

 BRANDON UNIVERSITY	Student Non-Academic Misconduct Policy	First Approved: November 24, 2018
		Updated: January 26, 2019
Board of Governors Policy	Approved by Board of Governors Administered by Vice-President (Academic & Provost)	Reviewed:

Brandon University is dedicated to promoting the intellectual and personal growth of its students. For effective operation the University depends on its members to respect each other by upholding community standards of conduct. It is the responsibility of each student to contribute to an environment of trust and respect that protects the freedom of all to live, work, and learn together. Any actions that undermine the ability of the University to achieve its purpose diminish the educational experience of its members.

Every student enjoys the opportunity to participate in the academic and social life of the University regardless of:

- i. ancestry, including colour and perceived race;
- ii. nationality or national origin;
- iii. ethnic background or origin;
- iv. religion or creed, or religious belief, association or activity;
- v. age;
- vi. sex including sex-determined characteristics or circumstances;
- vii. gender identity and gender expression;
- viii. sexual orientation;
- ix. marital or family status;
- x. source of income;
- xi. political belief, political association or political activity (including union affiliation or activity);
- xii. physical or mental disability or related characteristics or circumstances; and
- xiii. social disadvantage.

All Brandon University students are expected to subscribe to the principles embodied in this Policy.

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Purpose

The purpose of this Policy is to:

- Communicate the University's expectations with respect to student behaviour;
- Protect the health, safety and security of students, faculty and staff;
- Preserve the orderly operation of the University.

Scope

This policy applies to actions, interactions, and behaviours of students that occur on or off Brandon University campuses including the business of Brandon University or other actions sanctioned by or representing the University including but not limited to athletic events, work term, clinical placements, academic or professional conferences, volunteer activities, and academic or field research work. A violation of this policy may include, but is not limited to electronic communications: social media, text messages, email, etc.

A Student enrolled in Professional Programs is bound by and shall comply with the Professional Code of Ethics governing that profession and the practice of its discipline.

A complaint of Student Non-Academic Misconduct which is alleged to have occurred in a University residence is subject to the Residence Agreement and the conduct process outlined in the Residence Handbook; except where the alleged misconduct, at the discretion of the Residence Manager is deemed to be sufficiently serious to be directly referred to the Dean of Students to be dealt with under this Policy.

Inappropriate student behaviour may also be addressed via the *Sexualized Violence Prevention Policy*, the *Discrimination and Harassment Prevention Policy*, and the *Policy on Academic Dishonesty and Misconduct*. Brandon University students have a responsibility to adhere to local, provincial, and federal laws while on campus or participating in an off-campus University activity.

The University's responsibility to act immediately in situations in which an individual's behaviour is threatening to themselves or others supersedes the procedures outlined in this policy. In these cases, local authorities may be called.

Guiding Principles

Principle of Intellectual Responsibility

Brandon University recognizes that each person's education is the product of their intellectual effort and participation. The University cannot educate those who are unwilling to submit their own work and ideas for critical assessment, nor can it tolerate those who interfere with the participation of others in the critical process. The highest standards of academic integrity are

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expected of all members of the University community. Behaviour that violates this principle shall be dealt with through the *Policy on Academic Dishonesty and Misconduct*.

Principle of Respect for Persons

Brandon University recognizes that respect for the rights, dignity, and integrity of others is essential for the well-being of a community. Each member of the University community must be free from discrimination, threat, intimidation, and harassment whether they are on campus or participating in an off-campus University activity. Behaviour that violates this principle shall be dealt with through the *Sexualized Violence Policy, or the Discrimination and Harassment Prevention Policy*, based on the context of the event and/or situation.

Principle of Freedom of Expression

Brandon University respects diverse points of view. It affirms the rights of its members to teach and learn in an environment free from coercive force, intimidation, and interference, and subject only to the constraints of reasoned discourse, peaceful conduct and campus safety. Behaviour that violates this principle shall be dealt with through this Policy.

Principle of Community Citizenship

Brandon University is committed to maintaining a safe and supportive environment in which its members may pursue their goals and carry out their responsibilities effectively and collegially. Disruptive behaviour, willful damage to or misconduct against persons or property and equipment, and actions that fail to adhere to existing federal, provincial, and local laws and statutes, interfere with the rights of others to live, work, and learn in a safe environment. Behaviour that violates this principle may be dealt with through this Policy regardless of the prospect or the initiation of civil or criminal proceedings.

Laws of Natural Justice

The implementation of this policy will be conducted based on the laws of natural justice. This means that the respondent has the right to know the allegations against them in full detail, and the right to reply to these allegations. It also means that anyone investigating a concern or complaint must endeavour to remain neutral and avoid allowing any personal bias to influence their decisions. Remedial or punitive actions resulting from the implementation of this policy will be based on evidence, and that evidence will be shared with both the complainant and respondent.

