



**THE STUDENT'S COMPANION**  
**TO THE CODE OF STUDENT CONDUCT**  
AUGUST 2016



# THE STUDENT'S COMPANION TO THE CODE OF STUDENT CONDUCT

UNIVERSITY OF TORONTO  
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## CONTENTS

Introduction .....	2
What is the Code of Student Conduct? .....	4
Why does the University need a Code of Student Conduct? .....	4
Why is the existence of a Code of Student Conduct important? .....	5
Why a student code and not a code that applies to all University members? .....	5
What are the offences under the Code? .....	6
What other University policies address behaviour of students, faculty and staff? .....	8
Why aren't the Criminal Code of Canada and the Ontario Human Rights Code always enough to deal with conduct issues? .....	8
If a student's behaviour is dealt with under the Criminal Code, and the student is also charged under the Code of Student Conduct, isn't that double jeopardy? .....	10
Who can bring about an action under the Code of Student Conduct? .....	10
Who is responsible for administering the Code? .....	11
What is informal resolution and how does it work? .....	12
What is the difference between Investigating Officers and Hearing Officers? Given that the Code allows for students to satisfy these roles, why isn't this approach taken more often? .....	13
How does a case proceed? .....	14
What are some examples of cases under the Code? .....	18
Other frequently asked questions .....	20
Glossary .....	23
Resources and useful contacts .....	23
Appendix A – A History of the Code of Student Conduct at the University of Toronto .....	24

Updates to  
*The Students's Companion to the  
Code of Student Conduct*

are available at:

**[uoft.me/codecompanion](http://uoft.me/codecompanion)**

The Student's Companion to the Code of Student Conduct  
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“With a deeply held commitment to freedom of expression, the University is a place where debate and controversy take place on a regular basis.”

## INTRODUCTION

In the fall of 2010, the Vice-Provost, Students, held over a dozen consultations with students, representatives of student organizations, and others in the community. It was apparent that while some were philosophically opposed to the existence of a *Code of Student Conduct*, others simply had misconceptions or were confused about its scope and content. Because the University regards the *Code* as an essential component of the way we safeguard the rights and identify the responsibilities of members of our community, this explanatory Companion has been prepared in response to frequently asked questions about the nature and working of the University of Toronto *Code of Student Conduct*. It is part of a range of tools to simplify and clarify *Code* usage. These will include improved training for those dealing with *Code* procedures and clear pathways to assistance for students.

In the normal course of day-to-day life on its campuses, the University of Toronto assumes no general responsibility for the moral and social behaviour of its students unrelated to academic integrity. There are cases, however, in which the University's interest, and in particular the campus community's interest, is unique and not adequately recognized by the criminal justice system. For such instances, the University has its own set of procedures called the *Code of Student Conduct*. (For an account of the origins and history of the *Code* please see Appendix A).

The University of Toronto considers its students adults, free to manage their own affairs and obligated to make legal and responsible decisions. Students are, of course, subject to both criminal and civil laws and breaches of those laws are often dealt with through the wider justice system. However, university campuses are also unique communities. They bring together disparate individuals from around the world into an intense learning and social

environment. With a deeply held commitment to freedom of expression, the University is a place where debate and controversy take place on a regular basis. Further, the University of Toronto is committed to providing a learning and working environment free of prohibited discrimination.

There are situations in which the unique nature of a university community is not adequately recognized by provincial or federal justice systems. One example is plagiarism. The University has created policies, such as the *Code of Behaviour on Academic Matters* to protect the academic integrity of the institution and has established a set of internal procedures to deal with offences. But there are not only academic behaviours that require special attention. There are many other examples of situations in which the University must act to protect the safety of University community members, the rights and freedoms of the members of this community, their property, or the University's property. Cases that fall into the category of “non-academic offences” are dealt with through the *Code of Student Conduct*.

Under the *University of Toronto Act*, which is the Provincial legislation that constitutes the University and grants it the right to award degrees, the University has the responsibility and the duty to establish policies regarding the conduct of members of the U of T community. The University has, therefore, developed several policies, approved by the Governing Council, which set out the rights, and define the responsibilities, of community members. These policies function similarly to the by-laws that cities and towns enact, to ensure that the rights of all community members are recognized, respected and preserved.

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## 1 WHAT IS THE CODE OF STUDENT CONDUCT?<sup>1</sup>

The *Code of Student Conduct*, together with other specific codes of conduct such as residence, athletics facilities, and library use codes, sets out expectations for student behaviour and prescribes processes for dealing with behaviour that is prohibited under the Code. The *Code* is not a substitute for the *Criminal Code of Canada* or any other applicable law or regulation. It is a tool that may be employed when the rights of community members are infringed upon by the behaviours of others.

The *Code* describes a set of behaviours which, broadly put, can be considered offences if they interfere with or obstruct the opportunity of others to engage fully and safely in University activities. The *Code* sets out the procedures to be followed in the event of an allegation of a breach, including fairness requirements to protect the rights of the accused and to produce a fair result in the event of a hearing, and the sanctions which may be imposed after consideration of a case.

## 2 WHY DOES THE UNIVERSITY NEED A CODE OF STUDENT CONDUCT?

Many Canadian universities have codes of student conduct. These codes, which are designed specifically to address conduct in the context of campus communities, are established in order to reflect the unique nature of universities, their culture, and the tenets and mission of each institution.

The U of T's *Code* is intended to support and sustain the values of the University of Toronto community, including the ability of students, faculty and staff to learn, teach, research and support students without being improperly obstructed; to express their views in peaceful ways—even when those views are challenging, or even repugnant, to others—and, as a means for University community members to seek resolution of concerns about the conduct of other students. The *Code of Student Conduct* protects and enshrines certain rights and responsibilities of students as members of the University of Toronto community.

## 3 WHY IS THE EXISTENCE OF A CODE OF STUDENT CONDUCT IMPORTANT?

The *Code of Student Conduct* helps to identify the rights and responsibilities of a student within the University of Toronto context. The University is both a microcosm of a larger environment and itself a unique environment with new, and in some cases, different social norms than a student may have encountered previously.

In order that newcomers to the environment may regulate their behaviour accordingly it is often necessary to provide a set of rules and community standards. At the University of Toronto, the *Code* is one set of rules governing student conduct. As a legal document it is declaratory rather than explanatory and it may sometimes be difficult to understand how the *Code* applies in practice to particular situations. Therefore, a number of materials, such as this document, are being developed to ease the navigation and understanding of the Code.

It is critical to note that the *Code of Student Conduct* not only outlines cautions for students but also identifies various student rights (for example, “the right of another member or members to carry on their legitimate activities, to speak or to associate with others”). The *Code* is also in place to protect and help students with issues concerning other students. This important function of the *Code* is often overlooked. It is a tool designed for situations in which the rights of community members are infringed upon by the behaviour of another or others. It cannot be activated lightly and the procedures outlined in the *Code* are designed to protect and ensure freedom of speech and resolutions in keeping with the values of the University community.

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## 4 WHY A STUDENT CODE AND NOT A CODE THAT APPLIES TO ALL UNIVERSITY MEMBERS?

