



Senate

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# **Mount Saint Vincent University**

## **Non- Academic Discipline Policy**

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## **1.0 STUDENT CHARTER OF RIGHTS AND RESPONSIBILITIES**

In their ongoing efforts to enjoy a community free from discrimination, harassment or violence, the students, faculty and staff of the university cooperate to sustain a safe environment which promotes learning and personal development. Like all members of the Mount community, students are expected to make responsible decisions and to follow university regulations. In turn, the University provides the opportunity for students to engage fully in its academic, social and recreational programming.

The purpose of this policy is to inform students of both their rights and responsibilities as well as to outline the consequences for those who do not abide by them.

### **1.1 Student Rights**

Students can expect to:

- a) Enjoy living in a community which promotes the dignity of human beings and prohibits harassment and discrimination as it is defined in the University's Fair Treatment <sup>1</sup>Policy.
- b) Enjoy living in a tolerant community where freedom of expression, belief and political association is celebrated provided these beliefs do not interfere with the rights of others or contravene university policy.
- c) Freely manage their own personal lives and behavior subject to the criminal and civil laws of Nova Scotia, Canada, and university regulations.
- d) Have the principles of due process and natural justice applied to all disciplinary procedures. Specifically:
  - i. That the student has notice of the alleged violation;
  - ii. That the student be given the opportunity to hear the charge or complaint and respond to it;
  - iii. That the person or body deciding the student's fate be impartial and unbiased;
- e) Pursue their education in an environment which is safe and secure.
- f) Have their privacy protected in a manner consistent with university policy and privacy legislation.
- g) Belong to any lawful association of their choosing including the right to assemble and participate in demonstrations within the University provided that such actions do not

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<sup>1</sup> Note: This policy was replaced by the Harassment and Discrimination Policy, approved by the Board on January 29, 2014.

violate the rights of other members of the University community nor breach the responsibilities as outlined in this Charter.

## **1.2 Student Responsibilities**

- a) As members of the University community, students are expected to contribute to making it safe, respectful and inclusive. Conduct which threatens or endangers the health, safety, well-being or dignity of any person contravenes university regulations.
- b) All students are responsible for understanding and observing the policies of the University including, but not limited to, policies noted in this charter. These include the University's Fair Treatment Policy, the policies listed in the University Calendar, the Co-Op Conduct Policy, and the Guidelines for Use of Information Technology. For residence students it also includes the rules and policies set out in the residence handbook.
- c) Each student is responsible for contributing to a community that is supportive of every member's academic pursuits. Conduct that interferes with another student's ability to complete academic requirements is considered to be misconduct.
- d) No person, while on property owned, leased or controlled by the University shall store, use or carry a weapon.
- e) Failure to comply with the instructions of university or Students' Union officials acting in performance of their authorized duties is considered to be misconduct.
- f) Students consuming alcohol are obliged to do so responsibly, to abide by the Liquor Control Act of Nova Scotia and to ensure his/her own safety and the safety of others.
- g) Misusing legal prescriptions or possessing, using or distributing illegal drugs is prohibited on property controlled, leased or owned by the University.
- h) Students are prohibited from gaining unauthorized entry to University premises and from unauthorized possession of University property. Causing property damage, vandalism, defacement, destruction, theft, misuse or tampering with University property is prohibited. This includes tampering with or removing fire-fighting equipment including fire alarms, extinguishers, exit signs, fire hoses, smoke detectors or emergency lights. It also includes arson and pulling fire alarms without appropriate cause.
- i) Acts of dishonesty are a breach of the Charter including, but not limited to:
  - i. Knowingly furnishing false information and
  - ii. Fraud, forgery, alterations, or misrepresentation of documents, university records or instruments of identification (acts of academic dishonesty are addressed under the Academic Offences Policy).

