

**ADMINISTRATIVE OPERATING PROCEDURE**

<b>Student Rights and Responsibilities</b>	
<b>Procedure ID:</b>	#5-506 OP
<b>Approved by Executive Leaders Team:</b>	<i>Original:</i> September 2, 1992
<b>Revision Date(s):</b>	May 24, 2006; June 25, 2014; Sept 13, 2016
<b>Effective Date:</b>	Replaces June 2014
<b>Next Review Date:</b>	June 2019
<b>Monitoring Responsibility:</b>	Associate Vice-President Student Services
<b>Linked to a College Policy:</b>	# 5-506 <i>Student Rights and Responsibilities</i>

**Policy Statement**

Admission to Fleming College carries with it certain rights and responsibilities. There is an expectation that students will conduct themselves as responsible members of the College community. The College will create a climate of understanding and mutual respect for individual dignity and worth, in which each person has the opportunity to develop as an individual and contribute positively to the College community.

**Definitions/Acronyms**

**College Community or Fleming Community:** Any person who studies, teaches, conducts research at or works at or under the auspices of the College and includes, without limitation, employees or contractors; appointees (including volunteer board members); students, visiting scholars and any other person while they are acting on behalf of or at the request of the College.

**FIPPA:** Freedom of Information and Protection of Privacy Act of Ontario

**Operating Procedure****PREAMBLE**

Students attending Fleming College are expected to know and understand their rights and responsibilities. These expectations allow for each person to have the opportunity to develop as an individual and contribute positively to the College community. From time to time, members of the College Community may feel that a student has violated their responsibilities as a student at Fleming. The College encourages the resolution of complaints informally and in a timely manner. Individual circumstances, however, may make an informal resolution impractical or inappropriate. The College recognizes mental health may be a factor influencing behaviour and where appropriate will work with a student(s) to mitigate or manage their symptoms.

When a formal report of non-academic misconduct is submitted, the Student Rights and Responsibilities Officer (or designate) will review the allegation and may decline to proceed with the Student Rights and Responsibilities process (and will inform in writing) in cases where the resulting opinion is:

- a) The report falls within the jurisdiction of another policy, procedure or regulation and it is more appropriate to proceed under that policy, procedure or regulation.
- b) The report does not constitute a violation of, or is outside the scope of, non-academic misconduct, as defined by the Student Rights and Responsibilities Policy and Procedure.
- c) The report has been adequately addressed by another process;

- d) The report could more appropriately be addressed through conflict resolution coaching, mediation, or other non-disciplinary options.
- e) The report is being addressed by another process and it is unreasonable to put the allegation in abeyance pending the outcome of such a process.
- f) The report is deemed trivial, false, frivolous or vexatious.

## **1.0 PROTECTION FROM REPRISALS**

In order to protect individuals who make use of this policy or participate in proceedings as part of the complaint procedure, the College prohibits reprisal or threats of reprisal against these individuals and will take appropriate action against those who disregard this prohibition.

## **2.0 TIME LIMITS**

A complaint may be made by students registered at the time of the occurrence of the incident giving rise to the complaint. A complaint must be made within 30 days of the incident(s) except in extenuating circumstances which, in the opinion of the College, would justify an extension.

Complaints on behalf of a student by a third party will only be accepted as an informational report and an investigation cannot take place without the person directly involved participating in the complaint process.

## **3.0 VIOLENT OR POTENTIALLY VIOLENT SITUATIONS**

In order to protect the safety of all members of the College Community, violent or potentially violent situations must be dealt with expediently. This means involving the College's Behavioural Management Assessment Team (see Administrative Operating Procedure #4-420 OP, *Violence Prevention* Appendix B for more information) and/or proper authorities, including police and security, in a timely manner. Procedural fairness will be used to respond to complaints in a timely manner after a situation of immediate violence or potential violence has been managed.

In the event of a violent incident or imminent danger:

- Move to a safe location
- Contact Police, dial 911
- Call College security at ext. 8000 where there is a guard service
- Contact your supervisor or any manager (for employees)
- Contact any college employee (for students)

## **4.0 VIOLATIONS OF STUDENT RIGHTS**

A member of the college community has the right to lodge a complaint if they feel their rights have been violated or that a student has violated their responsibilities. A person who lodges a complaint is called "complainant" through the rest of this procedure. The person named in a complaint is called "respondent" throughout this procedure.

