

1.0 Purpose**1.1 GENERAL PRINCIPLES RELATED TO CONDUCT:**

- 1.1.1 The University of New Brunswick is a community of faculty, staff and students, involved in teaching, learning, research and related activities. The administration, staff and faculty assume that students come to the University for a serious purpose and accept responsibilities as members of the University community.
- 1.1.2 The University recognizes students' freedom to manage their personal lives, behaviour and inter-personal relations subject to the criminal and civil law of Canada and New Brunswick, and University regulations.
- 1.1.3 In exercising their entitlement to participate in University programs and activities, students are expected to:
 - abide by University regulations;
 - respect the integrity of University programs and activities;
 - acknowledge the diversity of the University community and the freedom of all members to participate in University programs and activities;
 - promote the peaceful and safe enjoyment of University facilities by other members of the University and public;
 - conduct themselves at all times in a manner that will reflect credit on themselves and on the University.

1.2 STUDENT DISCIPLINE:

- 1.2.1 The University from time to time defines standards of student behaviour and makes provisions for student discipline when they engage in conduct that:
 - 1.2.1.1 jeopardizes the order and functioning of the programs and activities of the University;
 - 1.2.1.2 endangers the health, safety, rights or property of the University, its members or visitors.
- 1.2.2 Provisions for student discipline are not intended to shelter students from their civic responsibilities nor add unnecessarily to those responsibilities. In cases in which criminal or civil proceedings have not been taken or would not adequately protect the University's interest and responsibilities, proceedings may be brought in accordance with University regulations and the University of New Brunswick Act.

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- 1.2.3 The University of New Brunswick Act provides broad authority for dealing with non-academic student conduct. For example:
 - 1.2.3.1 the President has broad discretionary powers of suspension for dealing with both academic and non-academic disciplinary matters;
 - 1.2.3.2 the Board of Deans has jurisdiction for matters of student discipline and certain complaints may be handled by a Deans tribunal in lieu of the Student Disciplinary Committee; the Deans also may hear appeals as provided by the Code;
 - 1.2.3.3 the Board of Governors may approve the expulsion of a student from the University; a recommendation for expulsion is made by the President with the concurrence of the Board of Deans;
 - 1.2.3.4 the Board of Governors may make rules and regulations for the discipline of students and the imposition of fines and other penalties and sanctions; the Student Disciplinary Code and the Internal Residence Discipline Policy are examples.
- 1.2.4 As a general principle, the various authorities for dealing with student discipline shall be exercised so as to prevent the imposition of punishment by more than one authority for the same or an included offence.
- 1.2.5 This principle shall not preclude University authority being exercised to suspend a student from the University, or to suspend or evict a student from a University residence, pending or following the imposition of discipline, where such action is deemed to be in the best interests of the University community.
- 1.2.6 This principle is not intended to preclude a student organization from taking action against a student in accordance with its constitution and bylaws on the same facts giving rise to disciplinary action under University authority.
- 1.3 THE STUDENT DISCIPLINARY CODE:
 - 1.3.1 The Code has been established to provide students with a means of self-discipline for non-academic misconduct. It is not meant as a replacement for the laws to which the University or larger community are subject. The Code is one alternative whereby the University recognizes the special environment it creates and chooses to discipline students in that context.
 - 1.3.2 The Code covers all students while on a UNB campus or at an off-campus site offering UNB related programs. The Code also extends to off-campus events to which a University official has been assigned. Students should take note that the