Good Samaritan

The University recognizes that there may be health or safety emergencies related to the use of substances in which the potential for disciplinary action by the University may serve as a deterrent to students who want to seek assistance for themselves or to “Good Samaritans” who want to get help for another member of the BU community. In all such matters, the health and safety of the student at risk will be the University’s top priority. Accordingly, should a student themselves, or another individual on behalf of that student, voluntarily come forward seeking assistance in a situation involving the over-consumption or abuse of drugs and alcohol,

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the University's student conduct response in regard to that overconsumption will be first and foremost focused on medical treatment, counseling and/or educational interventions. However, the University reserves the right to address any associated acts that compromise the well-being of the community and its members such as harassment, violence, damage, harm to self/others, or distribution of illegal substances on a case by case basis as deemed appropriate/necessary.

Definitions

Balance of Probabilities refers to the standard of proof used in deciding complaints under this Policy. It requires that the evidence be weighed and the decision be made in favour of the side which is more likely to be true. This is in contrast to the "beyond a reasonable doubt" standard used in criminal matters.

Complainant is a person who discusses a concern and/or makes a complaint (an allegation, whether oral or written) under this Policy.

In Good Faith – an act done in a sincere and honest manner.

Non-Academic Misconduct means conduct that is prohibited as outlined in Appendix A: Prohibited Student Conduct.

Respondent is a student against whom a complaint has been made under this Policy.

Student is defined as the following:

- a. Person who has submitted an application for admission to the University;
- b. Person enrolled either full-time or part-time in classes, including when on placements that are part of their academic program;
- c. Person enrolled in the English for Academic Purposes (EAP) program;
- d. Person who is enrolled in a program but not currently registered in classes;
- e. Person residing in residence, who is not an employee and who is not otherwise defined as a student in this section;
- f. Person on an exchange program that is coordinated by Brandon University at another university;
- g. Person who withdraws from the University after the alleged conduct, but subsequently re-enrols, will be considered a student for the purpose of proceeding under this Policy.

Participants in the University's subsidiary programs (e.g. Mini University, Conservatory of Music) are not covered under this Policy. Complaints are to be addressed by the administration of those programs.

Confidentiality

Brandon University recognizes the importance of confidentiality, and complaints brought to the University's attention under this Policy will be treated as confidential. Confidentiality must be balanced with the University's legal obligations to address behaviour, so at times information will need to be shared in order to investigate a matter, to address a risk or threat, or to comply with requests from legal entities. This confidentiality extends to any member of the University community who may be privy to information or who possesses documentation about a complaint or investigation. Breaches of confidentiality may be subject to penalties. Confidentiality should not be confused with anonymity. Those who bring forward a concern and wish for action to be taken on their concern must be prepared to be identified as the complainant. The University will make every reasonable attempt to ensure that there are no reprisals against anyone making a complaint under this policy or participating in an investigation.

Seeking confidential advice and/or direction from an appropriate source such as supervisor, lawyer, union representative, student advocate or other support person is not considered a breach of confidentiality.

Malicious Complaints and Retaliation

Complaints which are malicious or made in bad faith under this policy will be considered an act of harassment and will be treated as such. Retaliating against someone who has made a complaint in good faith under this policy or any other University policy, against someone who has cooperated in good faith in an investigation under this policy or any other University policy or legislation, will also be treated as harassment.

General

Any party to a complaint (including a witness) has the right to have another individual accompany them to interviews or other meetings required under this Policy. It is the sole responsibility of the Student to determine the adequacy of the Student's representation. This may include union/association representative, student advocate, Elder, friend, relative or other. Interpretation or translation services will be provided where needed or requested.

Any timelines established in this Policy may be extended in extenuating circumstances by the Dean of Students in consultation with relevant parties.

A student may be subject to an investigation pursuant to this Policy regardless of any parallel action by civil, administrative or criminal authorities against the student relating to the same or similar conduct.

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Complainants may choose to withdraw their complaint or resolve it through other means at any point in the process. Under some circumstances the University may find it necessary to continue with an investigation or to consider other action.

Nothing in this Policy prevents anyone, including professional licensing bodies, from proceeding with civil, administrative or criminal actions independent of any University action.

Filing a Complaint of Non-Academic Misconduct

Any individual, including a student, employee of the University or member of the public may submit a complaint to the Dean of Students (or designate). Campus Security may also forward an incident report to the Dean of Students (or designate) as a complaint. Complaints should be brought forward at the earliest possible date to prevent further harm and to increase a chance of an early and positive resolution. Complaints should be made within 3 months of the offending behaviour or knowledge of the offending behaviour.

The Dean of Students (or designate) will inform the complainant of the policy and procedures, interview the complainant, and advise the complainant whether or not there appears to be grounds to proceed with a formal complaint through this Policy. The Dean of Students will attempt to resolve the complaint informally if at all possible. The Dean of Students (or designate) will determine if immediate action is warranted to protect the health or safety of the University community.