### **4.1 Informal Resolution Process**

Informal processes are an alternative to a formal complaint process in effort to find mutual conflict resolution between two or more parties. It is encouraged for students and employees to begin with

one of these options, as appropriate. It is recognized that informal processes will not be appropriate in all cases, and as such, formal process are also one of the options available to respond to policy violations under this policy. Similarly, if the issue is unresolved, or behaviour escalates beyond informal conflict resolution capacities, the student, or the employee may always pursue the formal complaint process at any point. The following options for informal resolution include:

**4.1.1 Dialogue:** If a student has a complaint about the actions of a College employee, another student, or a member of the College community feels that a student has violated their responsibilities, they are encouraged to meet with that person in an attempt to resolve the conflict. In cases where the incident precipitating the complaint is of a serious nature (e.g. assault or threatening behaviour) the complaint will be dealt with under the formal complaint process. If the complainant does not feel comfortable speaking with the person directly, they are encouraged to speak with the manager or employee responsible for the department in question, that individual will work with the student to resolve the issue as they have the specific knowledge necessary to respond (See Conflict Coaching in 4.1.2).

**4.1.2 Conflict Coaching:** Students seek counsel and guidance from administration to engage a conflict more effectively and independently. Guidance can be sought from Student Government, Counsellors, Residence Life Staff, the Office of Student Rights and Responsibilities, or the manager/chair of the area where there is conflict.

**4.1.3 Mediation:** Student(s) access the Office of Student Rights and Responsibilities, and are given a non-partial third party to coordinate a structured session aimed at resolving a conflict and/or constructing future agreements.

**4.1.4 Restorative Justice Practices:** As an informal process, or as a part of a formal process, the Office of Student Rights and Responsibilities will coordinate space and facilitate services for students taking responsibility for harmful behaviour and those who are/were affected by the behaviour. The purpose of this practice is to have both parties jointly construct an agreement on how to repair harm, or restore relationships moving forward.

## 4.2 **Formal Report**

If a complaint cannot be resolved through one of the informal processes, the student or College community member can initiate a formal complaint by documenting their complaint and submitting online through the College Portal.

### ***Interim Measures:***

Interim measures are measures taken to ensure the safety of all participants involved during the fact findings process. These measures do not mean there is a finding of guilt, but rather acknowledges the seriousness of the report and works to reduce the possible impacts of further harm to both the complainant and respondent. These measures are temporary for the duration of the fact finding process and may be removed or replaced by sanctions based on the outcome of the investigation.

Some examples of possible interim measures may include, but are not limited to:

- A temporary dismissal by a College employee that a student leave a classroom, laboratory, placement situation, resource centre, or other area on campus or where a College-sponsored activity is occurring;
- A behavioural contract outlining specific conditions, such as no contact;
- A student being moved from one section of their program to another;

- A student being moved within residence, or removed from residence;
- A student being asked to participate in their academics online or from home;
- A temporary dismissal or suspension of academic or work privileges, including access to College campuses and/or residence.

### **Formal Complaint Procedures:**

The Student Rights and Responsibilities Officer/designate will acknowledge receipt of the complaint, except in exceptional circumstances, within 3 business days. The complaint will then be assigned to a Student Rights and Responsibilities Case Manager who will investigate.

The Student Rights & Responsibilities Case Manager hearing the complaint shall ensure that there is procedural fairness, taking care to see that all persons affected by the decision are given a reasonable opportunity to present their case and that the Case Manager listens fairly to all sides and reaches a decision without bias. The Case Manager will follow up with a decision and provide a written response to the complainant and the respondent.

The Case Manager will investigate the complaint with the stakeholders involved in one of two ways (as determined by the Case Manager) within 15 business days:

1. By conducting a fact-finding process with the stakeholders involved and providing a written decision, within 15 business days except in exceptional circumstances of receipt of the documented complaint, or
2. Or on rare occasions by appointing a Tribunal which will conduct a fact-finding process and render a decision, except in exceptional circumstances within 15 business days of receipt of the documented complaint.

The Tribunal is comprised of the following trained individuals:

- The Case Manager hearing the complaint
  - A faculty or staff member from a different department or service area
  - One student chosen by the Student Administrative Council/Student Association
3. Rights of the Complainant and the Respondent
    - a) Complainants and respondents may attend meetings with a (non-participating) support person. The College considers requests to attend meetings with additional support persons and with legal or other representation on a case-by-case basis, with a view to promoting a fair and expeditious process. The College may still question and expect direct answers from an individual who is being supported.
    - b) Present submissions and request voluntary witnesses as might be required to support an argument.
    - c) Present a line of questioning to the Case Manager or Appeal Tribunal as reasonably required for a full and fair disclosure of the facts.
    - d) To be notified about the outcome of any process or appeal decision.
    - e) The respondent has the right to be found responsible ONLY on proof based on a balance of probabilities (which means that it is either more likely or not likely that the incident(s) occurred). This is consistent with the burden of proof required by civil law and is different from the beyond a reasonable doubt burden required by criminal law).