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- Code applies to misconduct arising in the context of inter-personal and intimate relations.
- 1.3.3 There shall be a Student Disciplinary Committee (SDC) on each campus which shall hear and dispose of charges laid against students under the Code.
- 1.3.4 A student charged with an offence under the Code has the right to be represented by counsel or other person acting as the student's agent and is entitled to receive the assistance of the Director of Student Affairs and Services or designate and the Student Advocate (UNBF), or the Director of Student Services or designate (UNBSJ).
- 1.3.5 The jurisdiction of the Code shall include a student living in a University residence. Matters of disciplinary action within the residences involving residence students will, in general, be carried out within that community, and in accordance with the rules and procedures adopted by that community. Rules of conduct and disciplinary offences applicable to the Residence Community include the General Regulations on Conduct contained in Section B of the Undergraduate Calendar, all offences and sanctions specified within Section 4.0 of the Student Disciplinary Code, the Terms and Conditions set out within the Residence Agreement, applicable University policy, and the rules adopted by each house.
- 1.3.6 Prosecution pursuant to the Code shall not proceed against a student where charges of a criminal nature for the same or an included offence have been laid in a court of law and:
- disposition is pending;
 - the student has been acquitted;
 - the student has been convicted.
- 1.3.7 The commencement of civil or criminal proceedings subsequent to the disposition of charges under the Code shall not be a ground to re-open the case.
- 1.3.8 This provision does not affect the powers of the University or its duly authorized officers to impose sanctions pursuant to the University of New Brunswick Act.

2.0 Applicability

- 2.1 University-wide
- 2.2 The Board shall appoint officers annually for the implementation of the Code. By such appointment, the Board delegates its authority to such individual officers as set out in the Code and as necessary for the effective administration of the Code.

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- 2.3 COMMISSIONER OF STUDENT DISCIPLINE (Commissioner) for each campus who shall be responsible for the administration and implementation of the Code in cooperation with the Supervisory Committee.
- 2.4 TECHNICAL ADVISOR (Advisor) for each campus who shall provide assistance as required to all those involved in the implementation of the Code.
- 2.5 STUDENT DISCIPLINARY COMMITTEE (SDC) MEMBERSHIP: recommended to the Board, through the Commissioner (UNBF), following a formal vote by the appropriate Council (see Appendix B).
- 2.6 SUPERVISORY COMMITTEE:
 - 2.6.1 Responsibilities: The Supervisory Committee shall: administer the Code in cooperation with the Commissioners; receive annual reports from the Chairs of the SDC and from the Commissioners; and make recommendations to the Board on any matter relating to student discipline.
 - 2.6.2 Membership: President (or designate); Vice-President (Saint John) (or designate); Presidents (or designates) of Councils, GSA, LSS; Student Advocate (UNBF); Director of Student Affairs and Services; Director of Student Services; a member of the Board; the Commissioners; the Technical Advisors; the Director (Residential Life and Conference Services). All members are voting.
 - 2.6.3 Chair and Secretary: the Supervisory Committee shall elect its own Chair (voting) annually, and the Commissioner (UNBF) shall be the Secretary (voting).
- 2.7 STUDENT CAMPUS POLICE (CP): The Student Campus Police shall comprise such members and shall perform such duties as specified in this Code, as required by Security and as assigned by the Commissioner. A CP shall be deemed to be an authorized person and an agent of UNB for the purposes of s. 2 and s. 7 of the Trespass Act of New Brunswick (see Appendix C).

3.0 Definitions

- 3.1 BOARD: Board of Governors, University of New Brunswick
- 3.2 CAMPUS: includes Fredericton (UNBF) and Saint John (UNBSJ)
- 3.3 CHAIR: The Chair of the Student Disciplinary Committee
- 3.4 CODE: the Student Disciplinary Code
- 3.5 COMMISSIONER: the Commissioner of Student Discipline, Fredericton or Saint John campus
- 3.6 COUNCIL: the Student Union Council (Fredericton) and the Student Representative Council (Saint John)