If the reported conduct is of violent acts and/or behaviours which are deemed to be an imminent threat to an individual or to the community, interim measures may be implemented prior to the outcome of the formal process. A recommendation for interim measures will be made by the Dean of Students to the Dean of the respondent's faculty and to the Vice-President (Academic & Provost). The Dean of the respondent's faculty and the Vice-President (Academic & Provost) will make the decision jointly to implement interim measures or not.

A complaint should include, in writing, a detailed description of the incident, including (if known):

- Name(s) of the student(s) who is/are the subject of the complaint;
- Time(s), date(s) and location(s) of the incident(s);
- Description of the alleged misconduct;
- Names of potential witnesses; and
- Name(s) and contact information of the complainant(s).

If there is deemed to be a conflict of interest between the Dean of Students (or designate) and the complainant or respondent, the Vice-President (Academic) or designate will act for the Dean of Students (or designate) in accordance with this Policy.

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Informal Process

Informal resolution provides the Complainant with the option of seeking a facilitated or educative outcome to the complaint. Options include conciliation, mediation, restorative justice, conflict coaching and advice. The informal process seeks to discuss the impact of the complaint and to seek agreement around redress and restoration. It is not meant to be a punitive process.

The Dean of Students (or designate) will either attempt the informal process themselves or refer the matter to another resource person on or off campus.

The Informal process should be completed, with a reasonable agreement between the Complainant and Respondent, within 30 days following the receipt of the complaint. The process can be extended should it be agreeable to all parties. If an informal resolution can be found to the satisfaction of all parties, the matter will be closed.

In the case where a resolution is not reached, the complaint will normally proceed with a formal process.

Formal Process

Complaints that do not lend themselves to resolution through informal processes will normally be referred to the Hearing Board.

The Hearing Board, 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.

The Hearing Board assigned to hear alleged violations and to recommend sanctions under this Policy shall consist of two faculty members, one member of Student Services and two students as appointed by Senate. The Chair shall be determined by the membership. Two additional faculty members and two additional students shall be trained as alternates.

Within twenty (20) working days of the receipt of a written complaint, the Chair will convene a meeting of the Hearing Board to begin its review of the complaint.

The Chair of the Hearing Board will notify in writing the respondent of the complaint. The written notice shall specify the nature of the allegations against the respondent. E-mail to a student's Brandon University email account is considered official notice in writing. If the student does not respond to the e-mail within two (2) business days, the notification will be sent by mail to the most recent address on record with the University.

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The respondent may choose to prepare a written response to the complaint in order to acknowledge or deny the validity of the allegations in whole or in part, provide additional information as well as information identifying any possible witnesses and/or propose a resolution of the complaint. The respondent may choose not to participate in these procedures, in which this will be noted and the formal process will continue without input of the respondent. If the respondent fails to respond to email or mail communication within 10 working days this will be understood as a decision to not participate.

The Board shall interview the complainant, the respondent, and any other persons whose testimony may be useful to determine the merits of the complaint. The complainant and/or respondent are welcome to bring along a support person throughout the process. The Board shall conduct the investigation and hearing in compliance with the rules of fairness and natural justice. This includes each party's right to know, understand, and respond to all allegations. The standard of proof required to establish a violation of this policy is the civil standard, or balance of probabilities, meaning the evidence demonstrates it is more likely than not that the alleged misconduct occurred.

At the conclusion of its review, the Board shall make one of the following determinations:

1. There is no substance to the complaint, and any reference to the complaint will be removed from the student's file.
2. There is substance to the complaint and satisfactory resolution can be achieved without the imposition of a penalty.
3. There is substance to the complaint, and disciplinary measures are warranted.

The Board shall submit a report to the Vice-President (Academic & Provost) within five (5) working days of the conclusion of its deliberations.

If discipline measures are not warranted, the decision rendered by the Hearing Board shall be communicated to the Complainant and Respondent by the Vice-President (Academic & Provost) within (10) ten working days.

Sanctions

If it is determined there was a breach of this policy, the Vice-President (Academic & Provost) will render a decision in regards to sanctions within ten (10) working days of receiving a report from the Hearing Board.

Respondents found to be responsible for misconduct who take accountability for their actions and level of involvement with the incident will have such taken into consideration as noted by the Hearing Board.

Examples of sanctions and/or remedial actions may include one or more of the following:

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- Written warning
- Formal apology
- Mandated education or workshops
- Loss of privileges
- Probation
- Community Service
- Interim suspension
- Expulsion

The complainant will receive enough information about the sanction and/or remedial action to maintain the complainant's ongoing safety and/or reduce the possibility of contact between the parties.

