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## Non-Academic Misconduct Policy

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**Department Policy Number****Effective Date**

November 3, 2004

**Purpose**

N/A

**Definitions**

N/A

**Policy****1. General Regulations**

Non-academic offences, attempted or committed by students on University premises or during University-sponsored activities shall be grounds for disciplinary action by the University. The University reserves the right, notwithstanding anything contained herein, to refer any non-academic offence to the appropriate civil or criminal authority, as the University deems appropriate.

**2. Non-Academic Offences**

Non-academic offences include

- a. disruption of University activities
- b. unauthorized entry or use of University facilities
- c. misappropriation of, misuse of, or damage to University property
- d. physical abuse or dangerous activity resulting or likely to result in physical abuse of person or property
- e. written and/or verbal abuse



- f. sexual harassment
- g. refusal to provide identification
- h. smoking in prohibited areas

### 3. Definitions of Non-Academic Offences

#### 3.1 Disruption of University Activities

Disruption of University activities includes but is not limited to exam-writing, tutoring, teaching, studying, research, administration, and meetings.

#### 3.2 Unauthorized Entry and Use

Unauthorized entry and/or use refers to any University building, facility, room, or office. Facilities include but are not limited to the central office, learning centres, University House, and parking lots.

#### 3.3 Misappropriation of, Misuse of, or Damage to University Property

Misappropriation of, misuse of, or damage to University property includes

- a. misappropriation of or possession of misappropriated University property
- b. intentional or negligent damage of University property
- c. removal of books or other library and audiovisual material without proper authorization
- d. mutilation or defacing of books or other library materials
- e. intentionally misplacing resources or in any other way intentionally depriving other members of the University of the property or of having access to the resources

#### 3.4 Physical Abuse and Dangerous Activity

Physical abuse and dangerous activity include

- a. actual physical abuse or threat of physical abuse to another person
- b. damage to another person's property
- c. knowingly, and without just cause, cause another person to fear physical abuse or fear damage to his/her property



- d. creating a condition that unnecessarily endangers or threatens the health, safety, or well-being of other persons, or could cause damage to property

### 3.5 Written and/or Verbal Harassment

Written and/or verbal harassment includes the use of threatening, obscene, profane, or racist language, or language that is otherwise abusive in the circumstances, by a student, directed to another student, an instructor, officer, or other employee of the University, or any other person.

### 3.6 Sexual Harassment

Sexual harassment includes

- a. written and/or verbal abuse or threats
- b. unwelcome remarks, jokes, innuendos, or taunting
- c. displaying pornographic or other offensive or derogatory pictures
- d. practical jokes which cause awkwardness or embarrassment
- e. unwelcome invitations or requests, whether direct, explicit or intimidating
- f. leering or other gestures
- g. unnecessary physical contact such as touching, patting, pinching, punching
- h. physical assault

### 3.7 Refusal to Provide Identification

It is an offence to refuse to provide identification upon request by an officer, employee, or agent of the University acting on behalf of the University in the course of his/her duties where the said person has reason to believe an individual is committing, has committed, or is about to commit an offence.

### 3.8 Non-Adherence to the University Smoking Policy

Smoking is prohibited at Athabasca University and its Learning Centres. Smoking is permitted outside these facilities.

## 4. Disciplinary Action

Disciplinary action may include one or more of the following penalties.

- a. reprimand



- b. suspension
- c. expulsion
- d. exclusion from class
- e. exclusion from exam

## 5. Disciplinary Procedures

The following procedures do not apply to disruptive behaviour in class or disruptive behaviour in an exam room (see Section 7 Exclusion from Class or Exam for Disruptive Behaviour within this policy).

### 5.1 Initiation of Proceedings

#### 5.1.1 Initiation

Any person who has reason to believe that a student is guilty of a non-academic offence may initiate proceedings against the student, by way of a statement signed by the complainant and delivered to the Registrar.

#### 5.1.2 Action

The Registrar will determine the appropriate avenue for investigation and will designate the appropriate individual to conduct the investigation (herewith called the "Investigator").