The rights, responsibilities and behaviours of faculty and staff members of the University community are addressed in various policies, contracts, collective agreements and other terms and conditions which apply to them as employees of the institution. For this reason, faculty and staff conduct is not addressed in the *Code of Student Conduct*.

<sup>1</sup> The materials contained in this document are provided for information and general guidance only. You may need individual advice based on the particular circumstances of your case. These materials do not amend or replace the *Code of Conduct* which governs matters of non-academic misconduct at the University of Toronto. The interpretation of the Code and its proper application in any particular matter is within the jurisdiction of the Hearing Officer.



## 5 WHAT ARE THE OFFENCES UNDER THE CODE?

The *Code of Student Conduct* describes behaviour that is not acceptable on the premises of the University of Toronto or during any University activity, even if that activity occurs off-campus. It covers all students, undergraduate and graduate.

In general, it prohibits activity which endangers or threatens to endanger others, limits their freedoms or impedes their rights, or damages the property of others or the property of the University itself.

Commonly understood offences include:

- Sexual assault, or threats of sexual assault
- Assault, threats of assault or bodily harm
- Creating a condition which unnecessarily endangers the health or safety of other persons
- Damage or threats of damage to personal property
- Unauthorized entry or presence
- Unauthorized use of University facilities, equipment or services
- Bringing a false *Code* charge against another student
- Aiding in the commission of an offence
- Refusal to comply with sanctions
- Unauthorized possession or use of firearms or ammunition

There are also a number of more complex offences described in the *Code* as summarized below.

**The right to free speech is central to the University's mission; however, freedom of speech is not unlimited. One such limit is the offence of discriminatory harassment, a concept which is adapted in the Code from the Ontario Human Rights Code.**

### Stalking

Defined in detail in the *Code*, stalking is generally understood to be persistent behaviour which causes another person to fear for his or her safety. It can occur on or away from the premises of the University and can include following a person, repeatedly communicating with a person, watching a person's home or workplace, or threatening a person, or a person's family, friends or colleagues.

<sup>2</sup> Gender expression and gender identity became explicitly listed prohibited grounds of discrimination in the OHRC in June of 2012. Prior to the amendment, the University had interpreted its policies as prohibiting discrimination based on gender identity and gender expression as included in the prohibitions against discrimination based on sex and sexual orientation. The University is currently in the process of formally amending its policies to include explicit references to gender identity and gender expression consistent with the recent OHRC amendments.

### Discriminatory Harassment

The right to free speech is central to the University's mission; however, freedom of speech is not unlimited. One such limit is the offence of discriminatory harassment, a concept which is adapted in the *Code* from the Ontario Human Rights Code. Under the *Code of Student Conduct* it is an offence:

- to engage in a course of vexatious conduct that is directed at one or more specific individuals;
- that is based on race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability receipt of public assistance or record of offences of that individual or those individuals; and,
- that is known to be unwelcome, that exceeds the bounds of freedom of expression or academic freedom as these are understood in University policies and accepted practices.

It is important to note that this provision under the *Code* deals only with harassment which is based on prohibited grounds of discrimination. The terms used in this section are to be understood as they are defined or used in the Ontario Human Rights Code.

### Obstruction of Activities

The *Code* does not prohibit dissent or peaceful protest. The University's Statement on Freedom of Speech protects the right for campus community members "to examine, question, investigate, speculate, and comment on any issue without reference to prescribed doctrine, as well as the right to criticize the University and society at large."

The *Code* does, however, include an offence of "disruption" where such activities are violent, destructive or an infringement on the rights and freedoms of others. Disruption is defined as a disturbance that obstructs an activity organized by the University or by any of its divisions, or the right of other members of the University to carry on their legitimate activities, to speak or to associate with others.

For example, demonstrating outside a class or meeting that does not substantially interfere with the communication inside, or impede access to the class or meeting, may be an acceptable expression of dissent. Behaviour that obstructs the conduct of a meeting or class or the forcible blocking of access to an activity likely constitutes disruption.

It prohibits activity which endangers or threatens to endanger others, limits their freedoms or impedes their rights, or damages the property of others or the property of the University itself.

Disruption is defined as a disturbance that obstructs an activity organized by the University or by any of its divisions, or the right of other members of the University to carry on their legitimate activities, to speak or to associate with others.



## 6 WHAT OTHER UNIVERSITY POLICIES ADDRESS BEHAVIOUR OF STUDENTS, FACULTY & STAFF?

The University has developed a number of policies approved by the Governing Council that set out rights and define responsibilities, of community members. In some cases, such as The Statement on Freedom of Speech and the Policy on the Disruption of Meetings, these policies apply to all student, faculty and staff members of the University community. The *Code of Behaviour on Academic Matters* applies to all students and faculty.

In other instances, policies and agreements apply to a specific group of community members, such as in the case of the Memorandum of Agreement between the University and the University of Toronto Faculty Association or the Standards of Professional Practice Behaviour for All Health Professional Students.

Some policies also extend to all members of the University community (e.g., the Statement on Freedom of Speech; the Policy on the Disruption of Meetings; the Statement on Human Rights; Sexual Harassment: Policies and Procedures; the Policy with Respect to Workplace Harassment; and the Policy with Respect to Workplace Violence.

To read these policies and to learn more about the responsibilities associated with these, please visit the Policies section of the Governing Council website ([www.governingcouncil.utoronto.ca](http://www.governingcouncil.utoronto.ca)).

## 7 WHY AREN'T THE CRIMINAL CODE OF CANADA AND THE ONTARIO HUMAN RIGHTS CODE ALWAYS ENOUGH TO DEAL WITH CONDUCT ISSUES?

While some allegations are so serious they must be referred to the police, others might be handled through an internal resolution. By using its own internal mechanisms, the University is able to apply internal community values and, in appropriate circumstances, to draw upon non-traditional or restorative means of resolving a complaint. This is a point worth emphasizing. These means of resolution are designed to allow for a learning opportunity that would not necessarily take place within the *Criminal Code of Canada* or the *Ontario Human Rights Code*.

For example, if a student steals a textbook from a classmate, this is theft, an offence under the *Criminal Code*. A student could pursue this action under that legislation. It is his or her right to do so. Such a complaint would involve the police, the courts, lawyers and could result in a criminal record for the offending student.

Perhaps this is the appropriate course of action. But consider that the student found guilty now has a criminal record which appears on a police records check. This charge and conviction may have life-long repercussions, affecting future opportunities such as applications for further study in higher education, employment, and certification by accreditation bodies. The process may also be long and cumbersome, and may not provide the type of relief sought by the victim of the crime.

Consider another approach, where the complaint is submitted pursuant to the *Code of Student Conduct* instead of pursuing criminal charges. Under the Code, a trained Investigating Officer (e.g., a faculty member, a registrar, a dean of students, another staff member, or an external expert) could investigate this case and determine that the student did indeed take the book and that he or she admits and regrets the action. The *Code* provides that “Whenever possible and appropriate, informal resolution and mediation shall be used to resolve issues of individual behaviour before resort is made to formal disciplinary procedures.”