Where a suspension or expulsion is applied, the notation "suspended (or expelled) from the University (or specific program) for non-academic misconduct" will be entered on the respondent's transcript. Upon successful completion of a degree program, the "suspended (or expelled) from the University (or specific program) for non-academic misconduct" will be cleared from the respondent's transcript.

Appeal Process

Complainants or respondents who wish to appeal the decision of the Hearing Board may submit an appeal in writing to the President and Vice-Chancellor within fifteen (15) business days of receipt of the decision. The President and Vice-Chancellor shall render a decision within ten (10) business days of receipt of the appeal. The President's decision shall be final.

A respondent may appeal the decision based on the following basis:

1. Relevant evidence has emerged that was not available at the time of the original decision;
2. The procedures outlined in the Non-Academic Misconduct policy were not followed and the outcome of the case might have been substantially affected by this failure;
3. The sanction or other requirements imposed were considered inappropriate in the circumstance;
4. Apprehension or evidence of bias.

Records and Reports

Reports and statistics compiled on the nature and number of complaints, decisions and sanctions will not include information that identifies a student.

Records of complaints, decisions, sanctions and appeals, other than a case of suspension or expulsion, will not be placed in a student's academic file. Records of all complaints, decisions, sanctions and appeals will be maintained as confidential records of the Dean of Students for

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seven (7) years, at which time they shall be destroyed. Copies of decision letters will be placed in the Dean of Students' Office.

Policy Review

This policy will be reviewed one year after its inception by the Office of Student Services and every three years thereafter.

1. Related Policies and Procedures

- a. The Manitoba Human Rights Code, 2017
- b. Discrimination and Harassment Prevention Policy
- c. Sexualized Violence Prevention Policy
- d. Residence Agreement
- e. Policy on Academic Dishonesty and Misconduct
- f. Computer Acceptable Use Policy

ACCESSIBILITY NOTICE: This document is available in PDF and Microsoft Word format on the Student Services website. A printed copy can be attained in the Student Services Office, Room 105 McKenzie Building. Persons involved with the processes outlined in this policy (complainants, witnesses or respondents) may conduct their involvement verbally or with the assistance of an interpreter upon request.

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Appendix A – Prohibited Student Conduct

The following shall constitute offenses under this Policy:

Breaches of confidentiality related to actions under university policies and procedures.

Disruption or obstruction of teaching, research, administration, disciplinary proceedings, other university activities.

Attempted or actual theft of and/or damage, (including, but not limited to any form of vandalism or arson) to property of Brandon University or property of a member of the University community or other personal or public property, and/or knowingly possessing stolen property or unauthorized possession of University property or property of a member of the University community.

Hazing, defined as an act which endangers the mental or physical health or safety of a student, which subjects a student to harassment, ridicule, intimidation, physical exhaustion, abuse, or mental distress, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization. The express or implied consent of the victim will not be a defense.

Failure to comply with directions of University officials acting in performance of their duties.

Unauthorized possession, duplication, or use of keys to any Brandon University premises, trespassing or unauthorized entry to or use of Brandon University premises.

Violation of university policies, rules, and/or regulations.

Violation of federal, provincial, or local law.

Use, possession, manufacturing or distribution of, in any amount, of any controlled substance (e.g. drug, chemical, or product), and/or possession of drug paraphernalia, except as permitted by law.

Public intoxication, use, possession, manufacturing or distribution of alcoholic beverages, except as expressly permitted by the law. Alcoholic beverages may not, in any circumstance, be used by, possessed by or distributed to any person under eighteen (18) years of age.

Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on University premises or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear to others.

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Conduct that is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in, by the University or members of the academic community.

Use of any technology to create, display or distribute an audio, video, digital file, picture or film of another individual without that person's knowledge and consent while the person is in a place where he or she would have reasonable expectation of privacy (e.g. change rooms, washrooms).

Any violation of the University's Computer Acceptable Use Policy.

The following shall constitute offenses under the Policy on Academic Dishonesty and Misconduct:

Acts of dishonesty, including but not limited to the following:

- a. Supplying false information to any university official, faculty member, or office.
- b. Forgery, alteration, or misuse of any university or non-university document, record, or instrument.

The following shall constitute offenses under the Sexualized Violence Policy or the Discrimination and Harassment Prevention Policy:

Physical abuse, verbal abuse, threats, bullying, intimidation, harassment, sexual harassment, stalking, sexual assault, coercion, and/or other conduct which threatens or endangers the health or safety of self or any person on and off campus.

While a university environment is one where freedom of speech is highly valued, students must adhere to the provisions of *The Manitoba Human Rights Code, 2017* and discrimination is prohibited on the following grounds: race, colour, nationality, ethnic origin social origin, creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income, and political opinion. Comments or action based on an individual's association or relationship whether actual or presumed, with an individual or class of individuals identified above is also prohibited.