

STUDENT RIGHTS AND RESPONSIBILITIES PROCEDURE

Authorizer: Vice President, Student Affairs

Effective Date: 10/1/2018

PROCEDURE STATEMENT:

This document is a companion to the Student Rights and Responsibilities Policy and outlines the process to resolve concerns brought forward to the Student Rights and Responsibilities Office (SRRO).

SCOPE:

- This Policy applies to reports about the rights and responsibilities of students whether the incident(s) occurred at College owned or operated facilities or at a College sponsored or affiliated activity and when the conduct has a substantial link to the College, implications for students or employees or the educational mission of the College, and is within the College's scope of responsibility. This includes incident(s) that occur on or off campus and behaviour observed or carried out through an electronic, online or social media platform, or by using text, audio, video or images.
- Incidents reported may be investigated in circumstances where the Respondent is a current Member of the Conestoga Community. A "current" Member of the Conestoga Community for the purposes of a formal investigation includes Respondents who may not presently be at Conestoga but have an ongoing relationship with the College. Where a Formal Report is made against a person who is not currently a Member of the Conestoga Community, Conestoga may suspend the investigation. Where a Formal Report is made against a person who, for example, is a visitor, volunteer or contractor, Conestoga may take steps other than a formal investigation in response to Disclosure or Report, for example by prohibiting guests or contractors or others from entering on Conestoga property.
- These procedures for investigating incidents, including imposing sanctions or interim measures on Respondents, applies to **student respondents**.
- Where the respondent is a student who is also an employee of the College, the student will also be subject to the provisions of this Policy and any applicable terms of their applicable collective agreement or employment agreement.

- Where the Respondent to a Report is an employee of Conestoga, Human Resources will follow the applicable collective agreement provisions.

RESPONSIBILITIES:

In general, it is the responsibility of all involved parties to make every possible effort to follow the procedure outlined in this document. Informal resolution is encouraged and should be attempted before formal resolution, when and if appropriate.

In addition to the general shared responsibilities, certain roles/departments have extended accountabilities.

Specialist/Coordinator, Student Rights and Responsibilities:

- Reviews documentation received from complainants and implements fact-finding procedures
- Assesses concerns for appropriate level of resolution
- When informal resolutions are deemed most appropriate; facilitates measures to support informal resolutions steps (ex: mediation, consultation, recommendations on next steps)
- When a student is found responsible for violations of the policy, imposes minor sanctions that do not affect a student's academic status at the College (e.g. warnings, educational sanctions);
- monitors sanctions with restrictions, requirements, and dates to be completed in partnership with other areas (when applicable).

Manager, Student Rights and Responsibilities

- Includes those of the Specialist/Coordinator when necessary.
- Makes formal decisions on escalated or repeated behaviours in violation of the SRR policy, imposes sanctions that do not affect a student's academic status at the College (e.g. restitutions, and restricting access and privileges);
- Recommends suspension and/or discontinuance (sanctions that affect a student's academic status) to the Dean of Students for decision and implementation; and
- Imposes and monitors interim sanctions (when applicable)
- Reviews challenges on decisions made by the Specialist/Coordinator, investigates the claim (when necessary), and responds to the student with a final decision.

Dean of Students:

- Contacted when recommended sanction impacts academic status (i.e. suspension or discontinuance);

- Liaises with the program Dean and/or Chair to ensure academic considerations are included where necessary;
- Consults with Director of Security Services for the removal interim safety measures
- Reviews and adjudicates escalated concerns forwarded via Security Services and/or the Student Rights and Responsibilities office; and
- Reviews any formal challenges submitted by students for validity, investigates the claim (when necessary), and responds to the student with a final decision

Director, Security Services:

- directs and manages security staff to investigate student concerns submitted directly and indirectly to Security Services,
- imposes and monitors the application of interim safety measures (when applicable)
- Provides evidence and summary fact-finding reports to the Manager or Dean of Students (when applicable) consults with senior administration regarding possible impact on college safety.

Academic Dean and/or Chair:

- contacted when a recommended sanction is suspension or discontinuance;
- In partnership with the Dean of Students, decision of suspension or discontinuance will be decided and communicated in writing to the student; and
- arranges for the appropriate academic considerations/accommodations during suspension in an attempt to minimize any potential academic impact (when applicable).

Human Resources:

- is notified of a reported concern related to a college employee once it has undergone a standard assessment by the Student Rights and Responsibilities office in which the validity of the claim has met the criteria for HR involvement; and
- completes further assessment and/or investigation based on the Employee Code of Conduct Policy and Procedure.

PROCEDURE:

This procedure consists of three levels of resolution based on the concern and/or the conduct of the individual(s) involved: informal, formal, and escalated. The Students Rights and Responsibilities Office will review all incidents and concerns submitted via the [Incident Report Form](#) or email and assess appropriate level of resolution.

