

## PROCEDURE FOR ACAD 06: Student Conduct (Non-Academic)

### 1.0 Purpose

This procedure sets out how the policies in SKG's Policy ACAD 06 Student Conduct (Non-Academic) shall be put into effect.

In particular, this procedure addresses the processes that SKG may use to resolve a complaint or concern about the conduct of a student that may not meet the standards for student conduct set out in SKG's Policy ACAD 06 Student Conduct (Non-Academic).

### 2.0 Scope

With the exceptions noted below, this procedure is applicable to all conduct by **students** that occurs:

- On property owned or leased by SKG;
- During an SKG-sanctioned activity that takes place off campus (for example, a field trip, or an event that is funded and/or approved by SKG);
- When a student is acting as a designated representative of SKG and/or of a student group;
- When using electronic communications under the name of SKG, or using technology managed by SKG;
- When using social networking sites (while SKG does not actively monitor student social networking, content that is brought to the attention of SKG that reasonably suggests breach of this policy or other SKG policies may be investigated and responded to by SKG as appropriate)

Notwithstanding this scope, SKG can provide advice and assistance to any members of the broader community experiencing difficulties with respect to student conduct, and members of the broader community may make a complaint under this procedure.

#### 2.1 Exceptions

This policy is **not** applicable to conduct addressed in SKG's policy ACAD 07 Sexual Harassment and Violence Involving Students.

This policy is **not** applicable to conduct addressed in SKG's policy ACAD 05 Academic Integrity and Conduct.

This policy is **not** applicable to alleged harassment or discrimination by a student where the complainant is an employee of SKG. This would be addressed by SKG's policy HR 05 Prevention of Harassment and Discrimination.

Where a student is also an employee of SKG and there is a complaint or concern about the student's conduct, the Director of Human Resources shall determine whether this policy or SKG's policies concerning employees shall apply.

### **3.0 Definitions**

"Academic Advisory Circle" means the group of individuals appointed by SKG's board to provide guidance and advice to the board concerning SKG's academic mission and its services and supports to students.

"Board" means SKG's board of governors.

"Complainant" means any member of SKG's community or broader community who makes a complaint about conduct of a student or students under this policy.

"Director of Academics" means the President of SKG, or an individual designated by the President, who is responsible to administer SKG's academic mission, regardless of the title of that position.

"Director of Human Resources" means the senior executive in SKG responsible for human resources policies and oversight of human resources operations, regardless of the title of that position.

"Elder Advisor" means an elder who is a member of an Anishinaabe community who has been requested by SKG to assist in a process of resolution of a complaint or concern under this procedure.

"Employee" means a person who performs work for wages in any capacity for SKG.

"Instructor" means an employee of SKG who is responsible for teaching, evaluation, academic supervision, and/or related activities for credit and non-credit courses, and/or responsible for evaluation of students in any other activity that is part of SKG's academic mission. It includes all such employees, whether faculty members or contract employees.

"Respondent" means a student against whom allegations of misconduct have been made. Use of this term does not imply pre-determination that the respondent is culpable or has engaged in misconduct.

"Student" means an individual registered in a course or program of study at SKG, whether full-time or part-time. Individuals who withdraw after allegedly breaching this policy or who are not officially enrolled for a particular term but who have a continuing relationship with SKG are considered students for the purposes of this policy, and the allegation against them may need to be resolved prior to being able to attend classes.

"SKG" means Shingwauk Kinoomaage Gamig.

"SKG's community" means SKG's students, instructors, and other employees; volunteers, visitors, and others present in SKG's facilities; and members of the wider community who interact with SKG's students and employees.

## **4.0 Principles**

All students involved in the processes established by this procedure are expected to act in good faith, cooperate with SKG employees and other students, and be truthful throughout the process.

Safety remains the highest priority. Any time there is a reasonable expectation of imminent danger, SKG shall address the matter with the procedures concerning extreme circumstances set out as part of this procedure.

To the greatest extent possible, the needs and safety of the complainant(s) will direct which process is followed.

Effort will be made to reduce the number of times a complainant is asked to retell the details of a traumatic event.

## **5.0 Initiation of a resolution process**

A complaint may be initiated by any member of the SKG community.

