

Disciplinary Code

the Board may, by their warrant in Form B, cause such witness to be brought before the Committee.

- (d) Where an application under subsection (c) is made on behalf of the Committee, the Chairperson thereof may certify to the members of the Board the facts relied on to establish that the presence of the person summoned is material and such certificate may be accepted by the Board as proof of such facts.
9. Where any person without reasonable excuse,
- on being duly summoned under section 8 as a witness at a hearing makes default in attending at the hearing; or
 - being at attendance as a witness at a hearing, refuses to produce any document or thing in his/her power or control properly required by the Committee to be produced by him/her or to answer any question to which the Committee may reasonably require an answer;
- the Committee may take action as outlined in Section E-9 of the Code. In such situations repeated refusals to attend may be treated as separate offences.
10. A witness shall be informed by the Committee of his/her right to object to answer any question under Section 5 of the Canada Evidence Act.
11. (a) Subject to subsections (b) and (c), the Committee may admit as evidence at a hearing:
- any oral testimony; and
 - any document or other thing, relevant to the proceedings and may act on such evidence.
- (b) No evidence is admissible at a hearing,
- that would be inadmissible in a court by reason or any privilege under the law of evidence; or
 - that is inadmissible by the Code under which the proceedings arise or any other code or statute.
- (c) Where the Committee is satisfied as to their authenticity, a copy of a document or other thing may be admitted as evidence at a hearing.
- (d) Where a document has been filed in evidence at a hearing, the Committee may, or the person producing it or entitled to it, may, with the leave of the Committee, cause the document to be photocopied and the Committee may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or entitled to it a photocopy of the document filed certified by a member of the Committee.
- (e) A document purporting to be a copy of a document filed in evidence at a hearing, certified to be a true copy thereof by a member of the Committee, is admissible in evidence in proceedings in which the document is admissible as evidence of the document.
12. The Committee shall, in making its decision in any proceedings,
- take notice of facts that may be judicially noticed; and
 - take notice of any generally recognized scientific or technical facts, information, or opinions within its scientific or specialized knowledge.
13. The Committee shall give its final decision and order, if any, in writing and shall render a reasoned judgement in writing.
14. (a) A certified copy of a final decision and order, if any, of the Committee in any proceedings may be filed in the care of the Board of Deans by the Committee.
- (b) The Committee is not bound by an order or decision and may rescind or vary any previous order or decision made by it, and when filed with the Board of Deans that shall stand as the order or decision of the Committee.
15. The Committee shall compile a record of any proceedings in which a hearing has been held which shall include:
- any application, complaint, reference or other document by which the proceedings were commenced;
 - the notice of any hearing;
 - any intermediate orders made by the Committee;
 - the transcript, if any, of the oral evidence given at the hearing; and
 - the decision of the Committee and the reasons therefor, where reasons have been given.
16. A hearing may be adjourned from time to time by the Committee of its own motion or where it is shown to the satisfaction of the Committee that the adjournment is required to permit a proper hearing to be held.
17. (a) The Committee may make such orders or give such directions in proceedings before it as it considers proper to prevent abuse of its processes.
- (b) The Committee may exclude anyone appearing as an agent on behalf of a party or as an advisor to witness if it finds that such person is not competent properly to represent or to advise the party or witness or does not understand and comply at the hearing with the duties and responsibilities of an advocate or advisor.
18. The Committee shall send by first class mail addressed to the parties to any proceedings who participated in the hearing, at their address last known to the Committee, a copy of its final decision and order, if any, in the proceedings, together with the reasons therefor and each party shall be deemed to have received a copy of the decision or order on the fifth day after the day of mailing unless the party did not, acting in good faith, through absence, accident, illness or other cause beyond his/her control, receive a copy of the decision or order until a later date.

G. LAYING OF CHARGES

- Any person may file a complaint to the President of the U.N.B. Student Union, the Administrative Secretary of the U.N.B. Student Union, or the Dean of Students. This complaint shall be filed according to Form A.
- After receiving a report according to Form A and undertaking any necessary investigation into an alleged breach of the section of the Code, the Commissioner shall convene a meeting with the Committee Chairperson and the Chief of Campus Police, to determine whether or not charges should be laid. Where the report involves University Security, the Chief of Security shall be included in such meeting.
- Should it be decided at the meeting that a hearing is warranted, the Commissioner shall send to the members of the Committee, a copy of Form A and the appropriate charge.
- No proceedings for an offence under this Code shall be commenced more than ninety (90) teaching days after the day when the alleged offence is discovered, but in no case should proceedings be commenced more than two years after the date the alleged offence was actually committed. Within thirty (30) days of having received the complaint, the Committee Chairperson (or the Commissioner if neither the Committee Chairperson or Vice-Chairperson are available) having given due weight to,
 - the seriousness of the offence;
 - the past disciplinary record of the accused;
 - the recommendation of the Chief of Campus Police, the Chief of Security, and the Commissioner; shall decide whether or not the offence is such that it,
 - allows the filing of a plea of guilty prior to hearing and set judgement up to and including twenty dollars (\$20.00), or
 - requires a hearing.

Such determination is conclusive and not subject to appeal by the student. The Committee Chairperson shall notify the Commissioner of his/her election within two (2) days of his/her receipt of the charge.
- The Committee Chairperson who reviewed the charge under this section shall not vote except in the case of a tie.

H. CONVENING OF HEARINGS

- Should the Chairperson not allow a plea of guilty to be filed prior to hearing, pursuant to item G-4, the Commissioner shall allow seven (7) teaching days notice of hearing and issue and serve a summons, where necessary, by registered mail.
- The Commissioner shall issue and serve summons prior to the hearing to:
 - any Campus Police Officer or University Security Officer on duty at the time of the incident;
 - any complainant;
 - any person materially affected by the conduct of the accused;
 - any person with evidence material to the resolution of the case.