## **2.0 NON-ACADEMIC DISCIPLINE POLICY**

### **Jurisdiction**

This Policy applies to:

- a) Conduct that occurs on the premises of the University;
- b) Conduct that occurs at a University sponsored event, program, or activity, whether the event, program or activity is on campus or off-campus; and
- c) Other off-campus conduct when the individual is acting as a designated representative of the University or a student group or organization of the University, or when the individual holds himself or herself out as a representative of the University or student group or organization of the University.

**2.1** If a student's conduct could be considered a breach of this Policy and also a breach of another policy or policies outlined in the University's Calendars and, for students living in residence in the MSVU Residence Handbook, the University may, in its discretion, proceed under this Policy, or under the aforesaid Policies. A student may not be penalized under this Policy as well as another for the same conduct.

**2.2** Any student found responsible for misconduct is subject to the disciplinary sanctions outlined in the Policy, regardless of the action or inaction of civil or criminal authorities. Nothing in this Policy precludes the University from referring an individual matter to the appropriate law enforcement agency before, during, or after disciplinary action is taken by the university under this policy. A student may be subject to criminal prosecution and/or civil proceedings notwithstanding, and in addition to, disciplinary action taken by the University against the student under this policy.

### **2.3 Definitions**

***Charter of Rights and Responsibilities*** – the document which outlines conduct appropriate to Mount students as well as the freedoms they are entitled to as members of the University community.

***Complaint*** – a written submission to the Associate Vice-President, Student Experience which outlines a specific violation by a student, or a staff/ faculty member of the Charter of Rights and Responsibilities.

**Complainant** – a University faculty or staff member or student submitting the official complaint.

**Respondent** – a University student, staff or faculty member cited in the official complaint as having violated the Charter of Rights and Responsibilities or another university policy.

**Witness** – an individual who was present and can speak directly to the specific violation cited in the complaint.

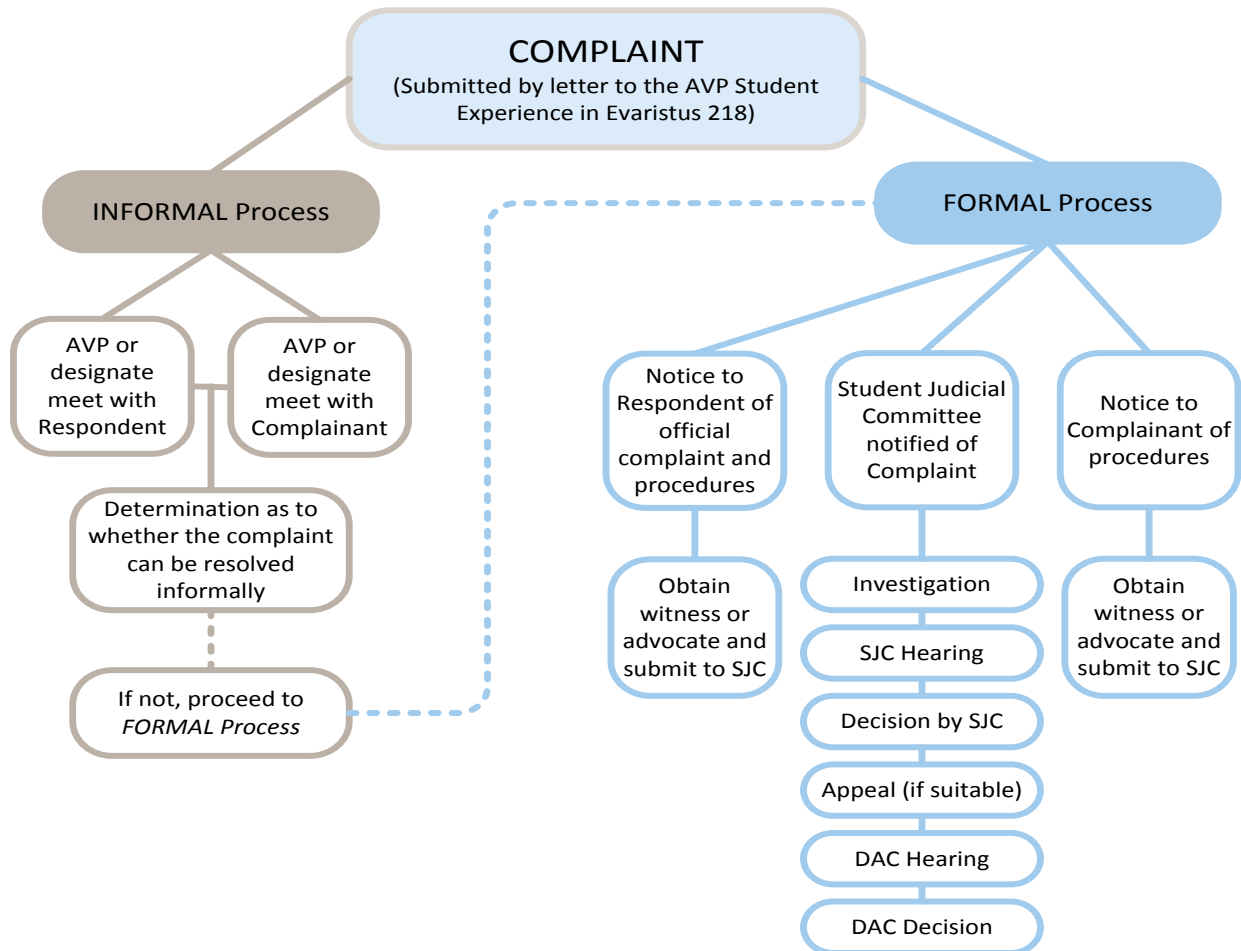
**Advocate** – an individual invited by the complainant or respondent to a formal hearing or informal meeting to both provide support and to ensure the complainant or respondent's point of view is sufficiently communicated.