An individual who wishes to make a complaint against a student shall provide a written summary of the concerning incident(s) to the Director of Academics. This summary can also include witness statements.

The Director of Academics or designate will meet with the complainant to collect information and to determine whether or not to pursue a formal procedure, in consultation with the complainant.

SKG may also initiate a process under this procedure where:

- There is an anonymous complaint based on fear of reprisal, with the understanding that the respondent has the right to examine evidence against them; or
- There is significant risk of harm to other persons or SKG; or
- An SKG employee has witnessed an incident.

The respondent(s) will be notified in writing of the nature of the complaint, the evidence included in the complaint, and information about the proceedings that will follow. For any student who does not respond to email communications, notification will be sent to the last address on record with SKG. If the respondent does not engage in the process, it may proceed without them.

## **6.0 Processes for resolution of complaints or concerns**

The Director of Academics shall determine one of the following approaches to follow, to resolve a complaint or concern:

- Informal mediation,
- Resolution with the involvement of an Elder Advisor, or
- Formal investigation and adjudication.

The Director of Academics shall consult with the complainant before determining a process to follow. The Director of Academics shall provide information to the complainant about the different ways that the complaint may be addressed.

In making a decision about which process to follow, the Director of Academics shall consider:

- The seriousness and impact of the alleged conduct that is the subject of the complaint or concern,
- Any previous determinations of inappropriate conduct of the respondent(s), and
- The preferences of the complainant.

For clarity, it should be noted that the preferences of the complainant are not binding on the decision of the Director of Academics concerning which process to use.

### **7.0 Informal mediation**

The Director of Academics may decide to seek a resolution of the complaint or concern through informal mediation.

If this approach is followed, the Director of Academics or designate shall attempt to mediate a resolution that is acceptable to the complainant and respondent.

If a resolution is agreed to as a result of mediation, the Director of Academics or designate shall create a brief record that includes:

- A statement of complaint and description of the incident(s),
- An overview of the timeline from the precipitating incident to the conclusion of the process,
- A description of any outcomes, and
- An explanation of how confidentiality applies in this circumstance.

The record shall be shared with all individuals directly involved in the matters addressed in the complaint.

The record shall be maintained by the Director of Academics in a secure location separate from the respondent's academic record, and shall be destroyed three years after the respondent is no longer enrolled.

### **8.0 Resolution with the involvement of an Elder Advisor**

The Director of Academics may decide to seek a resolution of the complaint or concern with the involvement of an Elder Advisor.

In this section of the procedure, "resolution process" means the process described below involving an Elder Advisor.

## **8.1 Voluntary participation**

All members of the SKG community are encouraged to participate in the resolution process if the Director of Academics chooses to offer this process to help resolve the complaint or concern.

Neither a complainant nor a respondent is obligated to participate in the process of resolution involving an Elder Advisor mandated by this procedure if they choose not to participate.

The Director of Academics may shall establish a resolution process only where the following conditions have been met:

- Such a process would be appropriate given the nature or impact of the alleged conduct that is the subject of a complaint or concern;
- The terms of the resolution process clearly address whether and under what conditions the complainant, respondent, or SKG may cease the process and move to an investigation; and
- Both the complainant and the respondent have given free and informed consent to this approach.

SKG shall ensure that no discipline or other retaliation occurs solely as a result of an individual's refusal to participate in a resolution process with the involvement of an Elder Advisor.

## **8.2 Process of resolution**

The resolution process shall:

- Be led by an Elder Advisor who is a member of an Anishinaabe community and recognized in that community for their wisdom and good judgement,
- Make use of Anishinaabe values and norms in a respectful engagement of all members of the SKG community involved in the process,
- Come to resolution within a reasonable amount of time, and
- Have an outcome determined by the recommendations of the Elder Advisor.

The Director of Academics shall:

- Appoint an Elder Advisor to lead the resolution process,
- Provide information to the individuals involved in the resolution process about the appointment of the Elder Advisor, and
- Provide to the Elder Advisor a summary of issues, concerns, and perspectives shared in the initial meeting(s) with the complainant and respondent.