In this case, the student might be required to return the book, apologize in writing to the student from whom the book was taken, and perform some community work or write an essay for the dean of students on the impact this experience has had on both students. This outcome would likely involve the student from whom the book was taken, who might feel fortunate to have been part of a resolution before a formal University proceeding occurred. The student who took the book understands that he or she was very fortunate that criminal proceedings were not undertaken, but that they were an option available to the other student.

See question 12 below for more information about the informal resolution of cases.

In some circumstances, the *Code of Student Conduct* is able to react more quickly than the criminal justice system. For example, in a situation where a student is charged with assaulting another student, once that student is finished being processed through the police department, he or she is often released back into the community to await trial. That means he or she is back on the University campus, perhaps living in residence and attending class with the person he or she has allegedly assaulted. The justice system will determine the outcome of the legal charges. In the meantime, however, the student who was assaulted is left waiting and possibly fearful. The student who has been charged, but may deny the whole incident, is subjected to the stress and complexity of the criminal system until a result can be obtained. Under the *Code of Student Conduct*, interim measures could be taken where warranted to address safety concerns regarding living arrangements, classroom schedules, or access to facilities. Under the *Code* the University may in some circumstances be able to make arrangements that address safety concerns while at the same time maintaining the students’ ability to attend classes so that neither student is unduly penalized. Under the Code, in very serious circumstances, the University could take more severe measures to protect the safety of its members.

Whenever possible and appropriate, informal resolution and mediation shall be used to resolve issues of individual behaviour before resort is made to formal disciplinary procedures.

By using its own internal mechanisms, the University is able to apply internal community values and, in appropriate circumstances, to draw upon non-traditional or restorative means of resolving a complaint.

Under the Code of Student Conduct, interim measures could be taken where warranted to address safety concerns regarding living arrangements, classroom schedules, or access to facilities.

## 8 IF A STUDENT'S BEHAVIOUR IS DEALT WITH UNDER THE CRIMINAL CODE, AND THE STUDENT IS ALSO CHARGED UNDER THE CODE OF STUDENT CONDUCT, ISN'T THAT DOUBLE JEOPARDY?

Double jeopardy is a term applied to a situation whereby a person is charged and tried more than once for the same offence under the same laws. It is not double jeopardy when a person who is tried for a criminal offence is also subject to civil proceedings for the same act.

According to the Code, conduct that constitutes a breach of the *Criminal Code* or another law, or that might result in a civil claim such as a lawsuit, should normally be dealt with by the appropriate criminal or civil court. There may be cases, however, when the University's interests, or the interests of campus community members, are not adequately addressed by the courts.

If a student concurrently faces charges under the *Code of Student Conduct* and the Criminal Code, the University also has a means of addressing the issue, as needed, with that student (and possibly ensure that the student is prevented from interacting with others in our community), independent of the outcome of the criminal charge. Our standard is, to the extent reasonably possible, to protect the safety of members of our community.

It is also possible, in appropriate circumstances, for proceedings under the *Code* to wait pending the outcome of a criminal investigation and trial. Should the criminal matter be concluded in a manner where there is no further community interest to be addressed, the *Code* complaint may not proceed.

## 9 WHO CAN BRING ABOUT AN ACTION UNDER THE CODE OF STUDENT CONDUCT?

Any member of the University community can bring forward a complaint under the *Code of Student Conduct*; however, it is primarily a mechanism for resolving student conflicts.

*Code of Student Conduct* complaints cannot be made anonymously and would need to begin at a student's registrar's office or the head of their division (i.e., College Principal, Dean of a Faculty, or the Vice-Presidents and Principals of UTM and UTSC). A registrar's office can give advice to students interested in bringing forward a complaint as well as those who have a complaint lodged against them. The staff members in these offices are not there to judge the merits of a complaint but rather to provide support and guidance. In some cases, this will result in a referral to another office for assistance.

Some investigations under the *Code* arise as a result of incidents which are investigated by campus police; others emerge from reports from other community members about the conduct of a student.

## 10 WHO IS RESPONSIBLE FOR ADMINISTERING THE CODE?

The disciplinary procedures under the *Code of Student Conduct* are largely decentralized. That is, each division of the University takes responsibility for administering the procedures set out in the *Code* and for responding to complaints about students registered in that division.

Your division is your Faculty (including the School of Graduate Studies for graduate students) or, if you are an undergraduate in the Faculty of Arts and Science, your College. The roles and responsibilities of people involved in a case under the *Code* are as follows:

**Division Head.** The Dean of the Faculty or the Principal of the College in which a student is registered is responsible for administering the Code. The Division Head makes the decision to proceed to each stage of the process and ensures that the procedures of the *Code* are followed.

**Investigating Officer.** Once initiated by the Division Head, the Investigating Officer investigates allegations that an offence may have been committed under the Code. He or she also presents the results of that investigation to the Division Head and at a hearing, if there is one. Each division has an Investigating Officer appointed by the Division Head for up to three years. There is also a central pool of Investigating Officers. Division Heads may refer cases to one of the central Investigating Officers, rather than the divisional Officer.

**Hearing Officer.** The Hearing Officer's role is to conduct hearings and make decisions on complaints that have been referred to a hearing under the *Code of Student Conduct* against student members of the division. Each division also has a Hearing Officer appointed by the division's council (decision-making body) for a term of up to three years. As of 2002-03, there is also a central pool of Hearing Officers. Division Heads may refer cases to one of the central Officers, rather than the divisional Officer. Sometimes the Division Head may instead arrange for a legally qualified person as Hearing Officer for a particular case, depending on its nature.

**Complainant.** Some cases will involve a complainant—the person who informs the Division Head of an alleged offence.

**Respondent.** A respondent is a person about whom a complaint is made. Students, faculty and staff alike have expressed concerns about the potential for inconsistent resolutions regarding the Code. As a result, the University is undertaking a process to develop better training resources and guidance for Division Heads (or their designates), Investigating Officers and Hearing Officers in dealing with *Code* issues.

Improved training and an informational website will allow those dealing with *Code* complaints to have a better understanding of potential resolutions, restorative outcomes and learning opportunities.

In addition, the University provides access to a pool of centrally-trained Hearing Officers to provide assistance and guidance to faculties and colleges. A guiding principle is that complaints under the *Code of Student Conduct* should be dealt with fairly.

Code of Student Conduct complaints cannot be made anonymously and would need to begin at a student's registrar's office or the head of their division.

Each division of the University takes responsibility for administering the procedures set out in the Code and for responding to complaints about students registered in that division.

## 11 WHAT IS INFORMAL RESOLUTION AND HOW DOES IT WORK?

Informal resolution is an approach that allows for solutions outside of the *Code of Student Conduct*'s formal hearing process. Often informal resolution is led by the Division Head (i.e., Principal or Dean) searching for an appropriate means to resolve the student conflict without a formal *Code* investigation or hearing. For many types of cases, informal resolution may be a preferable outcome.