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- 3.7 CP(S): Student Campus Police Organization/Officer
- 3.8 DEANS: the Board of Deans, as constituted by the University of New Brunswick Act
- 3.9 FINE: one possible sanction for an offence under the Code, expressed as a percentage of the current regular tuition fee for a full-time undergraduate student in the Faculty of Arts
- 3.10 GSA: Graduate Student Association
- 3.11 ID: any document presented for purposes of establishing identity or the right to secure a benefit or service
- 3.12 LSS: Law Students' Society
- 3.13 PRESIDENT: the President of the University of New Brunswick
- 3.14 PRESIDING CHAIR: as between the Chair or Vice Chair, the one other than the person who elects to proceed with a hearing
- 3.15 RESIDENCE COMMUNITY ADMINISTRATOR: includes Director (Residential Life and Conference Services), Associate Director (Residential Life), Residence Life Programmer, Don, Associate Don, Resident Fellow, Proctor, Residence Assistant (RA), Academic Resource Person, or any other person in authority
- 3.16 SDC: Student Disciplinary Committee on each campus
- 3.17 SECURITY: UNB Security Department/Officer
- 3.18 SOCIAL PRIVILEGES: social privileges shall include any non-academic right or privilege granted to a student which does not affect the student's academic rights of his/her right to vote, run for office in an election, or hold office, for the Student Union, the Student Representative Council, CAMPUS, OPTAMUS, the Graduate Student Association or their recognized associations
- 3.19 STUDENT: a person registered as a full or part-time student at the University of New Brunswick
- 3.20 UNIVERSITY/UNB: University of New Brunswick, UNBF and UNBSJ
- 3.21 VICE-CHAIR: The Vice-Chair of the Student Disciplinary Committee

4.0 Implementation

- 4.1 OFFENCES AND SANCTIONS:
 - 4.1.1 Fines are expressed as a percentage of the current regular tuition fee for a full-time undergraduate student in the Faculty of Arts.
 - 4.1.2 Restriction of social privilege(s) as defined by this code shall be determined by the Committee in each case.

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- 4.1.3 The offences enumerated are subject to the provisions of Section 1.0.
- 4.1.4 Community service, counselling, performance bonds, letters of apology may be recommended, as appropriate, in individual cases;
- 4.1.5 Counselling and letters of apology may be implemented only with the agreement of the guilty party;
- 4.1.6 The University retains the right to suspend e-mail privileges and Web access where deemed appropriate.
- 4.2 Students who, in a public place, or in an area of a residence building not authorized for alcohol, consume alcoholic beverages, or are in possession of open liquor as defined by the Liquor Control Act, other than in accordance with the provisions of the Liquor Control Act, are guilty of an offence.
 - 4.2.1 SANCTIONS: To include one or more of:
 - fine up to a maximum of 6 percent;
 - restriction of such student social privileges as the Committee may determine;
 - community service;
 - counselling;
 - performance bond;
 - letter(s) of apology.
- 4.3 Students who at any event sponsored by the University, or any of its duly constituted or recognized bodies:
 - are in possession of, or consume alcoholic beverages where such event is designated to be a "dry" event;
 - are in possession of, or consume alcoholic beverages following upon an order to the contrary by an on-duty CP or Security;
 - are in possession of, or consume alcoholic beverages while not in possession of an authorization stamp;
 - being of any age, knowingly furnish alcoholic beverages to any person under the age of 19 years;
 - being under the age of 19 years, are in possession of, consume, or attempt to purchase for consumption or otherwise, any alcoholic beverage;
 - are intoxicated in a public place;
 - being engaged as a bartender:
 - knowingly serve alcoholic beverages to a person under the age of 19 years;

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- serve alcoholic beverages following upon an order to the contrary made by an on-duty CP or Security;
 - fail to comply with the reasonable directions of CP or Security with regard to the control or supervision of the sponsored event;
- being Sponsor of the said event:
 - knowingly permit violation by a student of subsections 4.3;
 - knowingly permit violation by a student of subsections 4.3;
 - fail to comply with the reasonable directions of a CP or Security with regard to the control or supervision of the sponsored event;

are guilty of an offence.

4.3.1 SANCTIONS: to include one or more of:

- fine up to a maximum of 6 percent;
- restriction of such student social privileges as the Committee may determine;
- community service;
- counselling;
- performance bond;
- letter(s) of apology.

4.3.1.1 NOTE: Notwithstanding any provisions of this Code, the University (including any of its duly constituted or recognized bodies) retains the right:

- to refuse to engage a student as a bartender for such reason as it deems appropriate;
- to refuse to extend sponsorship privileges to a student for such reason as it deems appropriate.

4.3.1.2 DEFINITION: For the purpose of the above subsection, "Sponsor" shall be defined as students who sign the contract of services with Physical Plant and/or identify themselves as such to the CP or Security assigned to the event.