**Student Judicial Committee(SJC)** – the disciplinary body to which complaints are directed for adjudication.

**Student Discipline Appeals Committee (SDAC)** – the disciplinary body which hears appeals to judgements made by the SJC, or the Housing and Security offices.

### 3.0 MAKING A COMPLAINT

#### Mount Saint Vincent University Non-Academic Discipline Policy



**3.1** By submitting a letter outlining the cause for complaint to the Associate Vice President, Student Experience, any member of the University Community may initiate a complaint against a student.

**3.2** By submitting a letter to the Associate Vice President, Student Experience, any student may initiate a complaint alleging a breach by the University or by a member of the campus community of the student rights outlined in the Student Charter of Rights and Responsibilities.

**3.3** Complaints against students can be resolved through either the informal complaint resolution process or the formal judicial process.



**a) Informal Complaints**

In matters not deemed to be of a serious nature by the Associate Vice President, Student Experience, the campus community is encouraged to settle complaints during the informal stage of the procedure either directly or with the assistance of a third party mediator. Informal stage notwithstanding, complainants may proceed to have the complaint heard formally if they so desire. The Associate Vice President, Student Experience, or his/her delegate, will assess the nature and gravity of each complaint and meet with both the complainant and the respondent to determine the appropriate process to be followed. When agreement can be reached with both parties, attempts will be made to resolve the complaint at this stage.

**b) Formal Judicial Process**

If a complaint cannot be resolved at the informal stage or, where the University, in its discretion, determines that the seriousness of the complaint warrants that the complaint proceed through the formal judicial process, the complaint will be introduced into the formal judicial process by the Associate Vice President, Student Experience.

**3.4** Either the Complainant or the Respondent may appeal the decision and/or the sanction imposed as a result of the formal process in accordance with Article 9.0 Appeals.

**3.5** All complaints of misconduct shall be reported, investigated and decided in a timely manner.

**4.0 DISCIPLINARY BODIES**

**4.1** Under the general responsibility and direction of the Office of Student Experience and subject to these regulations and the powers of Senate, the Student Judicial Committee (SJC), which initially hears a case, and the Student Disciplinary Appeals Committee (SDAC), to which appeals are made, are constituted as disciplinary bodies, to have jurisdiction over non-academic conduct in the University.