This approach has benefits as well as challenges. An informal resolution may be expeditious. It may allow for a restorative justice approach such that student learning and the impact of one's actions become the primary focus. Informal resolution should reflect the interests of both students (complainant and respondent) as well as the interests of the division and the University. The decentralized informal resolution approach is a challenge to monitoring issues and to promoting appropriate consistency of outcomes across the University.

The Office of the Vice-Provost, Students will be developing improved training materials on the *Code* which will include methods of informal dispute resolution. The Office will also consider the development of an accessible archive of past *Code* decisions. Training for divisional leaders and their designates in methods of informal dispute resolution, as well as the creation of an archive will enhance consistency across divisions in dealing with *Code* cases. Take for example a case in which a number of students from two or more divisions are accused of vandalism at Hart House Farm. An informal resolution could provide assurance that all students involved would be treated equally and result in a resolution that helps them to understand that their actions have interfered with others' use of the Farm while repairs are being made. In an informal resolution that draws on the idea of restorative justice, the students from both divisions might be expected to clean up the Hart House Farm facilities for some subsequent events and write letters of apology. Division Heads are advised to consult with each other in cases involving students from more than one division, but preparatory to that consultation, a data base of responses would allow the Deans in both divisions to review possible solutions and apply them to their students. The possible informal and formal outcomes of a complaint under the *Code* might include, but are not limited to, the following:

- Individual and group dialogue, debate and discussion (which may be facilitated by a third party) [Informal outcome];
- Mediation [Informal outcome];
- Restorative Justice [Informal outcome];
- Adjudication under residence or facility procedures [Formal outcome]; and
- Adjudication under the *Code of Student Conduct* [Formal outcome?].

## 12 WHAT IS THE DIFFERENCE BETWEEN INVESTIGATING OFFICERS AND HEARING OFFICERS? GIVEN THAT THE CODE ALLOWS FOR STUDENTS TO SATISFY THESE ROLES, WHY ISN'T THIS APPROACH TAKEN MORE OFTEN?

Investigating and Hearing Officers satisfy two different functions in a *Code of Student Conduct* complaint. An Investigating Officer is appointed for three years at the request of the divisional leader to undertake fact-finding activities. This person is requested to find out information regarding the complaint and to report the investigation to the head of the division who determines whether the complaint should proceed to a hearing.

The Hearing Officer conducts the hearings. He or she listens to the case presented by the Investigating Officer and to the evidence and submissions presented by the respondent and then determines whether the offence has occurred and imposes or recommends the sanctions. Hearing and Investigating Officers are trained in fact finding and hearing or weighing evidence. Throughout the consultation process undertaken in 2010, many divisional leaders indicated that this is a heavy duty for individuals to carry and suggested that additional training and a larger pool of Hearing Officers and Investigating Officers may be warranted. As a result of this feedback, additional identification processes and training seminars will be offered. Student Hearing and Investigating Officers are permitted under the *Code of Student Conduct*, but they are not often used. While some students might appreciate having a peer as either the Investigating Officer or the Hearing Officer, they do not always fully appreciate the implications of the appointment. Asking a student to judge between peers is challenging, especially when that person must then interact with the students involved in the future. It is equally challenging when students are being asked to weigh evidence on behalf of their fellow students. A student's life experience may or may not be sufficient to help him or her in making these determinations. It is critical for all parties that Hearing and Investigating Officers be sufficiently equipped to respond to these challenges.

Often informal resolution is led by the Division Head (i.e., Principal or Dean) searching for an appropriate means to resolve the student conflict without a formal *Code* investigation or hearing.



## 13 HOW DOES A CASE PROCEED?

The following flowchart illustrates the progression of a simple Code of *Student Conduct* case from receipt of complaint (or awareness of an incident) through to resolution.

Advice concerning steps one through five may be sought from the Office of the Vice-Provost, Students. The Appeals, Discipline & Faculty Grievances Office within the Office of the Governing Council can provide advice on the sixth step.

### Step 1. Complaint or Awareness of Incident(s) Comes to the Attention of the Division Head

The Division Head (Principal or Dean) becomes aware of an incident or receives a complaint in writing about a student in his or her Faculty or College. The complaint may come from a student, campus police, or any other person. The Division Head determines whether the conduct complained of appears to fall under the *Code of Student Conduct*; if so, the Division Head will make a decision as to whether to proceed with an investigation.

### Step 2. Information Gathering

The Division Head or his or her designate begins gathering information about the alleged incident(s) or conduct. If the identity of the individual(s) involved has not been provided, it is essential for this to be determined at this stage (since a complaint under the *Code* cannot proceed without a respondent being identified)

This step is not part of a formal investigation (Step 4). This is a preliminary stage in the process in order to help guide decision-making in how a case might proceed.

In order to proceed with an investigation about an alleged offence, the *Code* requires only that a head of a division should have reason to believe that a non-academic offence may have been committed. If the head of the division exercises his or her discretion to not initiate an investigation and a complainant disagrees with that decision, the complainant should first discuss the issue with the head of the division. The complainant should clearly articulate why there is disagreement with the decision and/or provide additional information to be considered. The head of the division will then reconsider the decision and may acknowledge that there is justification for changing the decision. The decision, however, remains under the authority of the head of the division. If a complainant believes an error has been made in exercising this discretion, he or she should contact the Office of the Vice-Provost, Students.

In order to proceed with an investigation about an alleged offence, the Code requires only that a head of a division should have reason to believe that a non-academic offence may have been committed.

### Step 3. Consider Informal Resolution

Based upon the information gathered to this point, the Division Head considers whether informal resolution may be appropriate at this stage or whether to proceed with an investigation.

### Step 4. Investigation

If informal resolution is not possible, practical, or if it will not serve the University community's interests, and if the Division Head has reason to believe an offence may have been committed, he or she instructs the Investigating Officer to conduct an investigation. Once the investigation is complete, the Investigating Officer presents his or her findings to the Division Head.

The investigation may include, but is not limited to:

- Interviews with the complainant and respondent
- Reviews of police reports
- Interviews with witnesses
- Reviews of other relevant information (e.g., computer logs, photographs, reports, etc.)

### Step 5. Consider Informal Resolution (Again)

Based upon the report of the Investigating Officer, the Division Head considers whether informal resolution is appropriate at this stage or whether to proceed further. If a student admits to having committed the offence alleged or another offence, the Division Head and the student may agree in writing on a sanction and the matter will not be referred to the Hearing Officer.

In certain cases involving a complainant, there may be an opportunity to resolve the case informally using conflict resolution and/or mediation techniques. The Division Head will make this suggestion if appropriate at any time up until the beginning of a hearing (see "The Hearing," below).

Mediation may not be considered appropriate when there is a complainant who is vulnerable or either party does not wish to engage in the process. Mediation is appropriate when both parties—the complainant and the respondent—agree to participate and when a mediated solution will essentially satisfy any University interest in the matter.

For example, situations involving serious allegations of violence may not be appropriate for mediation. On the other hand, many roommate disputes can be resolved informally.

Based upon the report of the Investigating Officer, the Division Head considers whether informal resolution is appropriate at this stage or whether to proceed further.