4.4 Students who:

- assault any person;
- sexually assault any person;
- assault on-duty CP or Security;
- assault a Residence Community Administrator while on residence premises or at a residence function;

are guilty of an offence.

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4.4.1 SANCTIONS: to include one or more of:

- Recommendation to the President for suspension or expulsion from UNB;
- Fine up to a maximum of 12 percent;
- Restriction of such student social privileges as the Committee may determine;
- community service;
- counselling;
- performance bond;
- letter(s) of apology.

4.5 Students who:

- act or speak in a manner which does harm, or threatens harm to persons or property;
 - act or speak in a disorderly, disruptive, indecent or offensive manner;
 - act or speak in a harassing manner;
- are guilty of an offence.

4.5.1 SANCTIONS: To include one or more of:

- Recommendation to the President for suspension or expulsion from UNB;
- Fine up to a maximum of 12 percent;
- Restriction of such student social privileges as the Committee may determine;
- community service;
- counselling;
- performance bond;
- letter(s) of apology.

4.6 Students who unlawfully possess, trespass upon, damage, or misuse:

- property on a UNB campus;
 - property at an event to which CP or a University official has been assigned;
 - any fire protection equipment;
- are guilty of an offence.

4.6.1 SANCTIONS: To include one more of:

- recommendation to the President for suspension or expulsion from UNB;
- restitution for the property damage suffered;
- fine up to a maximum of 12 percent;
- restriction of such student social privileges as the Committee may determine;
- community service;

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- counselling;
- performance bond;
- letter(s) of apology.

4.7 Students who commit, or attempt to commit, theft:

- on UNB property;
 - at an event to which CP or a University official has been assigned;
- are guilty of an offence.

4.7.1 SANCTIONS: To include one or more of:

- recommendation to the President for suspension or expulsion from UNB;
- fine up to a maximum of 12 percent;
- restriction of such student social privileges as the Committee may determine;
- community service;
- counselling;
- performance bond;
- letter(s) of apology.

4.8 Students who refuse to identify themselves upon the demand of Security, CP or Residence Community Administrator in the performance of their duties;

- refuse to surrender ID upon the demand of Security, CP or Residence Community Administrator in the performance of their duties;
- refuse to leave the premises of any event sponsored by or authorized through UNB or any of its duly recognized bodies, upon the demand of Security, CP or Residence Community Administrator in the performance of their duties;
- otherwise wilfully obstruct Security, CP or Residence Community Administrator in the performance of their duties;

are guilty of an offence.

4.8.1 NOTE: ID surrendered to Security or the CP may be held for a maximum of 72 hours, unless it has been falsified or wrongfully used, in which case it may be retained by Security or the CP. ID held or retained under this provision may be released upon appeal to the Commissioner.

4.8.2 SANCTIONS: To include one or more of:

- fine up to a maximum of 12 percent;
- restriction of such student social privileges as the Committee may determine;
- community service;

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- counselling;
- performance bond;
- letter(s) of apology.

4.9 Students who:

- knowingly allow their ID to be used by another;
- wrongfully use an ID;
- falsify an ID;

are guilty of an offence.

4.9.1 SANCTIONS: To include one or more of:

- recommendation to the President for suspension (but not expulsion) from UNB;
- fine up to a maximum of 12 percent;
- restriction of such student social privileges as the Committee may determine;
- community service;
- counselling;
- performance bond;
- letter(s) of apology.

4.10 Students who by unlawful means obtain, or attempt to obtain, meals or other food at UNB are guilty of an offence.

4.10.1 SANCTIONS: To include one or more of:

- restitution for the value of meals or other food which the Committee believes beyond a reasonable doubt was obtained by the student prior to apprehension;
- fine up to a maximum of 12 percent;
- restriction of such student social privileges as the Committee may determine.

4.11 Students who sign in or admit as their guest another person to UNB buildings, or functions to which a University official has been assigned, and such guests engage in conduct which is listed as an offence under the Code are guilty of an offence.