The Director of Academics or designate shall schedule a meeting or meetings of the Elder Advisor with the members of the SKG community involved in the resolution process.

All meetings shall be announced by email (with delivery receipt requested) at least seventy-two (72) hours in advance.

Invited participants shall respond at least twenty-four (24) hours prior to the meeting concerning whether they will be attending.

If the Director of Academics or designate determines that a participant is frustrating the process by requested rescheduling or confirming and then failing to attend meetings, the Director of Academics or designate may refuse to accept any further requests for rescheduling from that participant and may send a notification of meeting only.

The meeting may proceed without receiving responses from participants.

The Elder Advisor may meet individuals separately or together, or both. At least one meeting should involve all participants, where possible.

The Elder Advisor shall offer or ensure the offering of a light smudge and a pinch of tobacco at every meeting during the resolution process.

At meetings between the Elder Advisor and those involved in the conflict, the tobacco tie will be presented and opened during the discussion.

The Elder Advisor shall become aware of the facts and issues concerning the complaint or concern, and of the concerns and perspectives of those involved.

Members of the SKG community involved in the resolution process shall be permitted to present evidence supporting or refuting statements made in the process.

The Elder Advisor shall determine his or her recommendations within a reasonable amount of time. Absent extenuating circumstances, a resolution process should be completed in approximately four weeks from the initial meeting.

### **8.3 Referral to investigation and adjudication during or after a resolution process**

The Director of Academics may suspend the resolution process and initiate an investigation at any time during a resolution process, if warranted by new information concerning the nature or impact of the alleged conduct.

Either the complainant or the respondent may request that the complaint be addressed through investigation and adjudication if they are not satisfied with the outcome of the resolution process.

### **8.4 Outcomes of the resolution process**

Outcomes of a resolution process may include recommendations from the Elder Advisor, applying to a member or members of the SKG community involved in the matters at issue in the complaint or concern, for:

- No further actions or commitments since the matter has been resolved,
- No further actions or commitments because the concerns leading to the process were unjustified,

- An apology,
- A reprimand,
- Commitments to changes in conduct,
- An agreement for steps to be taken in restoration,
- Referral to an investigation under this procedure (as described below),
- Referral to an investigation or disciplinary process under another policy of SKG, or
- Another outcome deemed appropriate by the Elder Advisor.

### **8.5 Records relating to a resolution process**

A record of the resolution process and outcome shall be maintained by the Director of Academics in a secure location separate from the respondent's academic record, and shall be destroyed three years after the respondent is no longer enrolled.

### **9.0 Investigation and adjudication**

The Director of Academics may decide to seek a resolution of the complaint or concern through investigation and adjudication.

Where the Director of Academics determines that an investigation and adjudication is required, the Director of Academics shall ensure that the following process is followed and other requirements of this section are met.

The Director of Academics shall designate an adjudicator. The adjudicator may be:

- The Director of Academics,
- An employee of SKG designated by the Director of Academics, or
- An independent and qualified third party.

#### **9.1 Process of investigation and adjudication**

The adjudicator will first interview the complainant(s) to clarify any information provided in the written documentation.

- An advisor for the complainant may be present and contribute to the discussion, but it is expected that the student will speak on their own behalf.

The adjudicator will then have an initial meeting with the respondent(s).

- The respondent will be made aware of the nature of the complaint ahead of time and will have the opportunity to review all written evidence.
- During this initial meeting, the investigation and adjudication process will be reviewed with the respondent.

- The respondent will have the opportunity to address all relevant aspects of the complaint. This may include clarifying the facts, offering additional evidence, and describing additional contextual factors. The respondent has the right to address these either orally or in writing.
- An advisor for the respondent may be present and contribute to the discussion, but it is expected that the student will speak on their own behalf.
- If the respondent does not attend the initial meeting, after having been given a reasonable opportunity to do so, the adjudicator may proceed to make decisions on the case in the absence of the student's input.

The adjudicator may also interview witnesses provided by either the complainant, or the respondent following the meeting with them. As well, if there are additional individuals who have been affected by an incident, they can be given the opportunity to describe how they have been affected.

- The respondent has the right to address all relevant aspects of witness statements.