Once the investigation is complete, the Investigating Officer presents his or her findings to the Division Head.

## Step 6. Hearing

If the Division Head concludes, on the basis of the Investigating Officer's report, that the student or students may have committed an offence, he or she may request that a hearing take place to determine whether the student or students have committed the alleged offence.

A written Notice of a Hearing will be given to the accused indicating the nature of the complaint, the offence alleged and setting a date, time and place for a hearing.

### Interim Measures: Urgent Situations

In some circumstances such as where there is a reasonable apprehension that the safety of others is endangered by the continuing presence of the student, the Vice-President & Provost (or delegate) may suspend a student temporarily for up to three working days while an initial investigation takes place. Any such temporary suspension must be reviewed by the Vice-President & Provost (or delegate) within the three-day temporary suspension period, following the preliminary investigation and either revoked or continued. If the suspension is continued, the student may appeal to the Senior or Associate Chair of the University Tribunal. Suspensions under the Interim Measures provisions are not a determination that the student has committed the alleged offence.

Interim measures may be applied at any stage of the process.

### Interim Conditions: Ongoing Personal Safety

In those cases where the allegations of behaviour are serious and, if proven, could constitute a significant personal safety threat to other students or members of the University community, the head of the division may impose interim conditions that balance the need of complainants for safety with the requirement of fairness to the respondent. The interim conditions are not a determination that the student has committed the alleged offence. The interim condition may remain in place until the case has been concluded according to the procedures.

Interim conditions may be imposed at any stage of the process.

If the Division Head concludes, on the basis of the Investigating Officer's report, that the student or students may have committed an offence, he or she may request that a hearing take place.

## The Hearing

Hearings under the *Code of Student Conduct* are generally conducted in an informal manner, in accordance with the principles of natural justice. However, hearings for more serious allegations tend to be conducted more formally. If the accused has waived the right to a hearing, the Hearing Officer will rule on whether the accused has committed an offence and impose sanctions.

As the subject of a complaint (the "respondent"), a student going to a hearing, should be aware that:

- If a respondent does not appear at the hearing (after having been given notice) it may proceed in the respondent's absence.
- The respondent will be provided with a summary of the report of the Investigating Officer prior to the hearing.
- The hearing will be chaired by the Hearing Officer.
- The case against the respondent will be presented by the Investigating Officer or a lawyer selected for this purpose.
- The respondent has the right to be represented by another person, who may be a lawyer.
- Both the Investigating Officer and the Respondent will be allowed to call, examine and cross-examine witnesses and present evidence and arguments.
- Hearings are open to members of the University unless the Hearing Officer orders otherwise.
- The onus of proof is on the Division Head represented at the hearing by the Investigating Officer and his or her counsel to prove on the balance of probabilities based on clear and convincing evidence that the respondent has committed the offence alleged.

Interim conditions may be imposed at any stage of the process.

## The Decision

After a hearing, the Hearing Officer will rule on whether the respondent or respondents have committed the offence alleged and may impose one or more sanctions listed below.

### Sanctions

Sanctions permitted under the *Code* are:

- Formal written reprimand
- Order for restitution, rectification or the payment of damages
- A fine or bond for behaviour not to exceed \$500
- Requirement of public service work not to exceed 25 hours
- Denial of access to specified services, activities or facilities of the University for a period of up to one year

Students may also be placed on "conduct probation" for a period not to exceed one year, with the provision that one or more of the above sanctions will be applied if the conduct probation is violated.

Suspensions under the Interim Measures provisions are not a determination that the student has committed the alleged offence.

If the offence is of a very serious nature—that is, the student’s continued registration in the University threatens the academic function of the University or the ability of any of its students to continue their programs of study—the following sanctions may be imposed:

- Suspension from registration in any course or program for a period of up to one year; or
- Recommendation for expulsion from the University  
(The Governing Council will make the decision whether to expel)

The Vice-President & Provost (or designate) can authorize a notation on a student’s academic record and transcript in cases where the student has been suspended or expelled for reasons of non-academic misconduct. A permanent notation will be placed on the transcript of a student who has been expelled.

### Cases Handled Under Divisional/Facility Procedures

The *Code* may be applied only if other relevant procedures within the University have not been engaged. Some conduct may be addressed by divisional procedures or a disciplinary body, such as a residence, recreational or athletics disciplinary body. Other conduct may be covered under these procedures but deemed by the head of an academic division to be more appropriately handled by the *Code of Student Conduct*. The following chart provides a very general overview of the process related to facilities which have established such procedures.

## 14 WHAT ARE SOME EXAMPLES OF CASES UNDER THE CODE?

### Informal Resolution

A group of students having a loud discussion and playing music in a lounge near an event of a campus group is accused of preventing the event from taking place. The campus group repeatedly asked the students to move their activities elsewhere, but were, in the group’s view, rebuffed in an inappropriate manner. The campus group was particularly upset because of the cost that had been incurred for the event.

The students learned later that a formal complaint had been submitted to the Principal of the College in which they were registered and that an Investigating Officer had been appointed.

The accused students immediately went directly to the campus group, apologized and paid for the costs of the event. The campus group, in turn withdrew their formal complaint.

The case was closed and no further action was taken.

### Mediated Solution

A student reported to her Registrar that she felt harassed by another student in her class. The second student claimed repeatedly that she had seen the first student cheating on a test, and loudly referred to her often as a “cheater” in the presence of other students. The first student said the accusation was untrue and that the second student’s behaviour was making her life in the program miserable and untenable. She asked that the Registrar intervene to stop the harassment and intimidation.

The Dean received a report from the Investigating Officer and felt that the situation could be resolved through mediation. A mediator was engaged to meet with the students individually, and a series of agreed-upon conditions were set out (e.g., that the complainant would withdraw the complaint if a mediated solution were found and that both individuals would maintain confidentiality of the mediation discussions) in a joint letter to the Dean, which both students signed. The students agreed that the case would be submitted for a formal hearing should the conditions be breached.

### Case Sent to Hearing

A student revealed to her instructor that a classmate’s unwelcome attention was causing her so much distress that she intended to withdraw from the program. She alleged that the other student was under an illusion that the two had been in a relationship, and that she repeatedly received threatening notes and email messages when she refused to speak to the other student.

The instructor immediately referred the case to the Dean, who assigned an Investigating Officer to look into the accusations. The Investigating Officer reported that, based on the content of the email messages, he felt there was a significant personal safety threat to the complainant and suggested the other student be removed from the University until such time as a full investigation and hearing could be conducted. On the advice of the Dean, the Vice-President & Provost imposed Interim Measures under the *Code* and suspended the student from the University initially for three days, and following review, pending adjudication.

The Hearing Officer determined that indeed the other student had knowingly caused the classmate to fear for her safety and had impeded her right to participate in the program. Because of the serious nature of the threats, the Hearing Officer imposed a sanction of suspension for one year, giving the complainant time to complete the program.



## 15 OTHER FREQUENTLY ASKED QUESTIONS

### a) Where can I find a copy of the Code of Student Conduct?

The *Code* is available in the Policies section of the Governing Council website ([www.governingcouncil.utoronto.ca](http://www.governingcouncil.utoronto.ca)).