4.11.1 NOTE: This offence is intended to make students responsible and liable for all or some portion of the damages and/or injuries caused by their guests.

4.11.2 SANCTIONS: To include one or more of:

- fine up to a maximum of 12 percent;

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- restitution for all or part of any property damage caused by the guest for which the Committee deems the host student should be held accountable in the circumstances;
 - restriction of such social privileges as the Committee may determine;
 - community service;
 - performance bond;
 - letter(s) of apology.
- 4.12 Students who violate UNB "NO SMOKING" restrictions are guilty of an offence.
- 4.12.1 SANCTION: fine up to a maximum of 6 percent.
- 4.13 Students who:
- interrupt the proceedings of the SDC;
 - wilfully give false testimony or suborn another person in proceedings before the SDC;
 - refuse to comply with an order of the SDC;
- are guilty of an offence.
- 4.13.1 NOTE: It is expected that all participants will observe appropriate decorum during proceedings of the SDC. It is the responsibility of the Presiding Chair to maintain order throughout the hearing.
- 4.13.2 SANCTION: By order of the Presiding Chair, a fine up to a maximum of 6 percent. Where an offence is committed during the course of proceedings before the SDC, such sanction may be imposed without further process.
- 4.14 RULES OF PROCEDURE
- 4.14.1 COMPLAINTS AND CHARGING:
- 4.14.1.1 Any person may file a complaint by completing and signing Form F-1, which shall be forwarded to the Commissioner. As a general principle, complaints should be made as soon as possible after an alleged offence has been committed.
- 4.14.1.2 After receiving a complaint and undertaking any appropriate investigation or consultation, including consultation with the complainant at the Commissioner's discretion, the Commissioner shall decide whether the complaint should be processed in accordance with the Code or handled by another means available to UNB.
- 4.14.1.3 Should the Commissioner decide that the complaint will be processed in accordance with the Code, the Commissioner shall:
- lay charges within thirty (30) days of the receipt of the complaint by completing and signing Form F-1;

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- forward Form F-1 along with any materials relevant to the complaint to the Chair of the SDC;
- give notice to the students charged by forwarding:
 - a copy of Form F-1 (Record of Complaint and Charges);
 - a copy of any documentary evidence relied upon by the Commissioner in laying charges;
 - a copy of the Student Disciplinary Code.
- halt proceedings upon discovering that more than two (2) years have passed since an alleged offence was committed;

4.14.1.4 At such times of the year when neither the Chair or Vice-Chair is available, the Commissioner may exercise, or designate the Commissioner of the other campus to exercise, the powers of the Chair or Vice-Chair under Section 4.14.2 SUMMARY PROCESS and 4.14.3 PRE-HEARING PROCESS of the Code.

4.14.2 SUMMARY PROCESS:

4.14.2.1 In lieu of a hearing, the Chair, or the Vice-Chair acting in the capacity of Chair, may elect to permit a student charged by the Commissioner to file a plea of guilty and pay a fine plus restitution where appropriate. For a summary proceeding under this section, the following provisions shall apply.

4.14.2.2 An election to proceed without a hearing shall:

- be made whenever possible within seven (7) days of receiving charges from the Commissioner;
- be based on consideration of the seriousness of the offence, the past disciplinary record of the accused, and any recommendations provided by the Commissioner, CP or Security;
- be conclusive and not subject to appeal by the student charged.

4.14.2.3 Prior to being permitted to enter a plea of guilty to the charge(s), the student charged shall be informed of the amount of the fine to be imposed and, where restitution is appropriate, of the actual or approximate value of the damage for which the student will be responsible.