**4.2** Staff in the Campus Security and Housing offices are provided with the authority to investigate complaints and to assess and levy fines for campus misdemeanours including but not limited to noise, open liquor, or smoking violations, private property infringements, or other similar inappropriate conduct. Students who are sanctioned by these bodies have recourse to appeal this judgement to the Student Disciplinary Appeals Committee.

## **5.0 PROCEDURES FOR HEARING COMPLAINTS**

### **Please see Appendix for a Timeline of Events**

5.1 All complaints are to be directed (within ten working days of the alleged offence or of the date on which the complainant became aware of the offence), to the office of the Associate Vice President, Student Experience. Complaints shall be in writing and shall provide as much detail as possible concerning the misconduct being alleged (e.g. time, place, witnesses, behavior, etc.).

5.2 Following the receipt of a complaint the office of the Associate Vice President, Student Experience will forward a copy of the written complaint to the respondent together with a request that the respondent deliver a written response to the complaint to the office of the Associate Vice President, Student Experience within eight (8) working days of the date of the notice of the complaint.

Upon receipt of the respondent's reply or upon the expiry of the time allotted for a reply, the office of the Associate Vice President, Student Experience will forward the complaint and the reply (if any) to the Chair of the Student Judicial Committee (SJC).

5.3 Following receipt of a complaint the Associate Vice President, Student Experience, or his/her designate, may conduct an investigation which undertakes to:

- a) Gather pertinent documentation needed to conduct the investigation and to identify key issues;
- b) Elicit information relevant to the investigation to establish which witnesses need to be questioned;
- c) Prepare a written report which should include a comprehensive presentation of the information gathered;
- d) Conclude the investigation prior to the starting date of the hearing. (The Associate Vice President, Student Experience, or his/her designate, may re-open an investigation at the request of the hearing panel, or with the mutual consent of the parties).

5.4 Within five (5) working days of the notice (5.2) from the office of the Associate Vice President, Student Experience, the Chair of the SJC shall notify the complainant, respondent

and SJC that a complaint has been received by the committee, that a hearing will be scheduled, and whether an investigation of the circumstances has or will be undertaken.

- a) The Chair shall schedule a hearing between seven (7) and fourteen (14) working days following the date of the notice (5.4) from the office of the Vice President, Student Experience. S/he shall notify the parties and the members of the SJC of the substance of the complaint and of the date, time, and location of the hearing.
- b) The Chair shall provide all parties to the complaint with copies of any documents (including copies of investigation reports, if any) which the Committee has and is considering as part of its decision-making in relation to the complaint;
- c) Notification by registered mail, or by email or by courier to the student's current address on file with the Registrar shall be sufficient notice, if the party is a student. Campus mail or email may be used for parties who are university members with an office on campus or who are in residence.

#### 5.5 Power to Summons:

- a) If either party wishes to have witnesses at the hearing, it is the responsibility of each party to provide the SJC with a list of such witnesses at least five (5) working days in advance of the hearing;
- b) Subject to university regulations the SJC shall have the authority to summon witnesses;
- c) Each party is responsible for any costs incurred due to the appearance of their respective witnesses;
- d) The Chair of the SJC shall notify the respondent and the complainant of the names of the witnesses at least three (3) days in advance of the hearing.

5.6 A hearing of the SJC may be postponed provided all parties are notified.

5.7 In the event that the respondent fails to appear or refuses to attend the hearing at the time and place specified, the hearing may be conducted in the absence of the respondent.

5.8 The Associate Vice President, Student Experience shall retain the authority to deal with matters which require urgent action, and to take whatever action s/he deems appropriate in such circumstances.