### 5.2 Proceedings

#### 5.2.1 Review and Investigation

The Investigator will review the complaint and conduct an investigation. This may include interviewing the relevant individuals and obtaining other information relevant to the complaint.

#### 5.2.2 Complaint Declined

The Investigator may decline to proceed with a complaint under the following circumstances:

- a. where the Investigator believes that no University rule has been violated
- b. where the Investigator believes the complaint to be scandalous, frivolous, or vexatious



- c. where the Investigator believes that an unreasonable amount of time has elapsed since the incident
- d. where the Investigator believes that the offence should be referred to the police or appropriate public authorities.

### 5.2.3 Complaint Declined Procedure

Where the Investigator has declined to proceed with a complaint, this decision will be delivered to the Registrar, who will advise the complainant in writing within ten (10) calendar days of receipt of the complaint.

### 5.2.4 Action Procedure

- a. The Investigator shall ensure that all documentation is provided to the Registrar.
- b. If the Registrar desires more information, the Registrar shall conduct further investigation, as the Registrar deems appropriate, including reviewing the matter with the student providing it is practical to do so.
- c. The Registrar, following such an investigation, may dismiss the complaint or impose one or more of the penalties.
- d. In determining an appropriate penalty, the Registrar may take into account the disciplinary record, if any, of the student.
- e. The Registrar shall provide written notice to the student of the decision, any penalty imposed, and of the right to appeal within twenty (20) calendar days of receipt of the original complaint.

**Note:** In the event that the Investigator fails to act within the time limits stated herein, the student shall, upon the expiry of such time limits, be entitled to proceed to the next step: direct appeal to the Associate Vice-President, Academic. In the event that the Investigator or the Associate Vice-President, Academic is not available, a designate will carry out the following procedures.

## 5.3 Appeal Procedures

- a. A student or complainant may appeal the decision of the Investigator not to proceed, or the decision by the Registrar, by submitting such notice of appeal in writing to the Associate Vice-President, Academic no later than ten (10) calendar days after deemed receipt of notification of the Registrar's decision. The Associate Vice-President, Academic may at his/her sole discretion accept an appeal notwithstanding that more than ten (10) calendar days have elapsed since receipt of the Registrar's decision.



- b. The notice of appeal shall be in writing, signed personally or through an agent representing the appellant, and state the grounds of appeal. The appeal shall deal with the Registrar's decision, the finding of guilt and/or the penalty imposed. At this time the student may view the file upon request. Any additions to the file during the appeal process will be made available to the student who has requested access to the file.
- c. If legal counsel is retained by the appellant, the Associate Vice-President, Academic must be notified of it immediately.
- d. The Associate Vice-President, Academic shall consider the appeal and review the matter in a manner in which he/she in his/her sole discretion deems appropriate, and may either sustain, quash, or vary the decision being appealed.
- e. Where the Associate Vice-President, Academic sustains the finding of guilt, he/she may confirm, vary, or suspend the penalty imposed.
- f. The Associate Vice-President, Academic shall communicate his/her decision to the appellant, or his/her agent/representative/lawyer, in writing, within ten (10) calendar days of receipt of the appeal or within such longer period as the Associate Vice-President, Academic deems necessary in his/her sole discretion. The penalty becomes effective immediately upon such notification. Any penalty imposed or confirmed shall take effective on the date indicated in the written notification.
- g. Decisions of the Associate Vice-President, Academic shall be final and binding, and no right of appeal lies therefrom.

**Note:** Notification mailed by single-registered post to the last known address of the student, is deemed, in the absence of evidence to the contrary, to have been received by the student ten (10) calendar days after posting to an Alberta address and twenty (20) calendar days to an address outside of Alberta.

## 6. Student Records and Transcripts

Suspension imposed for disciplinary reasons shall appear on the student's records and transcripts for the full period of the suspension until the suspension is lifted. In the case of expulsion, an entry shall appear on the student's records and transcripts for the full period of the expulsion.