Follow-up with the complainant/witnesses will not normally be necessary, except in instances where credibility is an issue or when new facts arise; this will be determined by the adjudicator, who may follow up with the complainant and/or any witnesses to clarify their statements.

Following the investigation, the adjudicator will decide the case, based on the **balance of probabilities**. At this stage there are two possible courses of action:

- If the respondent is found to be not responsible, the case will be closed.
- If the respondent is found to be responsible the adjudicator will decide an outcome; see the sub-section below with the heading "Outcomes of adjudication".

The decision of the adjudicator will be communicated in writing to both the respondent and complainant. This will include:

- A summary of the incident(s) in question and a finding with regards to responsibility,
- A description of outcomes (if any) that are to be imposed,
- A time frame and process for any applicable follow-up,
- An explanation of the appeals process,
- An explanation of how confidentiality applies to the case.

If a common decision letter would disclose personal information of either party, the adjudicator will send separate, confidential versions of the letter to each party.

## 9.2 Outcomes

In determining the outcome of an adjudication for a student who has been found to have not met an acceptable standard of conduct as set out in SKG's policy, the adjudicator shall consider:



- The severity of the incident or level of impact on others, including the needs of those who have been impacted,
- Any record of prior misconduct by the respondent,
- Whether or not the respondent accepts responsibility for the incident,
- The respondent's willingness and ability to modify their behaviour, and
- Ensuring the safety of all parties.

More than one outcome may be applied as a result of a single incident.

Examples of outcomes include:

1. A warning:
  - A notice in writing to the respondent that the behaviour in question violates SKG's policy and must cease.
2. Educational initiatives:
  - Activities that help the respondent to demonstrate they have achieved meaningful learning on issues related to the precipitating incident(s). Examples include a reflective essay and/or research on a specified topic, and/or completion of a training program.
  - Acceptable initiatives require active participation by the learner and include a way of verifying what has been learned.
3. Formal Apology:
  - A written letter of apology, or an oral apology where the respondent and the complainant agree to meet.
  - Effective apologies include the following features:
    - Accepting responsibility for one's own conduct,
    - A genuine acknowledgement of the complainant's perspective and any harm that may have been caused,
    - Avoiding accusations or blame directed towards others,
    - Honesty about the facts and emotional significance of what has transpired, and
    - What steps will be taken to ensure the same situation does not repeat itself.
4. Behaviour Contract, where the respondent agrees in writing to any of the following:
  - Steps to ensure the safety of self and others,

- Limiting contact with the complainant(s),
  - Staying away from specific areas of campus or activities where further disruption could be likely,
  - Avoiding the use of alcohol or illegal drugs,
  - Undertaking educational initiatives related to the precipitating incident,
  - Voluntarily withdrawing from activities that may have precipitated the behaviour,
  - Making use of professional support services such as counselling to gain better insight into and control over their behaviour,
  - Avoiding any additional acts of misconduct,
  - A specific period for undertaking the tasks outlined in the contract and for when/how the contract will end, and/or
  - Consequences for non-compliance.
5. Service to the SKG community:
- A project, activity or on-going commitment where the student volunteers their time to improve the well-being of other students or members of the community more generally.
6. Loss of privileges:
- Denial of specific privileges for a designated period of time.
  - Examples of restrictions include accessing specified facilities, participating in certain events, or making use of specified online resources.
7. Restitution:
- Compensation for loss, damage or injury. This may take the form of appropriate service or monetary/material replacement.
8. A written reprimand for misconduct, and a review period.
- A review period is for a designated length of time and may be applied in conjunction with additional outcomes.
  - If the respondent is found to have engaged in further act(s) of misconduct during the review period, additional outcomes (typically more severe) may be applied.
9. Suspension:
- Separation of the respondent from the campus for a specific period of time after which the respondent may be eligible to return. Conditions for readmission will be specified.

- The term of the suspension will be dependent on the severity of the misconduct.

#### 10. Expulsion:

- Permanent removal of the student from SKG.

Normally, when a student is suspended or expelled, a notation will be added to their academic transcript indicating this outcome and that it is for non-academic reasons. The student may petition to have this removed once they are readmitted, or five years after the notation is placed.