LEVEL ONE RESOLUTION-INFORMAL:

The following steps are recommended when attempting informal resolution:

1. **Dialogue:** If a student or employee has a concern about the actions of a member of the college community, they are encouraged to meet with that person in an attempt to resolve the concern. If the complainant does not feel comfortable speaking with the person directly, they are encouraged, when possible, to speak with the direct manager or employee responsible for the department in which the concern has arisen. That individual will work with the complainant to find resolution.
2. **Seeking Guidance:** Students and employees are encouraged to seek guidance from trusted individuals/groups (e.g., peers, family, college employees) when attempting to respond to concerns. Guidance may include discussing options and strategies that support the complainant's ability to engage in, negotiate, and/or resolve concerns. Guidance may also include facilitating the development and/or acquisition of interpersonal and problem-solving skills.
3. **Documenting Communications:** When meeting, it is recommended to document in writing what was discussed and share summary notes with the other person(s) and the Chair/supervisor when applicable. It is suggested that documentation include the following information:
 - a) description of the behaviour in question and why it is a concern;
 - b) description of the outcome discussed and, when applicable, next steps if the behaviour continues; and
 - c) information regarding resources within the college that may be helpful, if applicable.

If the conflict continues, escalates, or informal resolution is not appropriate, continue to level two of the resolution procedure.

LEVEL TWO RESOLUTION-FORMAL:

The following steps may be followed during the formal resolution process:

1. **Reporting a concern:** If the concern continues, escalates, or informal resolution is not appropriate, the student(s), college employee(s), or affiliated member(s) may submit a report either for themselves or on behalf of someone else. If the concern is a safety emergency and/or requires immediate attention, contact [Security Services](#). For other student rights and responsibilities concerns, an online [Incident Report Form](#)

is available. The report is submitted to the Student Rights and Responsibilities (SRR) office for review and fact finding. It is encouraged to submit a report soon after the incident occurred to optimize the ability of the college to fact find/investigate. The Student Rights and Responsibilities (SRR) office will acknowledge receipt of the report via email typically within two (2) business days.

If the report submitted is related to college operations, an immediate resolution may not always be possible. The Student Rights and Responsibilities office will contact relevant parties to discuss the report and, if possible, facilitate a process to attempt an agreement between the complainant and the college. In cases where the resolution may require the college to review, revise, and/or make significant changes to current operations, factors such as risk, time, and cost may affect the outcome.

2. **Fact Finding:** If the concern is reported directly to the SRRO, it will be assigned to an appropriate fact finder who will initiate a fact finding process typically within two to five (2- 5) business days. Fact finding may include reviewing evidence and testimonial, interviewing witnesses and other stakeholders, researching other applicable policies, procedures or laws, etc. Certain reports may require the involvement of Security Services and/or Human Resources when the report involves the conduct of community members, college employees and/or affiliated members.
3. **Security Investigation:** An investigation will take place if a concern is forwarded and/or reported directly to Security Services. Security investigations follow all applicable Canadian legislation, including provincial acts and federal criminal codes. Investigations may include enforcing interim measures; collecting information and evidence; requesting written statements; interviewing complainant, respondent, and witnesses; making sanction recommendations, etc. Refer to [Security Services](#) for further information.
4. **Outcome:** Following the SRR fact finding process or a Security investigation, the SRR office will provide a written outcome to the complainant and respondent outlining the decision and what action is to be taken, if any. A written outcome will be provided typically within five (5) business days following the completion of the fact finding/investigation process. If a student is deemed to have violated their responsibilities, the written outcome may include sanctions. If sanctions are imposed, they will be fitting and appropriate to the seriousness of the behaviour in question, the impact of the behaviour on the college community, and whether there have been previous violations. Failure to adhere to imposed sanctions will lead to further disciplinary action, including [discontinuance](#) from the college. Sanctions may be

imposed alone or in combination. Refer to the [Student Rights and Responsibilities \(SRR\) Formal Resolution Guide](#) for a list of possible sanctions.

5. Challenge:

- a) A Reporter or Respondent may challenge a finding of breach of this policy on the following grounds:
 - i. A serious procedural fairness error that caused prejudice to the party seeking the review;
 - ii. The investigator's decision as to whether a breach of the policy occurred is clearly unsupportable on the basis of the findings of fact contained in the Investigation Report;
 - iii. New facts relevant to the final determination are available, that were not available during the investigation; or
 - iv. The discipline or remedial measures are unreasonable.

- b) Challenges must be made in writing by either a Reporter or Respondent and submitted to the SRRO via email within 10 days of delivery of the decision.

The written request for a challenge must provide:

- i. A statement for the grounds of the challenge
- ii. A statement of the facts relevant to the grounds for the challenge
- iii. A statement of the remedy or relief sought
- iv. Copies of relevant documents that support the challenge, and
- v. In the event of fresh evidence that was not available at the time of the investigation, copies of that evidence or witness statements and an explanation as to why the evidence was not available earlier.

Challenges will be reviewed by the Manager of SRRO or the Dean of Students as appropriate. The appropriate reviewer will assess the challenge for appropriate grounds and will contact the respondent within five (5) business days directly to their email. A meeting may be arranged to discuss possible outcomes. If the challenge is denied, a reason will be provided, and the previous outcome still applies. The decision of the Dean of Students is final.