The Appeals, Discipline & Faculty Grievances Office website: [www.governingcouncil.utoronto.ca/AppealsDisciplineAndFacultyGrievances.htm](http://www.governingcouncil.utoronto.ca/AppealsDisciplineAndFacultyGrievances.htm) also provides relevant information about the Code.

### b) Isn't the Code intended to stifle dissent?

The *Code* is not: a means of dealing with student dissent; a mechanism for suppressing freedom of speech and expression; or, a substitute for the *Criminal Code of Canada*.

### c) How do I make a formal complaint under the Code?

You should write a letter to the Principal or Dean of the college or faculty in which the student (about whom the complaint is made) is registered. If you

d) do not know the division of registration, you can write to the Office of the Vice-Provost, Students in order to initiate your complaint. The Office will then refer the matter to the appropriate division.

### Are students who are the subject of complaints under the Code on their own?

#### Is legal assistance possible and accessible?

Students who are the subject of complaints under the Code have the right to be treated fairly. They may choose to be represented by counsel (including Downtown Legal Services, a free service funded, in part, by portions of compulsory incidental fees charged on behalf of student governments). Students are also entitled to information and guidance regarding making and responding to a complaint from their registrar's office and other University offices. Students may also seek support through the Office of Academic Progress should they be experiencing ongoing difficulties (eg. mental and/or physical health) during the process of responding to the Code complaint.

### e) Do all issues raised under the Code lead to a formal hearing?

No. Many issues of student conduct can be dealt with in the faculty or college through informal dispute resolution. If the matter can be resolved through those means, that is the preferred approach. Many deans of students are well versed in informal dispute resolution and mediation techniques. Proceeding in this manner may allow for a timely resolution as well as an opportunity to help the students understand why their actions were inappropriate to the University community.

### f) What kind of support is available to students who need to bring a complaint under the Code? Is there someone available to assist?

Students who need assistance and support regarding a *Code* complaint should contact their divisional registrar's office or dean of students' office for information – either office can give referral information and outline the steps to making a complaint. While these offices will not write a

f) complaint on behalf of a student, they are an excellent resource. Referrals to professional resources on or near campus (counseling, personal safety, legal services) can also be made through these offices.

### g) What kinds of records are kept of these cases?

Records are kept for all cases that have proceeded to the investigation stage and have resulted in the imposition of a sanction. If a case does not proceed to a hearing (including those resolved informally following a formal investigation), only a one page summary of the outcome is prepared. It is maintained by the Division Head and the Appeals, Discipline & Faculty Grievances Office. For cases that proceed to hearing, and for cases where students have waived the right to a hearing, the record includes: the written report of the Investigating Officer; the Notice of Hearing; documentary evidence filed at a hearing; and the decision of the Hearing Officer and the reasons offered.

Under certain circumstances, the nature of the offence and the sanction may be published in campus media. Normally, the name of the person found to have committed the offence is not published, though in certain circumstances, it may be.

All of these records can be taken into account in future cases involving the same student.

### h) Is there a time limit on when complaints can be brought forward?

There is no prescribed time limit for bringing forward a complaint. However, it is important that complaints be made in a timely way and that an explanation for any significant delay in bringing forward a complaint is provided. If a significant period of time has lapsed without any sufficient explanation, the Division Head may decide not to proceed or the respondent may object to any proceeding on the basis that they cannot be provided with a fair opportunity to respond due to the delay because of the absence of witnesses or failures in memory. Lengthy delays can make it difficult to conduct a fair investigation or hearing and may make potential solutions or sanctions unavailable.

### i) How long do cases take to resolve?

Cases are generally expected to take no more than one year until the hearing is complete and a decision rendered.

It is important to note that the *Code* itself indicates that "every effort shall be made to conclude the case through to delivery of a final decision within the University within one year from the alleged incident of misconduct."

### j) Does having the case dealt with through the Code preclude criminal or civil charges?

No. The complainant (and/or the police) are free to pursue the matter through the wider justice system as well.

### k) What if the student does not comply with sanctions ordered by the Hearing Officer?

The Division Head has the responsibility for ensuring compliance with sanctions. Failure to comply with sanctions is, in itself, an offence under the *Code* and the Division Head may initiate another disciplinary process if sanctions are not followed.



**p) Can a decision be appealed?**

Appeals against the decision of the Hearing Officer may be made to the Discipline Appeals Board of the Governing Council. Appeals are generally limited to questions of procedure, not of fact alone, and to appeals of sanctions. A division has no right to appeal the decision of a Hearing Officer.

Appeals may be made to the Discipline Appeals Board of the Governing Council within 21 days of the release of the Hearing Officer's decision. Information about appeals is available from the Appeals, Discipline & Faculty Grievances office within the Office of the Governing Council ([www.governingcouncil.utoronto.ca](http://www.governingcouncil.utoronto.ca)).

**q) Can I talk to someone about making a complaint before I decide to proceed?**

Yes. Registrars' offices, deans of students and the Office of the Vice-Provost, Students ([www.viceprovoststudents.utoronto.ca](http://www.viceprovoststudents.utoronto.ca)) and the Appeals, Discipline & Faculty Grievances Office within the Office of the Governing Council ([www.governingcouncil.utoronto.ca](http://www.governingcouncil.utoronto.ca)) can provide or obtain information about procedures under the *Code of Student Conduct*.

**r) What does Restorative Justice mean?**

Restorative justice is an approach to conflict management which involves both the complainant and respondent in a complaint and which focuses on the needs of victims, offenders, as well as the involved community, as an alternative to formal adjudication proceedings.

**s) What is Mediation?**

Mediation is a form of conflict resolution in which a mediator assists the parties in negotiating their own settlement. All the parties must agree to and participate in the mediation process.

**t) Can a person outside of the campus community bring a complaint against a student?**

Yes. However, except in certain circumstances, the *Code* is concerned with conduct which occurs on premises of the University or elsewhere in the course of activities sponsored by the University of Toronto or by any of its divisions. The *Code* does not apply in most circumstances off-campus (e.g., conduct related to a party in a private home).

**u) Is the Code applicable to non-students?**

In general terms, the *Code* applies to any person engaged in academic work and is associated or registered in any course or program of study through an academic unit or division of the University. This includes all faculties, centres, institutes and schools (including the School of Continuing Studies). Individuals who are post-doctoral fellows and those entitled to valid student cards between academic sessions are also considered to be students under the *Code*.

**v) Why can't complaints be made anonymously—especially if I'm afraid for my safety?**

A fundamental element of fairness includes the ability of a respondent to examine and comment on the evidence presented. This includes the details of the offence, the context, and the identity of the victims.

The University will work with complainants in order to develop safety plans and strategies when relevant.

## GLOSSARY

### Adjudication

a process by which an arbiter or judge reviews evidence and argumentation from opposing parties to come to a decision which determines rights and obligations of the parties.

### Mediation

a consensual process used to resolve disputes between two or more parties often involving a third party, the mediator, who assists the disputants in negotiating an agreed upon settlement.

