



Classification	
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Framework Category	Legal, Compliance and Governance
Approving Authority	Governance, Nominations and Human Resources Committee
Policy Owner	General Counsel
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Review Date	
Supersedes	Student Conduct Policy, June 2010, Sections 4 and 6.

INVESTIGATION PROCEDURES FOR ALLEGATIONS OF STUDENT NON-ACADEMIC MISCONDUCT

PURPOSE

1. The purpose of these Procedures is to describe the University's process for reviewing, and investigating allegations of Improper Conduct by students.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

"Complainant" means a University member or other individual who brings an Issue to the attention of a University Recipient.

"Complaint" means:

- A formal written allegation made against a Student and submitted to or received by a University Recipient; or
- A written summary of facts forming the basis of a University-led investigation.

"Decision" means a judgement made by a Delegated Decision-Maker pursuant to a Decision-Making Process and does not include a decision not to commence a Decision-Making Process.

"Decision-Making Process" means a formal process to make a Decision established by and described in an approved Policy Instrument.

"Delegated Decision-Maker" means an individual (including a Process Manager) or group of individuals who are University Members and who are given authority to launch Investigations and to make Decisions regarding Complaints under an approved Policy Instrument. Policy Instrument

"Improper Conduct" means a violation of a University Policy Instrument, other than an academic policy or regulation, and/or illegal activity which takes place on or using University property.

"Investigation" means a part of the Decision-Making Process in which the University conducts a systematic inquiry into an Issue.

"Investigator" means an individual appointed by a Delegated Decision-Maker to conduct an Investigation. For the purposes of these Procedures, the Process Manager and the Investigator may be, but are not necessarily, the same individual.

“Material Information” is information a Student requires in order to fully respond to significant aspects of a Complaint.

“Policy Instrument” means the different tools and documents that are utilized to provide direction in the governance and administration of the University.

“Process Manager” is a Delegated Decision-Maker delegated with responsibility to manage part or of a process under an approved Policy Instrument and to make Decisions. Under these Investigations Procedures, the Process Manager will manage all aspects of the intake, investigation, and referral of Complaints to the SJC and has the authority to determine that an Issue will not proceed through the Decision-Making Process, to appoint and oversee an Investigator, and to informally resolve Complaints and/or refer Complaints to the Student Judiciary Committee for Decision.

“Review” is an informal process undertaken to assess whether a Decision-Making Process will be commenced.

“Student” means an individual who is alleged to have engaged in Improper Conduct and who is or was registered in any course or program of study at UOIT at the time of the alleged Improper Conduct.

“Student Judiciary Committee” is a Delegated Decision-Maker with authority to hear and make Decisions respecting Student Improper Conduct in accordance with its terms of reference.

“University Member” means any individual who is:

- Employed by the University;
- Registered as a student, in accordance with the academic regulations of the University;
- Holding an appointment with the University, including paid, unpaid and/or honorific appointments; and/or
- Otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

“University Recipient” means the University Member or members designated in a Policy Instrument to receive a Complaint and/or to whom Issues are reported.

“Working Days” means all weekdays, excluding statutory holidays and University closure dates as indicated on the UOIT website.

SCOPE AND AUTHORITY

3. These Procedures apply to Complaints of alleged Improper Conduct made against a current or former student (i.e. individuals who were registered in any course or program of study at UOIT at the time of the alleged Improper Conduct).
4. These Procedures do not apply to alleged Improper Conduct by a University Member who is a student and also an employee of the University, and who allegedly committed such violation in the course of his/her employment.
5. The General Counsel, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

PROCEDURES

6. General

- 6.1. Notice:** All notifications required under these Investigation Procedures will be delivered by email to a UOIT.net or UOIT.ca account, as applicable.
- a) Emails will be deemed received by a Student one (1) Working Day after they are sent. All UOIT students are required to monitor their UOIT.net accounts regularly, including during examination periods.
 - b) A student's failure to monitor his or her email account will not give rise to any right of appeal under these Investigation Procedures.
- 6.2. Cooperation with Law Enforcement:** The processes contemplated in these Investigation Procedures may be delayed or suspended at any time if a Delegated Decision-Maker determines that the University's processes may interfere with a related investigation by a law enforcement agency or with judicial proceedings based upon the same facts or circumstances as the Complaint.
- 6.3. Police Involvement in University Investigations:** The University may engage Durham Regional Police Services and/or any other law enforcement agency in an investigation at any time without prior notice to a Student or Complainant.
- 6.4. Imposition of Temporary Sanctions:** If, during any stage of the Investigation, the Process Manager has reason to believe that the Student poses a danger to any member of the University community, the relevant Process Manager shall have the authority to impose (or request that another University office or department impose) temporary sanctions on the Student including, but not limited to the issuance of a trespass order.
- a) *A temporary trespass order is valid for no more than thirty (30) calendar days and may be renewed after a review confirms that the Student continues to pose a danger to any member of the University community.*

7. Initiation of an Investigation

- 7.1. Investigations Initiated by Complaint:** Any person who has reason to believe that a Student has engaged in Improper Conduct may submit a Complaint to a University Recipient in accordance with the applicable Policy Instrument.
- a) The University Recipient will deliver the Complaint to the appropriate Process Manager who will conduct a Review of the Complaint and make a final and binding determination as to whether to commence a Decision-Making Process and appoint an Investigator
- 7.2. University Initiated Investigations:** The University has the authority to initiate an Investigation under these Investigation Procedures without a formal written Complaint if there is reason to suspect that a UOIT student has engaged in Improper Conduct or poses a threat to the safety of any University Member.