Such a summons to be deemed an order of the Committee, as outlined in the Code.
- An accused shall either represent himself/herself or be represented by counsel or agent. Any student who is charged with an offence under the Code shall be notified in writing of his right to be represented by counsel or agent at a hearing.
- An accused and/or his/her counsel or agent, shall be given a reasonable opportunity to examine the report as set forth in Form A, and examine previous decisions of the Committee in the office of the Commissioner at least five (5) clear teaching days before the case is heard.

I. CONDUCT OF HEARINGS

- Where the election has been made to proceed by way of a fine under section G-4 and the accused enters a plea of guilty on or before the day of the hearing, such a plea shall be entered on behalf of an accused and a fine up to and including twenty dollars (\$20.00) imposed.
- Subject to item I-1, the Committee Chairperson, or his/her designate shall,
 - ask each accused to plead guilty or not guilty;
 - in the absence of the accused, and only upon satisfactory proof that the accused had notice of hearing, direct a plea of not guilty to be entered on behalf of the defendant whereupon the hearing will go forward as if the defendant were present.
 - swear in witnesses where the accused pleads guilty, or if a not guilty plea is entered on his/her behalf;
 - grant the accused or his/her counsel an opportunity to cross-examine each and every witness immediately following their testimony;
 - ask the accused if he/she wishes to call witnesses in on his/her behalf after complainant or his/her counsel has called his/her witnesses;
 - grant the complainant the same right of cross-examination as the accused;
 - make all decisions regarding the admissibility of evidence taking into account its reliability and relevance;
 - maintain order throughout the hearing;
 - curtail or stop cross-examination if, in his/her opinion, it is unproductive or being used in an abusive manner;

(j) permit a short summation by the complainant and the accused granting the complainant the right of closing statement.

J. DISPOSAL OF CHARGES

- The Committee Chairperson shall,
 - render his/her decision and reasons, and where a verdict of guilty is returned, impose such penalty as is prescribed in the section under which the accused was found guilty. The guilty party or his/her agent shall then speak to sanction; or
 - dismiss any charge if an accused proves that he has been charged with a provincial or federal offence arising out of the same facts as the charge under which the accused is required to answer under the Code.

K. PENALTIES AND APPEALS

- Where a verdict of guilty is returned and a fine imposed, the guilty party has fourteen (14) calendar days, exclusive of the day of sentence to pay the fine or to file appeal.
 - Where any fine is not paid within the specified period, the Commissioner may ask the Committee Chairperson that the party be fined a reasonable amount in the circumstances for an offence under Section E-9 of the Code, and where a fine is imposed, the guilty student then has a further seven (7) days from the date of notification of the further fine to pay such fines.
 - Where the fines are not paid within the additional period of time, or a notice of appeal has not been filed, the Commissioner may send notice to the Board of Deans of the University of New Brunswick that this student be dealt with as prescribed by the Committee.
- The judgement of the Committee shall be communicated by the Commissioner to the defendant at the trial or within one (1) week of the hearing by registered mail, or by personal service, with information as to the method of appeal.
- An appeal shall be accepted for any decision of the Committee where the Chairperson was required to cast a vote.
- The guilty student or the Commissioner may make application to the Board of Deans of the University of New Brunswick for an appeal within fourteen (14) calendar days of notification of the Committee's judgement, unless the Committee's judgement,
 - imposed a fine equal to or less than twenty-five dollars (\$25.00); and
 - did not include compensatory payment for property damage.
- Any appeal from a decision of the Board of Deans shall be by way of application to the President of the University within fourteen (14) calendar days of the Board of Deans handing down its verdict. The President shall receive a summary of the facts as found by the Committee and the written decisions of the Committee and the Board of Deans.
- Where a party's case does not meet the criterion of section K-4, the party may make application through the Office of the Dean of Students to the Student Disciplinary Committee for an appeal within fourteen (14) calendar days of the Committee's judgement.
- All fines imposed by the Committee shall go to the University of New Brunswick Student Union.
- Records of the defendant's case conducted by the Committee shall be kept in the office of the Commissioner and shall not be disclosed to anyone without written approval of both the defendant and the Commissioner.

L. PUBLICATION OF PENALTIES

An effort to deter others from committing breaches of this Code, the Commissioner may cause to be published in a newspaper of campus-wide distribution, the offences and sanctions ordered by the Committee as soon as such publication is convenient.

THE UNIVERSITY OF NEW BRUNSWICK INTERNAL RESIDENCE DISCIPLINE

The following policy and procedures have been approved by the Student Discipline Supervisory Board, on the recommendation of the Joint Board/Senate Residence Committee, and are submitted to the Board of Governors for endorsement.

GENERAL

Deans of residence are responsible to the university for all matters concerning the admission, control, residence programming, and general behaviour of all students in residence. This includes supervising and coordinating the educational and administrative work of the Dons, their proctors and the Resident Fellows of the various houses within the system.

A. INTERNAL RESIDENCE DISCIPLINE

- In matters of internal residence discipline, the Residence Deans (Dean of Women and Dean of Men's Residences) are the University's officers responsible. Included in these responsibilities is the right to admit, expel and readmit students as appropriate management procedures.
- The Dons, in turn, are responsible to their respective Dean for student discipline in their particular residence. This involves personally carrying out appropriate disciplinary action within their house, including overseeing the actions of the house student discipline committee where such a committee exists.
- The decision either to transfer a student from one residence to another or to expel a student from the residence system will be made by the appropriate Dean on the recommendation of the Don (or Dons, if more than one house is involved).
- All matters of disciplinary action within the residences involving residence students will, in general, be carried out within that system, and normally in general accordance with the UNB Student Disciplinary Code.

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