### Natural justice

providing appropriate rights and fairness in procedures.

Shuttle diplomacy: the act of a third party in serving as an intermediary between (or among) parties in a dispute.

## RESOURCES AND USEFUL CONTACTS

First and foremost, students should seek advice and assistance from their home Faculty, Division or College. Your registrar's office can provide information about what resources may be available to you. Other sources of information, advice and assistance include:

### Office of the Vice-Provost, Students

Room 221, Simcoe Hall, 27 King's College Circle  
416.978.3870 | [vp.students@utoronto.ca](mailto:vp.students@utoronto.ca)

Can provide general information about the *Code*, interpretations of the provisions of the *Code*, and information about procedures related to investigations under the *Code*.

### Student Academic Progress

Provides consultations for referred students who are experiencing ongoing difficulties that jeopardize their ability to engage in university life and meet expectations for their academic success.

### Appeals, Discipline & Faculty Grievances Office

Office of the Governing Council  
Room 106, Simcoe Hall, 27 King's College Circle  
416.978.6576 | [governing.council@utoronto.ca](mailto:governing.council@utoronto.ca)

Provides information about the hearing processes under the *Code*, and general information about the *Code*.

### Office of the Ombudsperson

Room 102, McMurrich Building, 12 Queen's Park Cres. West  
416.946.3485 | [ombuds.person@utoronto.ca](mailto:ombuds.person@utoronto.ca)

Provides confidential advice and assistance for those who have exhausted all procedural avenues open in a complaint involving the University or University processes.

### Downtown Legal Services

Fasken Martineau Building, 655 Spadina Avenue  
416.934.4535 | [law.dls@utoronto.ca](mailto:law.dls@utoronto.ca)

Handles cases for students (who have been charged the DLS fee as part of their student government fee) at the University of Toronto that involve *Code* offences.

## APPENDIX A

### A CONCISE HISTORY OF NON-ACADEMIC STUDENT DISCIPLINE AT THE UNIVERSITY OF TORONTO

For the first century of the University of Toronto's existence, its students played almost no role in forming policy on non-academic conduct or advising on disciplinary matters. In the early nineteenth century, King's College, the forerunner to the University of Toronto (1827-1849) did not have a formal *Code* for non-academic conduct, although its Anglican founders would impose a discipline to "supply the place of paternal counsel and maternal tenderness" on the students of the newly independent Trinity College, created after King's College was secularized.<sup>3</sup> At the University of Toronto, however, the founding *Act of 1849* specified no rules of student conduct, but academic and non-academic discipline became the direct responsibility of the President, who was advised in all matters relating to University by the Senate and the Caput (Latin for "head").<sup>4</sup> Chaired by the President, the Caput consisted of the heads of the University's faculties and eventually the heads of federated and affiliated institutions. Over the course of the nineteenth century, as the University grew, each college and faculty was responsible for its own rules of conduct and disciplinary procedures.<sup>5</sup> Only when cases overlapped between divisions, or when it appeared that there were no local precedents to pursue a case, did the President take an active role in hearing cases in conjunction with the divisions directly affected. In the 1890s, for example President James Loudon, worked jointly with the University College Council and the University Council to investigate disciplinary cases involving vandalism, intemperance, hazing, and censorship of campus publications.<sup>6</sup>

In 1905 the Ontario Royal Commission on the University of Toronto recommended that the Caput be given the responsibility of adjudicating discipline cases that crossed faculty boundaries or fell outside of the direct jurisdiction of a single division. The Commissioners regarded these enlarged duties as a "step in the direction of effective co-operation" between divisions who might be able to engage in "joint action" more effectively.<sup>7</sup>

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<sup>3</sup> William Westfall, *The Founding Moment: Church, Society and the Construction of Trinity College* (Montreal & Kingston: McGill-Queen's University Press, 2002), 73.

<sup>4</sup> University of Toronto Act, 1849, as cited in the Report of the Royal Commission on the University of Toronto (Toronto: L.K. Cameron, King's Printer, 1906), 212.

<sup>5</sup> Sessional Papers, 1885, as cited in Report of the Royal Commission, 253.

<sup>6</sup> University of Toronto Archives [hereafter UTA]. President James Loudon Papers, B1972-0031, Box 1 file 27, "notes on problems in College residence," and Box 2, File 27 "Shed Affair," 1893, and file 31 "Matters to Investigate," 1895.

<sup>7</sup> Report of the Royal Commission on the University of Toronto, xxviii.

The following year, the new *University of Toronto Act* confirmed the membership of the Caput (the President, deans, and college heads) but authorized it to deal with discipline "in all other cases" not directly handled by the divisions.<sup>8</sup> No students were included in the Caput,<sup>9</sup> but during the term of President Robert Falconer, the Students' Administrative Council (SAC) was frequently consulted by the Caput on a variety of discipline cases. As early as 1912, the Executive Committee of the Parliament of Undergraduates investigated an "incident" at Victoria College and recommended to the Caput appropriate punishment and fines for the perpetrators. The Caput accepted these recommendations.<sup>10</sup> In 1926, the SAC executive and Caput issued a joint report on appropriate behaviour during student orientation, which included prohibitions on: "Physical violence, destruction of property or interference with personal liberty, or personal indignity."<sup>11</sup> This same spirit of student-Caput co-operation continued for the next twenty-five years, although there was no voting student representative on the Caput.<sup>12</sup>

The 1960s witnessed student protests on university campuses across the globe and the University of Toronto was no exception.<sup>13</sup> It became clear to University administrators and students alike that the structures in place for distinguishing between legitimate protest and violent obstruction at the University of Toronto were no longer adequate. In 1968, Acting President John Sword, "in consultation with representative groups of students and staff," created a Presidential Advisory Committee on Disciplinary Procedures, under the chairmanship of Professor Ralph Campbell.<sup>14</sup> While the Campbell Committee met, in early 1969, the Caput established its own committee designed to create an Interim Disciplinary body to replace the

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<sup>8</sup> University of Toronto Act, 1906, sections 85.3, 96, 97, and 98 as cited in Royal Commission, 26. These powers were confirmed in the revised University of Toronto Act, 1914 as cited in William Stewart Wallace, *A History of the University of Toronto, 1827-1927* (Toronto: University of Toronto Press, 1927) Appendix A, 277.

<sup>9</sup> H.H. Langton, *The University of Toronto and its Colleges, 1827-1906* (Toronto: University of Toronto Library, 1906), Appendix L, p. 320.

<sup>10</sup> UTA, Office of the Governing Council, A2003-0024/0001, Caput Papers, Minute Book, volume I, 9 March 1912.

<sup>11</sup> UTA, Office of the Governing Council, A2003-0024/0004, Caput Papers, Minute Book, volume II, 11 January 1926.

