript.

# Report

The Director, Student Services compiles an annual report that provides summary information of the number of Complaints filed, type of conduct reported, sanctions applied, number of appeals filed and the outcome of appeals. The President will report to the Board of Governorson an annual basis~~.~~