5.9 No member of the committee may hear a matter in which they have a personal involvement and committee members are obligated to declare a conflict when they perceive

one exists. If the committee finds that a member should not sit for this reason, an alternate committee member will be asked to sit.

5.10 The hearing shall be conducted in as nonadversarial a manner as possible. The complainant and respondent shall each have an opportunity to state their case, present their evidence and call witnesses.

5.11 The Complainant and the Respondent may each be accompanied during the hearing by an advocate. Each party must advise the Chair prior to the hearing of the name of the person accompanying her/him and her/his relationship to the party. Legal representation is not permitted except at the Appeal stage (see Article 9.0 – Appeals)

5.12 The complainant shall present her/his case first. The respondent shall have an opportunity to question any witnesses or any evidence presented. The committee members shall have the same opportunity to ask questions.

5.13 The respondent may then present her/his case. The complainant shall have an opportunity to question any witnesses or any evidence presented. The committee members shall have the same opportunity to ask questions.

5.14 Both the complainant and respondent are provided an opportunity to make a closing statement if they wish with the complainant speaking first. Both parties may address how they feel the complaint should be dealt with and what penalty, if any, should be imposed.

5.15 These rules are meant as a guide for the committee and may be modified, provided that the parties are given a full opportunity to state their case and respond to the other party. Any change to the rules must not prejudice any of the parties.

5.16 Decisions of the SJC shall be made by majority vote. If the vote is tied then the complaint fails.

5.17 The decision of the committee including any penalty shall be communicated in writing to the parties and to the office of the Associate Vice President, Student Experience within five (5) working days of the hearing.

5.18 The Chair shall inform the parties of the right to appeal as described in this document (9.0).

5.19 The Chair shall have the power to adjust time limits, provided the Chair is satisfied that there are reasonable grounds for granting an extension and provided that granting an extension does not prejudice any party.

## **6.0 SANCTIONS**

**6.1** Authorities of the judicial bodies. The SJC or SDAC have the authority to sanction a student who is found to have contravened the charter. These sanctions may take the form of a restorative act, or a penalty designed to address any damage caused to any person(s) or property, or to make compensation.

**6.2** Sanctions may include but are not limited to:

- a)** On behalf of Senate, formal censure by the Student Judicial Committee
- b)** Loss of student rights or privileges for a specified period;
- c)** Payment of a fine;
- d)** Payment of a fine by work for an on campus facility or campus/external community organization;
- e)** Full restitution;
- f)** Behavioral Contract for a specified period of time;
- g)** Recommendation to the President for:
  - i) Expulsion from the university or
  - ii) Suspension from the university;
- h)** Combination of penalties.

**6.3** Staff in the Campus Security and Housing offices may investigate complaints and assess and levy fines or other sanctions for infringements including but not limited to noise, open liquor, or smoking violations, private property infringements, or other inappropriate conduct.

**6.4** If the respondent is a member of or is a group or organization, any of the sanctions noted under 6.2 may, separately or collectively, be imposed against any officers or members of the group who were involved in the infraction.

**6.5** In the event that the sanction is a recommendation for presidential action under 6.2(g), the recommendation shall be communicated in writing by the Chair of the Student Judicial Committee or Student Discipline Appeals Committee to the President. The President shall

consider the recommendation and make a decision within five working days of the date of its receipt. The President will then communicate her/his decision in writing to the SJC or SDAC (whichever body referred the recommendation to the President), who will communicate the decision to both the respondent and the complainant, and the Associate Vice President, Student Experience. Subject to Article 10.3, suspension/ expulsion will take effect immediately.

**6.6** Noncompliance with a final decision reached under these regulations may result in the withholding of grades or transcripts, or expulsion from the university. Such actions shall only be taken following at least one written notification to the respondent.

## **7.0 DISCIPLINARY COMMITTEE MEMBERSHIP**

7.1 Membership of the Student Judicial Committee and the Student Discipline Appeals Committee is governed by the By-Laws of Senate, 14.14 and 14.15.