<sup>12</sup> UTA, Office of the Governing Council, A2003-0024/0004, Caput Papers, Minutes File 1946-1959; note the cooperation between SAC and the Caput on issues relating to vulgarity in the *Varsity*, 15 March 1952. The Caput was expanded under the terms of the University of Toronto Act, 1947, but no students were included in the revised Caput. UTA, University of Toronto Statutes, 26-04-04, University of Toronto Act, 1947 (Bill 103), section 71. Section 79 of the Act confirmed that primary responsibility for discipline still rested in individual schools, faculties and colleges with the Caput retaining its original disciplinary functions as outlined in earlier acts.

<sup>13</sup> Martin L. Friedland, *The University of Toronto: A History* (Toronto: University of Toronto Press, 2002), 525-7.

<sup>14</sup> UTA, Office of the Governing Council, A2003-0024/0004, Caput Papers, file S/C/19 Statements of Discipline, Statement by Caput on Disciplinary Procedures at the University of Toronto," 25 February 1970."

Caput. The new committee had broad representation from the Faculty Association, the Graduate Students Union, the Students Administrative Council and the Association of Part time Students, in addition to the representatives of the University's central administration.<sup>15</sup> After five meetings the Caput committee could not agree on steps moving forward to their goal of a new disciplinary body. On September 30, 1969, the Campbell Committee, however, recommended sweeping changes to ways in which disciplinary matters were managed at the University, including equal representation of staff and students on mediation committees and tribunals, and the full participation of these constituencies on all matters relating to the rules and "judicial machinery" of the University.<sup>16</sup> The Committee was careful to distinguish between "non-disruptive demonstrations" on campus and those demonstrations that disrupt the work of the University and its academic operations and endanger the safety of persons. The committee recognized the importance of the former in life of the University, while the latter obstructions might be subject to disciplinary action by the University and local law enforcement officers.<sup>17</sup>

President Claude Bissell endorsed the Committee's report within a day of its release and he established a Programming and Implementation Committee, including students, with the aim of establishing an interim disciplinary body to replace the Caput.<sup>18</sup> By June 1970, the Implementation Committee was deeply divided and no successor disciplinary body to the Caput could be agreed upon. Thus, in the new *University of Toronto Act*, in 1971, the Caput remained with the powers invested in it under the *University of Toronto Act, 1947*.<sup>19</sup> Students were most dissatisfied with this outcome, since they were still not represented on this disciplinary body,<sup>20</sup> although under the terms of the new University act, both undergraduate and graduate students could be elected to the Governing Council of the University, which had final authority over the Caput. For the next four years committees consisting of students, University administrators, and faculty could not agree on a common plan for a prospective code of student behaviour and Governing Council admitted defeat on the issue.<sup>21</sup>

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<sup>15</sup> UTA, Governing Council Papers, A2003-0024/0004, Letter from Robin Ross, Secretary of Caput to Members COPOUT, 2 December 1969.

<sup>16</sup> UTA, LE3T479P645.cop 2, Campbell Committee Report, 13 and 84.

<sup>17</sup> Ibid. 69-75.

<sup>18</sup> UTA, Office of the Governing Council, A2003-0024/0004, Caput Papers, file S/C/19 Statements of Discipline, Statement by Caput on Disciplinary Procedures at the University of Toronto," 25 February 1970."

<sup>19</sup> UTA, University Statutes, 26-4-04, University of Toronto Act, 20 Elizabeth II, 1971, 28th legislature, Chapter 56, section 9.1. This section remained intact under the revised Act of 1978.

<sup>20</sup> Craig Heron, "The Discipline Story," (Unpublished paper, Students Administrative Council, 1972), 9-10.

<sup>21</sup> Office of the Governing Council, (hereafter OGC) Report of the Special Committee of the University Affairs Board to Review the Code of Student Conduct, 14 January 2002.

The Caput continued to operate as it had and students continued to exercise their rights to demonstrate in support of many social justice issues, at time using civil disobedience as a means to draw attention to the pressing issues of the day.

In retrospect, university committees on discipline would admit that the Caput was incapable of performing as an effective body and its composition had not changed appreciably in decades, with perhaps the exception of inclusion of the President of the Students' Administrative Council as a non-voting member. In 1978, it ceased to meet, as one observer remarked, because it was "large and unwieldy, its discussions are essentially arbitrary, and it lacks student representation."<sup>22</sup> In the absence of the Caput, each division decided its own discipline cases, and this was quickly regarded as troublesome, since there were a wide variety of protocols from division to division, with what was perceived to be an uneven administration of justice. In 1980, the University Ombudsperson, Eric McKee, recommended to Governing Council that there be a code for non-academic conduct, given what he considered to be the "growing frequency" of disciplinary issues in the University. For McKee this included a variety of problems in University residences, sexual harassment on campus, disruptive behaviour in classrooms, and non-collegial behaviour among faculty members.<sup>23</sup> While some student groups agreed that a code on sexual harassment was necessary, they were not willing to support a general non-academic code, claiming that such matters were better left to the Canadian legal system.<sup>24</sup> In 1985, the Governing Council passed a set of general principles regarding student discipline and, in 1990, the University Affairs Board appointed a Special Committee to deliberate on the question of whether a centralized administration of discipline, based on a common code of non-academic conduct was necessary at the University of Toronto.<sup>25</sup>

In 1992, the Special Committee, led by its chair, an undergraduate student and Governing Councillor, Rick Martin, recommended that there be a central policy regarding non-academic student conduct. Of particular concern for student leaders and some members of the University Affairs Board, however, was the inclusion in the draft of a section (B.2) on "disruption." In May 1992, the University Affairs Board debated what constituted "disruption" and the disciplinary action to be taken. The UAB resolved that "disruption" should not be used as a catch-all for any student protests, but should be confined to the disruption of academic activities in classrooms, laboratories, and examination rooms. In its final document, the UAB clearly stated that "silent or symbolic protest is not

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<sup>22</sup> OGC, Preliminary Report of the Special Committee on Non-Academic Discipline, 25 November 1991.

<sup>23</sup> Robert Craig Brown, *Arts and Science at Toronto: A History, 1827-1990* (Toronto: University of Toronto Press, 2013), 221.

<sup>24</sup> Ibid, 222.

<sup>25</sup> OGC, Report of the Special Committee of the University Affairs Board to Review the Code of Student Conduct, 14 January 2002.

considered disruption” and that the University would not inhibit the “acceptable expression of dissent.” Only when picketing interfered with the “communication inside” places of learning, would the section on disruption apply.<sup>26</sup> On June 10 1992, the UAB recommended to Governing Council that the “jurisdiction of the councils and caputs of faculties, colleges, and schools, for the non-academic discipline of students, except as provided for by the University of Toronto *Code of Student Conduct* ... be removed.”<sup>27</sup> Later that month the Governing Council approved the first code of non-academic student conduct.<sup>28</sup> Ten years later the Code was amended and remains in force at the University of Toronto.

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<sup>26</sup> OGC, University Affairs Board Files (hereafter UAB) Report 37, 10 June 1992, Appendix A and Report 36, 26 May 1992, p. 7.

<sup>27</sup> Ibid, Report 37, 10 June 1992.

<sup>28</sup> OGC, Draft of the Code of Student Conduct, passed, 25 June 1992.







UNIVERSITY OF  
TORONTO