### 4.3 **Procedural Fairness**

Procedural fairness, for the purposes of this policy, includes an opportunity for all parties involved to be able to provide their versions of the event(s) to a Case Manager. The Complainant and Respondent are given the same rights as described in section 4.2.3 above, including the opportunity to provide documentation and request witnesses to support their version of the event(s). Finally, the resolution process will take place in a timely fashion, based on the timelines provided within this Policy, except for in extenuating circumstances. If there are extenuating circumstances, both the complainant and the respondent will be informed of the delay, and the cause of the delay.

In cases where the complaint has not been dealt with within 15 business days in the manner described in 4.2 above, the complainant can take their complaint to the Director of Housing, Food & Conference Services and Student Conduct. This complaint must be made in writing. The Administrator of the Student Rights and Responsibilities policy will investigate the reasons for the delay and respond to the complainant in writing within 3 business days with a course of action.

### 4.4 **Resolution**

After a decision is made regarding the violation of a student's rights, the Case Manager hearing the complaint will follow up by providing a written decision to the complainant and respondent outlining the decision and what action is to be taken, if any, within 15 business days, except in exceptional circumstances.

## 5.0 **Possible Sanctions**

If a student is deemed to have violated their responsibilities, sanctions may be imposed by the Case Manager hearing the complaint under the direction of Administrator of the Student Rights and Responsibilities Policy. If sanctions are imposed, they will be fitting and appropriate to the seriousness of the behavior in question, the impact of the behaviour on the College Community and whether there have been previous violations. Any sanction calling for the suspension of more than 5 days and/or expulsion of the student must be approved by the Associate Vice-President Student Services. All lesser sanctions will be approved by the Administrator of the Student Rights and Responsibilities Policy.

### 5.1 **Written Reprimand**

A written reprimand is a formal letter to the student that will remain on file for the duration of a student's time at the College. The letter includes the following information:

- a) Description of the behaviour in question;
- b) Description of the consequences if the behaviour is repeated: i.e. continuation or repetition of conduct found to be in violation of Student Responsibilities may be cause for more severe disciplinary action if another violation occurs within a stated period of time;
- c) Information regarding resources within the College the student may access for assistance.

### 5.2 **Restorative Justice Practices**

The Office of Student Rights and Responsibilities will coordinate space and facilitate services for students taking responsibility for harmful behaviour and those who are/were affected by the behaviour. The purpose of this practice is to have both parties jointly construct an agreement on

how to repair harm, or restore relationships moving forward. This agreement will be documented and part of the formal sanction record.

### 5.3 **Restitution or Fines**

Fines or restitution orders may be imposed to compensate the College or community member(s) in the event of defacement, damage to, or misappropriation of property.

### 5.4 **Behavioural Contract**

A behavioural contract is a written document between the College and the student which specifies certain behaviours that the student must comply with. It will normally limit campus activities and may include specific terms and conditions.

### 5.5 **Suspension**

Suspension refers to exclusion from classes, field placement and other privileges or activities for a stated period of time. Suspension will include exclusion from the campus and property belonging to the College for a stated period of time unless otherwise stated. Any sanction calling for the suspension of a student for 5 days or less must be approved by the Administrator for the Student Rights and Responsibilities policy. Any sanction calling for the suspension of the student for more than 5 days must be approved by the Associate Vice-President Student Services.

### 5.6 **Expulsion**

Expulsion refers to the permanent termination of a student's access to academic instruction, including access to College campuses. Any sanction calling for the expulsion of a student must be approved by the Associate Vice-President Student Services. Re-admission may not be sought.

### 5.7 **Adherence to Sanctions**

Failure to adhere to imposed sanctions, including the payment of restitution or a fine within the time limit prescribed, or if a behavioural contract is broken, the student will face further disciplinary action, including up to expulsion from the College. No refunds for fees will be issued for any College related activities in accordance with College policies.

## 6.0 **REQUESTING AN APPEAL**

6.1 Appeals will only be considered if they meet the appropriate grounds for an appeal. Grounds are reasons that can be used to challenge the decision made by the case manager following the summary of an investigation of a formal complaint, or the sanction. The College will only consider an appeal based on the following grounds:

- a) **Personal Bias / Unfair Treatment:** perceived unfair treatment based on the case manager not following the process as outlined in this policy. Perceived unfair treatment based on the sanction not fitting or appropriate based on the policy violation, as stated in Section 5: Possible Sanctions.
- b) **New information / Extenuating Circumstances:** If the complainant or respondent has new information, or documentation of extenuating circumstances that was not available at the time of the original investigation.