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- 4.14.2.4 Should the student decide to enter a plea of guilty to charge(s), the Chair or Vice-Chair may impose a fine up to and including five (5) percent of tuition, plus restitution where appropriate.
- 4.14.2.5 Should the student decide to enter a plea of guilty to the charge(s), the Chair or Vice-Chair shall complete a Record of Disposition (Form F-4) and forward it to the Commissioner.
- 4.14.3 PRE-HEARING PROCESS:
- 4.14.3.1 In order to ensure the independence of the hearing process:
- Where the Chair reviews the charges and any supporting documentation, and elects to proceed with a hearing, the Vice-Chair shall act as Presiding Chair for that hearing;
 - Where the Vice-Chair reviews the charges and any supporting documentation, and elects to proceed with a hearing, the Chair shall act as Presiding Chair for that hearing;
- 4.14.3.2 The Presiding Chair to any hearing shall ensure that reasonable notice is given to all parties which shall:
- be served, whenever possible, at least seven (7) calendar days in advance of the hearing;
 - state the time, place and purpose of the hearing;
- 4.14.3.3 A notice of hearing to a student charged with an offence shall be by means of Form F-2 (Summons to Student Charged) and include:
- a copy of Form F-1 specifying the particular section(s) of the Code alleged to have been breached, and any other currently available documentation relevant to the charge(s);
 - a copy of the Student Disciplinary Code;
 - a statement that the student charged has the right to be represented by counsel or other person acting as the student's agent and is entitled to the assistance of the Director of Student Affairs and Services as designate or Student Advocate (UNBF), or the Director of Student Services or designate (UNBSJ);
 - a statement that, if the student charged does not attend the hearing, the SDC may proceed in the student's absence;
 - a statement that the student charged and/or counsel or agent has the right to a reasonable opportunity to examine any reports or

complaints filed against the student charged and previous decisions of the SDC, in the office of the Commissioner, whenever possible, during the seven (7) day period before the case is heard.

4.14.3.4 The Presiding Chair may cause a summons to be issued requiring any party to a proceeding to:

- attend and give evidence on oath or affirmation at a hearing;
- produce in evidence any documents or other subject matter relevant to the proceedings and admissible at a hearing.

4.14.3.5 Summons issued under this section shall be signed by the Presiding Chair, (with a copy to the Commissioner at the time of service) and every reasonable effort shall be made to serve summons personally;

4.14.3.6 Summons to the students charged shall be in Form F-2;

4.14.3.7 Summons to the witnesses shall be in Form F-3;

4.14.3.8 Summons issued under this section are deemed to be an order of the SDC.

4.14.4 HEARINGS:

4.14.4.1 PROCEDURAL PROVISIONS:

- The Chair or Vice-Chair, whichever is the Presiding Chair, shall commence a hearing of the Student Disciplinary Committee by determining that a quorum is present, calling the hearing to order and reading the charges.
- Where notice of a hearing has been given to a party to the proceeding in accordance with the Code, and the party not attend, the SDC may, upon proof of service of the notice of hearing, proceed in his or her absence.
- The hearing shall be open to the public except where the SDC decides that intimate financial or personal matters or other matters may be disclosed which require that all or part of the hearing be held in camera.
- The Presiding Chair shall:
 - preside over the hearing and maintain quorum and order throughout;
 - read the charge(s) and ask each student charged to plead guilty or not guilty;

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- in the absence of a student charged and only upon satisfactory proof that the student charged had notice of hearing, direct a plea of not guilty to be entered on behalf of the student charged, whereupon the hearing may proceed as if the student charged were present;
- consider and decide any preliminary objection or other matter pertaining to the hearing;
- upon request, or at his/her initiative, adjourn or recess the hearing until some subsequent time or event, where he or she is satisfied that such adjournment or recess is required to permit a proper hearing to be held;
- commence the case against the student(s) charged by requesting the complainant and/or the complainant's witnesses to present evidence relevant to the charges;
- swear in those who are to give testimony and, where appropriate, inform witnesses of their right to object to answering any question as provided in Section 5 of the Canada Evidence Act (see Appendix E);
- invite members of the SDC to ask questions of any party giving testimony;
- grant any student charged an opportunity to cross-examine each witness immediately following testimony;
- grant the right of cross-examination to any other party where the Presiding Chair is satisfied that such cross examination is required to permit a proper hearing to be held;
- curtail or stop cross-examination if, in his or her opinion, it is unproductive or being conducted in an abusive manner;
- invite the student(s) charged to present a defence by entering testimony or other evidence, and/or calling witnesses, after the complainant and/or the complainant's witnesses have been heard;
- make decisions regarding the admissibility of evidence taking into account its reliability and relevance, and any issue of privilege under the law of evidence;