## **8.0 REGULATIONS CONCERNING OPERATING PROCEDURES OF THE SJC AND SDAC**

8.1 A quorum for each committee shall consist of three members.

8.2 Hearings of each committee shall be closed to the public.

8.4 The Chair of each committee, the SJC and the SDAC, shall be a full voting member.

8.5 The Chair's duties include:

- a) Ensuring that the relevant procedures for hearing complaints (5.0) and appeals (9.0) are followed;
- b) Designating a member of the committee to act as secretary to record the committee's deliberations;
- c) Calling the meeting and conducting it in an orderly fashion, in particular by
  - Ensuring sufficient time and opportunity for the presentation of evidence and discussion;
  - Encouraging committee members to ask questions to clarify details;
  - Ordering any person to leave or be removed from the meeting or hearing when such person interferes with the orderly conduct of the proceedings;

- d) Ensuring that provisions regarding conflict of interest are strictly followed;
- e) Notifying all members of their committee and the parties to the complaint, as well as all other members of the university community that these decisions affect, of the decision(s) made, as specified in these Regulations.;
- f) Ensuring proper records of the proceedings are maintained during the hearing of each case, and that these are passed on to the Associate Vice President, Student Experience immediately after the final decision has been reached. Records of cases dealt with under the Non-Academic Discipline Policy shall be maintained only in the office of the Associate Vice President, Student Experience for seven years from the date of final decision. Access to these records shall be at the discretion of the Associate Vice President, Student Experience.

THE DOCUMENTS TO BE MAINTAINED ARE AS FOLLOWS:

- i. Any written correspondence;
  - ii. A complete list of the times and durations of meetings held by the committee, the persons present at the meetings and the capacity in which they appeared;
  - iii. A list of the items presented as evidence to the committee;
  - iv. A complete list of the decision(s) reached by the committee, including the disposition of procedural questions that arose during the meetings;
- g) Notifying all members of their committee and the parties to the complaint, as well as all other members of the university community that these decisions impact upon, of the decision(s) made, as specified in these Regulations;
- i) Submitting an annual report to Senate through the Secretary of Senate and filing minutes of meetings with the Senate Office. In accordance with Senate By-Law 15.6, minutes shall be filed annually in the Senate Office. Neither minutes nor annual report shall contain confidential information, but the decisions referred to in point iv above should be minuted for the purposes of statistical records and procedural precedents.

8.7 All members of the SJC and SDAC are required to respect the confidentiality of the committee's in camera deliberations.

## **9.0 APPEALS**

9.1 Either the complainant or the respondent may appeal the decision or the sanction imposed. The appeal must be made in writing to the office of the Associate Vice President, Student Experience following the procedures outlined in section 10 below.

9.2 Appeals against the decisions of the SJC, or the housing and security offices, may be submitted for the following reasons only, and must be fully explicated:

- a) A statement that the evidence presented to the SJC, housing, or security is incomplete or inaccurate to a degree which could have seriously prejudiced the case;
- b) A statement that the procedures leading up to the decision of the SJC, housing or security were improper to a degree which could have seriously prejudiced the case;
- c) A statement that the sanctions imposed are disproportionate to the severity of the offense.

## **10.0 PROCEDURES FOR HEARING APPEALS**

10.1. The appeal must be made in writing to the office of the Associate Vice President, Student Experience within eight (8) working days of the date of the notification of the decision of the Student Judicial Committee. The appeal must include a statement of the grounds for appeal as provided in 9.2.

10.2 The office of the Associate Vice President, Student Experience shall notify the Chair of the Student Discipline Appeals Committee (SDAC) and the two parties within seven (7) working days that an appeal has been filed. The notice shall include:

- a) The names of the parties;
- b) Copies of the documents from the first hearing;
- c) The decision of the SJC including any sanctions;
- d) The grounds for the appeal.