LEVEL THREE RESOLUTION-ESCALATED:

1. **Adjudication:** Once a concern is escalated, the Dean of Students (or AVP Student Affairs if appropriate) will be the Decision Maker. The Decision Maker will review all information from both fact finding and investigation, when applicable. If necessary, the Decision Maker will collect additional information and/or evidence from pertinent stakeholders. If the outcome may affect the respondent's academic status at the

college, the Decision Maker will consult with the program Dean and/or Chair before meeting with the respondent. The Decision Maker will meet with the respondent typically within five (5) business days of the forwarded concern and provide the respondent with an outcome.

2. **Appeal:** If the outcome impacts the respondent's academic status (long-term suspension and/or discontinuance), the respondent may submit a request to appeal based on the requirements outlined in the [Academic Dispute Resolution and Appeal procedure](#).

DEFINITIONS:

Disruptive Student Behaviour

Behaviour that can reasonably be viewed as interfering and/or prohibiting the ability of faculty to teach or students to learn as well as negatively impacting the learning or working environment. Such behaviour may include, but is not limited to

- use of obscene and/or disrespectful language;
- failure to comply with reasonable directions of college staff or faculty;
- combative interactions with faculty, staff, or other students in and outside of the classroom;
- harassment and/or discrimination of an individual or group online or in-person;
- theft and destruction of personal and college property;
- prohibited substance use and related activity including sale or possession of prohibited substances;
- use of alcohol, tobacco, and tobacco products or any other permitted substance in unauthorized areas and/or intoxication on college property, including Residence; and
- disruptive behaviour while participating in a work-integrated learning experience with an employer or community partner.

Digital Communications

Use of digital tools, digital technologies, and information systems (such as public websites, secure virtual classrooms, discussion boards, video files, digital pictures, audio files, library systems, e-mail, file storage, printing, encyclopedias, wikis, blogs, texting, social media, and messaging tools) that takes place on or off campus that negatively interferes with the ability of the college staff and faculty to perform their work-related duties, and/or for other students to learn and feel safe. This includes behaviour that could have an adverse impact on Conestoga College's reputation.

College Operations

Facilities, policies, procedures, practices etc. which can reasonably be interpreted as negatively impacting a student's right to learn and/or feel safe. This may include college operations that are found to be contrary to student rights as outlined in the policy and the [Ontario Human Rights Code](#).

College Employee and Affiliated Member Conduct

Behaviour exhibited by college staff, faculty, contractors, employers, and community partners that can reasonably be interpreted as negatively impacting a student's right to learn and/or feel safe. This may include acts of unethical and/or unprofessional conduct by college employees and affiliated members towards students as outlined in the policy and the [Ontario Human Rights Code](#).

Complainant

The individual who lodges the concern, either for themselves or on behalf of someone else, whether verbally or in writing.

Respondent

The individual(s) named in the concern.

Informal Resolution

Consists of all parties working in collaboration to try and achieve an outcome that is mutually acceptable. The parties themselves take responsibility for developing the outcome rather than involving a third party.

Formal Resolution

Usually requires the complainant to submit a concern in writing with evidence, which is then considered by an appointed decision maker. Generally, the outcome is a written decision.

Escalated Resolution

Typically the types of concerns that are escalated are of a serious nature, the respondent is a repeat offender, and/or the respondent fails to abide by previous sanctions.

Procedural Fairness

Procedural Fairness means a process:

- based on impartiality, absence of bias and structural independence
- where the respondent is informed of the allegations
- where the reporter is informed of the respondent's response
- which includes a meaningful opportunity for each party to know the case against them and an adequate opportunity to respond

- in which both parties are given sufficient notice of interviews or meetings where they are expected to present or respond to evidence gathered as part of the process
- leading to a written decision that includes a sufficiently detailed explanation of the facts and analysis to enable the parties and any reviewing body to understand the decision and the basis for the decision.

Record Keeping

All records resulting from Student Rights and Responsibilities formal reports will be filed in a secure database and will not form part of the student's academic record except in regards to long-term suspension and/or discontinuance. Managing these records will be the responsibility of the Student Rights and Responsibilities office. Access to these records will be restricted to appropriate college staff as per the requirements and principles in the *Freedom of Information and Protection of Privacy Act (FIPPA)*. Exceptions are records under statutes that expressly state that they prevail over FIPPA.

REFERENCES:

The Freedom of Information and Protection of Privacy Act (FIPPA)

[The Ontario Human Rights Code](#)

RELATED DOCUMENTS:

[Academic Dispute Resolution and Appeal Policy](#)

[Academic Offences Policy](#)

[Acceptable Use of Technology Policy](#)

[Co-operative Education Policy](#)

[Discrimination and Harassment Prevention Policy](#)

[Employee Code of Conduct](#)

[Off-campus Activities Policy](#)

[Sexual and Gender Based Violence Policy](#)

APPENDIX OF SUPPORTING DOCUMENTATION:

[Employee Process Flow Chart](#)

[Student Process Flow Chart](#)

[Student Rights and Responsibilities Employee Resources](#)

[Student Rights and Responsibilities \(SRR\) Reporting Form](#)

REVISION LOG:

2018 10 12	Academic Coordinating Committee - Approved
2022 10 19	Academic Forum - Approved