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- permit a short summation by the complainant and the student(s) charged, and any other party where such summation is required to permit a proper hearing to be held, granting the complainant the right of closing statement;
 - make such orders or give such directions as he/she considers appropriate to ensure proper process.
- Following the presentation of evidence and any summation(s), the SDC shall adjourn, and the voting members shall retire to consider their decision on the guilt or innocence of the student charged and reasons therefor. The Presiding Chair shall refrain from voting, except in the case of a tie, when the Presiding Chair shall cast the deciding vote.
- Upon reaching its decision, the SDC shall reconvene and the Presiding Chair shall:
 - announce the decision and reasons therefor, and whether the Presiding Chair was required to cast the deciding vote;
 - where a verdict or not guilty is returned, dismiss the parties and conclude the hearing;
 - where a verdict of guilty is returned:
 - inform each guilty party of the sanctions specified under the Code for the offence(s) of which he/she has been convicted;
 - invite each guilty party and the complainant to speak to the issue of an appropriate sanction;
 - permit another party to speak to the issue of an appropriate sanction where such is deemed necessary to permit a proper hearing to be held;
 - adjourn the hearing, and retire with the voting members of the SDC to consider the appropriate sanction(s) from those prescribed under the applicable section(s) of the Code;
 - reconvene the hearing and announce the decision on sanction(s).

- Upon conclusion of the hearing, the Presiding Chair shall forward to the Commissioner a completed Record of Disposition by means of Form F-4, along with:
 - all summons issued;
 - any order of the SDC or Presiding Chair made during the proceedings;
 - any other document or subject matter relating to the proceedings.

4.14.4.2 SUBSTANTIVE PROVISIONS

- A quorum of the Student Disciplinary Committee shall be the Presiding Chair and not less than five (5) voting members.
- At a hearing, a student charged may:
 - be advised or represented by counsel or another person acting as the student's agent;
 - call and examine witnesses and present arguments and submissions.
- Witnesses at a hearing have the right to be advised by counsel or another person acting as their agent as to their rights, but such counsel or agent may take no other part in the hearing without leave of the SDC.
- The SDC may exclude anyone other than a legal practitioner from appearing as a counsel or agent on behalf of a party at a hearing if it finds that such person does not understand and comply with the duties and responsibilities of a counsel or agent.
- A witness has the right to object to answer any questions as provided under Section 5 of the Canada Evidence Act (See Appendix E).
- Where a hearing or part of a hearing is held in camera, a witness and/or counsel or agent for a witness are entitled to be present only when that witness is giving evidence.
- Where any student without reasonable excuse:
 - being duly summoned in accordance with this Code, fails or refuses to attend a hearing;

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- being in attendance at a hearing, fails or refuses to produce any document or subject matter in his/her power or control properly required by the SDC to be produced, or to answer any question to which the SDC may reasonably require an answer;
 - The SDC may take action as outlined in Section 4.13 of the Code. Repeated failure or refusal to attend, produce evidence, or answer questions may be referred to the Commissioner for appropriate action.
 - No evidence is admissible at a hearing that would be inadmissible in a court by reason of privilege under the law of evidence.
 - Subject to Section 4.14.4.2 sub section 7, the SDC may admit as evidence at a hearing:
 - any oral testimony;
 - any document or other subject matter relevant to the proceedings;
 - a copy of a document or other subject matter where the SDC is satisfied as to its authenticity.
 - The SDC may, in making its decision in any proceedings:
 - take notice of facts that may be officially noticed;
 - take notice of any generally recognized scientific or technical facts, information, or opinions.
 - The SDC may rescind or vary any previous order or decision made by it. When filed with the Commissioner, the new order or decision shall stand as the order or decision of the SDC.
- 4.14.5 DISPOSITION OF CASES: Upon receipt of the Record of Disposition (Form F-4) from the Presiding Chair, the Commissioner shall:
- forward to each guilty party a copy of the Record of Disposition within seven (7) calendar days of the conclusion of the hearing, by mail, e-mail, FAX or personal service, with information, where relevant, concerning:
 - the method of payment of any fines or restitution, including the time limit for such payment, which normally shall be twenty-one (21) calendar days from the date of the Record of Disposition.