## 7. Exclusion from Class or Exam for Disruptive Behaviour

### 7.1 Exclusion from Class by an Instructor

- a. When a student disturbs, disrupts, or otherwise interferes with classroom activities, the instructor may immediately exclude the student from the course for a particular class and may also exclude the student from the next subsequent class



in that course. In each case, the instructor is required to notify the course professor and the Program Director by the next business day.

- b. If the behaviour persists when the student is re-admitted to class, the instructor may again immediately exclude the student from the class and the instructor must initiate proceedings against the student according to the procedures described above. The student's exclusion from class will be in effect until a decision is reached by the Program Director. If a student is reinstated by a decision of the Program Director, such decision shall not invalidate the prior action of the instructor. The University shall not be held legally responsible for any lost class time. The Program Director shall communicate his/her decision in writing to the student within five (5) calendar days from the date of the most recent exclusion.
- c. The student may appeal the Program Director's decision as set out below. The student shall not be permitted in the class without the Program Director's written approval until such time as the appeal is heard and decided.
- d. Within five (5) calendar days of receipt of the appeal, the Program Director shall provide written notice to the student of the decision, any penalty imposed, and the deadline to appeal to the Provost and Vice-President, Academic of ten (10) calendar days.
- e. The student (hereinafter cited as the appellant) must lodge a written appeal with the Provost and Vice-President, Academic within ten (10) calendar days after the decision was delivered or deemed to have been delivered to the appellant.
- f. The Provost and Vice-President, Academic shall consider the appeal and review the matter in a manner in which he/she in his/her sole discretion deems appropriate, and may either sustain, quash, or vary the decision being appealed. Where a decision against the appellant is sustained, the Provost and Vice-President, Academic may also confirm, vary, extend, or suspend the exclusion from class initially imposed.
- g. The Provost and Vice-President, Academic shall communicate his/her decision to the appellant, or his/her agent/representative/lawyer, in writing, within ten (10) calendar days of receipt of the appeal or within such longer period as the Provost and Vice-President, Academic deems necessary in his/her sole discretion.
- h. Decisions of the Provost and Vice-President, Academic shall be final and binding, and no right of appeal lies therefrom.

## 7.2 Exclusion from an Exam by an Exam Supervisor

- a. When a student disturbs or otherwise interferes with exam activities, the exam supervisor may immediately exclude the student from the exam room and request that the student immediately return his/her exam test and booklet. The exam



supervisor shall advise the student that he/she can request to write another version of the exam at a later date.

- b. The exam supervisor is required to notify the Registrar, the course professor, and the Program Director by the next business day.
- c. The student who feels that he/she has been unfairly treated can lodge a complaint with the Program Director. The decision of the Program Director and of the Provost and Vice-President, Academic, in the case of an appeal, shall not invalidate the prior action of the exam supervisor.
- d. The Program Director shall communicate his/her decision in writing to the student within ten (10) calendar days of receipt of the complaint.
- e. The University shall not be legally responsible for any contract period or credit lost.
- f. The student may appeal the Program Director's decision by following the same procedures outlined under Section 5.3 Appeals Procedure within this policy.

#### 8. Freedom of Information and Protection of Privacy

The use and disclosure of personal information will be only as provided for by Athabasca University's Protection of Privacy Policy and *Alberta's Freedom of Information and Protection of Privacy Act*.

#### **Regulation**

N/A

#### **Procedure**

N/A

#### **Approved by**

Academic Council (Motion 71-6) January 17, 1989

#### **Amended Date/Motion No.**

Academic Council (Motion 185-14) Revised November 3, 2004

Academic Council (Motion 148-7) Revised March 3, 1999

Academic Council (Motion 134-8) Revised January 22, 1997

Revised 1993

Academic Council (Motion 79-3) Revised March 10, 1990





**Related References, Policies, and Procedures**

[Athabasca University Protection of Privacy Policy](#)

**Applicable Legislation/Regulation**

[Alberta Freedom of Information and Protection of Privacy Act](#)

**Responsible Position/Department**

Registrar

**Keywords**