8. Review Process

- 8.1. Review of the Complaint:** The Process Manager will normally meet with the person(s) making the Complaint within five (5) Working Days after receiving the Complaint.
- a) The Process Manager may also meet with any other person as he or she deems necessary to assess the validity of the Complaint.
- 8.2. Substantiated Complaint:** If the Process Manager determines that the Complaint warrants further investigation, he or she will make a decision to commence an Investigation.
- 8.3. Unsubstantiated Complaint:** If the Process Manager determines that the Complaint does not warrant further investigation (e.g. the Complaint is found to be frivolous, vexatious or otherwise unsubstantiated) the Process Manager will determine that the investigation file will be closed.
- a) The Complainant will be notified of the decision not to pursue an Investigation.

9. Investigation

- 9.1. Appointment of Investigator.** Once a Complaint is validated, the Process Manager will appoint an Investigator to conduct an Investigation of the Complaint. The Investigator will be an individual trained to conduct Investigations and may be either a University employee or an individual external to the University as the Process Manager determines.
- 9.2. Notifying Student:** The Investigator will promptly provide the Student with written notice that he or she is the subject of an Investigation. This notice will contain the following information:
- a) A description of the allegation(s) made against the Student;
- b) The identity of the person making the Complaint, unless the Investigator determines, in his or her sole discretion, not to do reveal the complainant's identity due to safety or other *bona fide* concerns;
- c) A brief summary of the information gathered by the Process Manager during the Review;
- d) An invitation for the Student to meet with the Investigator to discuss the Complaint.
- 9.3. Meeting with Student.** The Student will be given the opportunity to respond to the Complaint in person during a meeting with the Investigator.
- a) The Student will also be permitted to submit written or other documentary evidence to refute or respond to the Complaint. Such additional evidence must be submitted within two (2) Working Days of the meeting date.
- b) The Student may have a support person present during the meeting.

- 9.4. Opportunity for Further Investigation.** In addition to meeting with the Student, the Investigator may meet with as many other individuals as he or she deems necessary to conclude the preliminary investigation. The Investigator may also request additional meetings with the Student as needed to present additional information and give the Student an opportunity to respond to such additional information.
- 9.5. Timeline for Investigation.** The Investigator will normally complete the Investigation and deliver a draft Investigation report to the Student within ten (10) Working Days after his or her first meeting with the Student.
- a) If additional time is required to complete the Investigation, the Investigator will advise the Student promptly.
 - b) The Student will be given five (5) Working Days to respond to the draft report. If the Student requires more time, the Student will advise the Investigator promptly and the Investigator will provide the Student with one five (5) Working Day extension of the time for filing a Student response.
 - c) The Student's responding comments, if any, will be incorporated into the final version of the Investigation report.
- 9.6. Failure to Cooperate.**
- a) If a Student does not respond to an invitation to meet with the Investigator or fails to attend a previously scheduled meeting, the Investigator may complete the Investigation without the Student's input.
 - b) If the Student fails to respond to the draft investigation report within the timelines provided, the report will be finalized without the Student's input.
- 9.7. Outcome of Preliminary Investigation.**
- a) **No finding of Improper Conduct:** If at the conclusion of the Investigation the Investigator determines that it is more likely than not that the Student did not engage in the alleged Improper Conduct, he or she will present his or her Investigation report to the Process Manager with his/her recommendation to discontinue the Decision-Making process on such terms and conditions as he/she feels would be appropriate.
 - b) **Finding of Improper Conduct:** If at the conclusion of the Investigation the Investigator determines that it is more likely than not that the Student engaged in the alleged Improper Conduct, the Investigator will deliver a copy of the final investigation report to the Process Manager along with one of the following recommendations:
 - i. That the Complaint be resolved through an informal resolution process (described below);
 - ii. That the Complaint be referred to the Student Judiciary Committee for resolution; a copy of the final investigation report will also be delivered to the Student.

10. Informal Resolution Process

10.1. Eligibility for Informal Resolution Process: A Student/Respondent will be eligible to participate in the informal resolution process with respect to a Complaint provided that the following criteria are met:

- a) The Student demonstrates good faith participation in all aspects of the Decision-Making Process;
- b) The Complaint is one, in the sole discretion of the Process Manager, that lends itself to informal resolution;

10.2. Informal Resolution of a Complaint: A Process Manager may seek informal resolution of a Complaint at any time during the Investigation and after completion of the Investigation. Participation in an informal resolution process is voluntary.

10.3. Outcome of the Informal Resolution Process:

- a) If the Process Manager is able to achieve Student and University agreement to an informal resolution, the University will deem the Complaint to be resolved and will discontinue the Decision-Making Process.
- b) In the absence of an informal resolution, the matter will be referred to the Student Judiciary Committee.

MONITORING AND REVIEW

11. These Procedures will be reviewed as necessary and at least every three years. The General Counsel, or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

12. This section intentionally left blank.

RELATED POLICIES, PROCEDURES & DOCUMENTS

- 13. Student Conduct Policy
- Administrative Fairness Policy
- Student Judicial Committee Procedures
- Student Judicial Committee Terms of Reference