10.3 Any sanctions against the respondent shall be deferred until the resolution of the appeal.

10.4 Within five (5) working days of the notice (10.2) from the office of the Associate Vice President, Student Experience, the Chair of the SDAC shall schedule a hearing for the appeal and notify, in writing, the parties and the members of the SDAC of the date, time, and location



of the hearing. The date of the hearing shall be between seven (7) and fourteen (14) working days following the date of the written notice.

a) The Chair shall provide all parties to the appeal with copies of all documents relevant to the appeal, including those referred to in 10.2 b, c, and d.

b) Notification by registered mail, or by email or by courier to the student's current address on file with the Registrar shall be sufficient notice, if the party is a student. Campus mail or email may be used for parties who are university members with an office on campus or who are in residence.

10.5 A hearing of the SDAC may be postponed provided all parties are notified.

10.6 In the event that the appellant fails to appear or refuses to attend the hearing at the time and place specified, the appeal fails.

10.7 No member of the committee may hear a matter in which they have a personal involvement and committee members are obligated to declare a conflict when they perceive one exists. If the committee finds that a member should not sit for this reason, an alternate committee member will be asked to sit.

10.8 The hearing shall be conducted in as nonadversarial a manner as possible.

10.9 The appellant and the respondent have the right to present information orally or in writing. No other witnesses may appear. The members of the SDAC may question the parties. The appellant and the respondent may each give a summary of their positions with respect to the appeal. The appellant should summarize first.

10.10 The right to be represented by legal counsel will be granted to the principal parties to the appeal at this level. The SJC also reserves the right to retain counsel-

10.11 Decisions of the SDAC shall be made by majority vote. The SDAC has the power to confirm the decision of the SJC, the housing office or campus security and the sanction imposed; to confirm the decision but vary the sanction; or to uphold the appeal and lift the sanction. If the vote is tied then the appeal fails and the original decision and sanctions stand.

10.12 The decision of the committee shall be communicated in writing to the parties and to the office of the Associate Vice President, Student Experience within five (5) working days of the hearing.

10.13 All parties must bear their own expenses, if any. The SDAC does not have the authority to order any party to pay all or part of any other party's legal costs.

10.14 These rules are meant as a guide for the committee and may be modified, provided that the parties are given a full opportunity to state their case and respond to the other party. Any change to the rules must not prejudice any of the parties.

10.15 The Chair shall have the power to adjust time limits, provided the Chair is satisfied that there are reasonable grounds for granting an extension and provided that granting an extension does not prejudice any party.

APPENDIX: Timeline for Procedures under Section 5 of the Non-Academic Discipline Policy

Alleged offence/awareness of offence	Filing of complaint 5.1										Notice to respondent 5.2										Response (if any)										Notice to Chair, SJC 5.2										Chair, SJC notice to SJC, all parties 5.4										Earliest hearing date 5.2										Witnesses' names provided to Chair, SJC 5.5c										List of witnesses provided to all parties 5.5d										Latest hearing date 5.2										Communication 5.17									
	Elapsed time for investigation (until hearing date) 5.3																																																																																																			
0	1	2	3	4	5	6	7	8	9	10		11	12	13	14	15	16	17	18		19	20	21	22	23	24	25	26	27	28	29	30	31	32		33	34	35	36	37																																																												
0	1	2	3	4	5	6	7	8	9	10		1	2	3	4	5	6	7	8		1	2	3	4	5	6	7	8	9	10	11	12	13	14		1	2	3	4	5																																																												
Elapsed time from event										Elapsed time from notice to respondent										Elapsed time from notice to Chair, SJC										Possible hearing dates										Elapsed time from conclusion of hearing																																																												

Notes

- The timeline shows actions taking place on the last possible day of the period allotted
- There is some leeway in the timeline because 5.2 and 5.3 use the language “upon receipt” or “following the receipt.” No clock is started.
- The Chair shall have the power to adjust time limits, provided the Chair is satisfied that there are reasonable grounds for granting an extension and provided that granting an extension does not prejudice any party.