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- conditions for fulfilment of any other sanctions or requirements imposed by the SDC;
 - pursuant to Section 4.13 for failure to fulfil all terms and conditions of the sanctions or requirements imposed by the SDC;
 - appealing the decision of the SDC, except in cases disposed of by summary process;
 - forward to the complainant and the CP Chief a copy of the Record of Disposition, with such additional information related to the fulfilment of the terms and conditions of the sanctions or requirements imposed by the SDC, as deemed appropriate by the Commissioner;
 - communicate with any other person, where such is necessary for the fulfilment of the terms and conditions of the sanctions or requirements imposed by the SDC;
 - cause to be published in a newspaper of campus-wide distribution, a summary of the offences, and sanctions or requirements imposed by the SDC, as soon as such publication is convenient;
 - ask the Chair to impose a fine of a reasonable amount in the circumstances, (up to a maximum of six (6) per cent), as an additional sanction, where a guilty party fails to fulfil all terms and conditions of an order of the SDC as set out in correspondence from the Commissioner. Such determination by the Chair shall have the force and effect of a decision of the SDC.
- 4.14.6 All fines imposed by the SDC shall be applied to defray SDC expenses, including honoraria, and any balance at the end of the academic year shall be transferred to the appropriate Council.
- 4.14.7 Records related to cases and appeals heard under the Code shall be kept in the office of the Commissioner for a reasonable period of time. Records of discipline under the Code shall not be disclosed by the Commissioner to persons outside the University except with the written approval of the student(s) charged or upon judicial order. The Commissioner at his/her discretion may disclose records of student discipline for University use where such are deemed necessary and proper in the discharge of University functions and responsibilities.
- 4.15 APPEALS: A student convicted of an offence, or the Commissioner, may appeal a decision of the SDC by making a written application to the Deans within twenty-one (21) calendar days from the date of the Record of Disposition. The following procedures and requirements apply to all appeals to the Deans made under the Code:

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- appellants must state explicitly within their application the grounds and supporting argument or information upon which the appeal is based;
- appeals are allowable on any of the following grounds:
 - the sanction(s) or other requirements set out within a decision of the SDC were inappropriate in the circumstances;
 - the SDC failed to follow proper rules or procedures;
 - the decision is unreasonable based on the written record of the case;
 - substantial new evidence exists that was not reasonably available to the student charged or the Commissioner at the time of the hearing, which, if presented, might have altered the outcome of the hearing;
 - the Presiding Chair was required to cast a deciding vote (due to a tie) at the SDC hearing;
- prior to hearing an appeal, the Deans shall make a preliminary determination as to whether the grounds and supporting argument and/or information set out in the application fit within the allowable grounds of appeal, or whether the application is frivolous or vexatious. Should the Deans determine that the appeal application does not disclose allowable grounds or that the application is frivolous or vexatious, the Deans may dismiss the appeal without a hearing. Such determinations are not subject to appeal to the President;
- while the Deans may decide to hear all or part of a case afresh on its merits, it shall be the normal procedure for the Deans to hold a hearing to determine whether one or more of the allowable grounds of appeal has been established, and if so, to refer the matter back to the SDC for reconsideration of the case on its merits, with such corrective instructions as may be necessary.

4.15.1 Subject to 4.15 bullet 3, a student convicted of an offence under the Code may appeal a decision of the Deans by making a written application to the President. Such application must be made within fourteen (14) calendar days from the date of a written decision of the Deans and must state explicitly the grounds upon which the appeal to the President is based. The President shall be provided with a summary of the facts found by the SDC and a copy of the decisions of the SDC and Deans.

5.0 Interpretation and Questions

Effective:

Revised: June 2, 1999

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- 5.1 University Secretariat Office is located in Sir Howard Douglas Hall, Room 110. Questions concerning this policy may be directed to (506) 453-4613 sjd@unb.ca