Students must submit appropriate documents to support their request at the time they submit the request for appeal.

- 6.2 An appeal of the above decisions must be made within 10 business days of the decision being appealed. An appeal not made within the time limit will not be heard unless there are, in the opinion of the College, exceptional circumstances.
- 6.3 Appeals dealing with a suspension of more than 5 days or expulsion will be heard by the Vice President Academic. All other appeals will be heard by the Associate Vice-President Student Services.
- 6.4 The student will complete an online Appeal Request Form which will include the following information: the name of the student appealing, the decision being appealed, the ground(s) for requesting an appeal, and the solution which the student appealing is requesting from the appeals process.
- 6.5 The purpose of the appeal is to review whether the proper process, as outlined in this procedure was followed without unfair bias, and with all relevant information available. The purpose of the appeal is not to initiate a repetitive fact finding process.
- 6.6 An Appeals Request will be returned to the student requesting the appeal and explained in writing if appropriate grounds are not met.
- 6.7 The Associate Vice-President Student Services / Vice President Academic or designate will hear the appeal in the following way:
  1. Convening an Appeals Tribunal which will hear the appeal and provide a written decision within ten (10) business days except in exceptional circumstances of receipt of the documented appeal.

The Appeals Tribunal will consist of the following members:

- The Associate Vice-President Student Services/Vice President Academic or designate (Committee Chair)
  - One faculty or staff member, from a different department or service area
  - One student chosen by the Student Administrative Council/Student Association
- 6.8 Any individual who has been involved in or has made a decision with regard to the issue being appealed shall not be part of the appeal process.
  - 6.9 The Office of Student Rights and Responsibilities or designate shall co-ordinate the procedures at an appeal ensuring procedural fairness, taking care to see that all persons affected by the decision of the Tribunal are given a reasonable opportunity to present their case and that the Appeals Tribunal members listen fairly to both sides and reach a decision without bias.
  - 6.10 All parties to the proceedings of the Appeals Tribunal shall be given reasonable notice of the time, place and purpose of the meeting. Neither the Complainant nor the Respondent needs to attend, but will be invited to attend if they would like, or they can send a pre-arranged proxy, or write a letter to the Appeals Tribunal.

- 6.11 Other individuals may, subject to advance consultation with the Tribunal Chair, present submissions relevant to the matter in question.
- 6.12 A student involved in an appeal procedure will have the right, upon request, of access to all relevant data bearing on the decision being appealed subject to the College's Access to Privacy Policy or other appropriate policies.
- 6.13 Within three (3) business days of the decision by the Appeals Tribunal, the Associate Vice-President Student Services/Vice President Academic or designate shall notify the student of the decision in writing stating the reasons for the decision. The Case Manager will notify, in writing, the other party involved in the case to inform them of the decision.
- 6.14 The Appeal decision shall be final and binding.

## **7.0 RECORD KEEPING AND ACCESS TO RECORDS**

All records resulting from formal Student Rights and Responsibilities reports will be kept in a secure central registry, and are not a part of the academic record. Managing these records will be the responsibility of the Administrator of the Student Rights and Responsibilities Policy, under the direction of the Associate Vice-President Student Services. Access to these records will be restricted to appropriate College staff as per the Colleges' Access to Privacy Policy, or as may be required by law. All records will be kept according to College Policy #6-603, *Data Record Retention and Disposition*.

### **Related Documents**

- College Policy #5-506, *Student Rights and Responsibilities*
- College Policy #5-503, *Maintenance of and Access to Student Records*
- College Policy #3-311, *Harassment and Discrimination Prevention* and related Administrative OP
- College Policy #2-201, *Academic Regulations* and related Administrative OP
- College Policy #6-601, *Information Technology Appropriate Use Policy*

### **Appendices**

N/A

### **History of Amendments/Reviews:**

<b>Section(s)</b>	<b>Date</b>	<b>Comments</b>
Student Responsibilities policy #3-326 created	1992	• Board approval of policy which included procedure (Resolution BoG Sept 2-1992 #3)
Procedure extensively revised to separate academic complaints/ concerns and student behaviours from rights/ responsibilities	2014	• Board approval of revised policy (included procedure) (Resolution BoG June 25-2014 #7)
Regular review.\	January 2016	Consultations with stakeholders (Academic Leaders, Student Service Managers, SR&R Case Managers)
Resolution and Complaint process developed.\	Summer 2016	• ELT approval of revisions, process (September 13, 2016 meeting and email feedback )