The respondent is responsible for ensuring outcomes are completed by a set time. When a respondent does not abide by the outcomes imposed, including violating a behaviour contract, the adjudicator may reconsider outcomes, impose new or additional outcomes, or refer the matter to the Director of Academics.

### **9.3 Records relating to an investigation and adjudication**

A record of the investigation, adjudication and outcome shall be maintained by the Director of Academics in a secure location separate from the respondent's academic record.

A respondent or complainant may request copies of all relevant reports or complaints. The request shall be made in writing to the Director of Academics. Documentation will be provided to the requester in accordance with SKG's policy and applicable legislation on privacy.

The Director of Academics shall maintain a register of all decisions for the following time periods:

- When a respondent is found to not be responsible, they may request that supporting documentation be kept on file for only one year after a decision is rendered.
- Otherwise, documentation will be kept on file for seven years after a decision is rendered or three years after the respondent is no longer enrolled, whichever is later.

After the retention period the file will be destroyed with the exception of the decision letter and/or case record, which will be kept indefinitely.

All documents pertaining to an adjudication will be kept confidential except to the extent required or permitted by SKG's policies and procedures or otherwise required by law.

Copies of all documentation will be readily accessible to any decision-makers involved with the adjudication process (including procedures for extreme circumstances) or the appeals process.

### **9.4 Appeal**

Either the respondent or the complainant has the right to appeal the decision of the adjudicator.

An appeal is allowed only where it is alleged that:

- A significant error occurred where the processes set out in this procedure were not followed correctly;
- There is clear evidence of a significant conflict of interest on the part of a decision-maker;

- The outcome is disproportionate with the precipitating incident(s); or
- Significant new evidence is available that was not available at the time of the decision, which has the potential to change the outcome of the case.

The appeal will follow the processes set out in SKG's policy ACAD 10 Student Appeals.

The appeal committee may make a preliminary determination of whether the appeal is allowable on the grounds set out above.

If the appeal is on the basis of a disproportionate outcome, then the appeal committee needs only to consider the impact of the incident and mitigating or exacerbating factors.

Results of an appeal may be:

- Upholding the original decision;
- Modifying the original decision by either increasing or decreasing the outcomes;
- Overturning the original decision with no further consequences; or
- If the appeal is on the basis of a significant error, new information, or conflict of interest, a direction that the entire case must be considered again by a new adjudicator.

All decisions of the appeals process are considered final.

### **10.0 Extreme circumstances**

SKG may impose temporary restrictions on a respondent pending the outcome of any process when doing so helps to ensure the safety of those involved.

The Director of Academics or designate and a respondent may negotiate a voluntary withdrawal while the situation is being resolved.

If the reported conduct is of violent acts and/or behaviours that are deemed to be a significant threat to an individual or to the community, the Director of Academics may impose an interim suspension of the respondent pending the outcome of an investigation and adjudication.

- The Director of Academics shall ensure that a safety assessment is completed before imposing an interim suspension.
- Interim suspensions shall only be imposed when there is a grave concern for safety, and where the safety assessment shows that the student's behaviour presents a significant risk of harm to themselves or others, and no confidence in their ability to amend this behaviour.
- Other safety measures (for example, safety plans, no contact order, limits on social media, and so forth) may be included during the interim suspension period.

At the time of negotiating a voluntary withdrawal or imposing an interim suspension, the Director of Academics shall:

- Establish criteria and procedures for readmission.

- Place a notation on the student’s academic transcript indicating that they were required to withdraw for non-academic reasons. Students may ask at a later date to have this notation removed.

### **11.0 Related Policies, Procedures & Documents**

ACAD 06 Student Conduct (Non-Academic)

ACAD 07 Sexual Harassment and Violence Involving Students and its associated procedure

ACAD 10 Student Appeals

SKG’s policies and procedures may be found on its website.

### **12.0 Responsible Officer**

Director of Academics

### **13.0 Version history**

Board’s approval pending recommendation of Academic Advisory Circle: December 2023

Reviewed by Academic Advisory Circle:     ADD DATE

Approved by:                     ADD

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SKG gratefully acknowledges that parts of this procedure are patterned on those of Trent University and OCADU.