

Discipline Code

SOGS Disciplinary Manual _____

I. Introduction and Purpose

1. The purpose of the SOGS Disciplinary Manual is to define the general standard of conduct expected of members of the society of Graduate Students (henceforth known as SOGS), provide examples of behaviour that constitutes a breach of this standard of conduct and set out the disciplinary procedures that SOGS will follow.
2. SOGS is a community of graduate students, involved in learning, teaching, research, and other activities. SOGS provides an environment of free and creative inquiry within which critical thinking, humane values, and practical skills are cultivated and sustained. It is committed to a mission and to principles that will foster excellence and create an environment where its students and staff can grow and flourish.
3. As members, students assume the rights and responsibilities associated with membership in the Society's academic and social community. The privileges granted to each member are conditional upon the fulfillment of this responsibility and members must familiarize themselves with the SOGS regulations and the conduct expected of them while studying at the University.
4. Members are reminded that they are equally responsible for observing the standard of conduct set out in this Code when using any electronic communication devices to send or post messages or material.
5. SOGS encourages informal resolution of minor incidents.
6. Nothing in this Code shall be construed to prohibit peaceful assemblies and demonstrations, lawful picketing, or to inhibit free speech as guaranteed by law.
7. Any student found responsible for misconduct is subject to the disciplinary sanctions of this Code, regardless of the action or inaction of civil authorities. Nothing in this Code precludes SOGS from referring an individual matter to the University of Western Ontario or an appropriate law enforcement agency either before, during, or after disciplinary action is taken by the Society under this Code. A student may be subject to criminal prosecution and/or civil proceedings notwithstanding, and in addition to, disciplinary action taken by SOGS against the member under this Code.

II. Definitions

In this Code:

1. "Member" is an individual that fulfills any one of the requirements of Section 5 of the Society's Constitution
2. "Ombudsperson": shall be interpreted as the Chairperson of the Policy Committee
3. "Appeals Review Commission" and "ARC": Shall be interpreted as the Commission that is defined under SOGS Bylaw 9.6.2.
4. "Premises of the University or its Affiliated University Colleges" includes lands, buildings and grounds of the University and its Affiliated University Colleges and other places or facilities used for the provision of the University's courses, programs or services.
5. "SOGS sponsored program, event or activity" is a program, event or activity that is hosted, sponsored, or organized by SOGS and includes, but is not limited to organized trips, the Grad-Club, Western Research Forum.

III. Relationship to Other University Policies and Codes

1. If a member's conduct could be considered a breach of this Code and also a breach of its Conflict of Interest Bylaw and Policy and/or its Non-Discrimination and Harassment Bylaw, SOGS, at its discretion, may proceed under the Code or under the aforesaid Bylaws and Policies. A student may not be penalized under both the Code and these Policies for the same conduct.

IV. Jurisdiction

1. This Code applies to:

- (a) conduct that occurs on the premises of the University or its Affiliated University Colleges;
- (b) conduct that occurs at a SOGS sponsored or sanctioned program, event, or activity, whether the program, event, or activity is on campus or off-campus; and
- (c) other off-campus conduct,
 - (i) when the individual is acting as a designated representative of SOGS or when the individual holds out that he or she is a representative of SOGS.
 - (ii) that has, or might reasonably be seen to have an adverse effect on, interfere with, or threaten the proper functioning of the SOGS, its mission, the rights of a member of the SOGS community to use and enjoy the University's learning and working environments, or that raises concerns for the safety or security of an individual or individuals while on campus or while participating in SOGS programs, events or activities.

2. Graduate students are subject to the provisions of this Code except when acting in their capacity as Graduate Teaching Assistants.

V. Prohibited Student Conduct

The following list sets out specific examples of prohibited conduct. This list is illustrative only and is not intended to define misconduct in exhaustive or exclusive terms.

Examples

1. Disruption

By action, threat, written material, or by any means whatsoever, disrupting or obstructing any SOGS activities, including a SOGS sponsored or sanctioned program, event or activity, or other authorized activities on premises of the University or its Affiliated University Colleges, or the right of another person to carry on his/her legitimate activities, or to speak or to associate with others. SOGS activities include, but are not limited to, research, studying, sports and recreation, administration and meetings.

2. Misconduct Against Persons and Dangerous Activity

- (a) Any assault, harassment, intimidation, threats or coercion.
- (b) Conduct that threatens or endangers the health or safety of any person.
- (c) Contravention of The University of Western Ontario Non-Discrimination/Harassment Policy.
- (d) Knowingly (which includes when one should reasonably have known) creating a condition that endangers the health, safety, or well-being of any person.
- (e) Engaging in conduct that is, or is reasonably seen to be, humiliating or demeaning to another person or coercing, enticing or inciting a person to commit an act that is, or is reasonably seen to be, humiliating or demeaning to that person or to others.

3. Misconduct Involving Property

- (a) Unauthorized entry and/or presence on any premises of SOGS or any premises used for SOGS sponsored or sanctioned programs, events or activities.
- (b) Misappropriation, damage, unauthorized possession, defacement and/or destruction of premises or property of SOGS, or the property of others.
- (c) Use of SOGS facilities, equipment or services contrary to express instruction or without proper authority.

4. False Information.

- (a) Furnishing false information.
- (b) Forging, altering or misusing any document, record, card or instrument of identification.

5. Contravention of SOGS Regulations

- 5.1 Violation of written SOGS policies, rules or regulations.

6. Contravention of Other Laws

6.1. Contravention of any provision of the Criminal Code or any other federal or provincial statute or municipal by-law.

7. Other

(a) Aiding or encouraging others in the commission of an act prohibited under this Code or attempting to commit an act prohibited under this Code.

(b) Failure to comply with any sanction imposed by SOGS for misconduct under this Code.

VI. Sanctions

SOGS may impose one or more sanctions for misconduct, as per Bylaw 19. The sanctions imposed should be proportional to the type of misconduct. The most serious types of misconduct will merit the most serious sanctions. In considering an appropriate sanction, SOGS's primary focus must be to ensure the safety and security of the Society, its members, and visitors.

VII. Interim Measures

1. Temporary Exclusions

An Official Liaison may exclude a member from a committee that they oversee if they believe on reasonable grounds that the student's continued presence is detrimental to good order or will constitute a threat to the safety of others. Such initial exclusion shall last for the duration of the meeting and shall be reported immediately to the Ombudsperson.

2. Interim Prohibition

The Ombudsperson may impose an interim prohibition pending an investigation and disposition of a complaint of misconduct. Interim prohibition may be imposed only: (a) if needed to ensure the safety and well-being of members of the SOGS community or preservation of SOGS property; (b) if needed to ensure the Member's own physical or emotional safety and well-being; or (c) if there is a reasonable apprehension that the Member poses a threat of disruption or of interference with the normal operations of the Society. As per Bylaw 9.3, during a period of interim prohibition, a student may be denied access to specified SOGS facilities (including the Grad Club) and/or any other SOGS sponsored and/or SOGS sanctioned activities or privileges for which the Member might otherwise be eligible, as the Ombudsperson may determine to be appropriate. Within two working days following the imposition of interim prohibition, the student shall be informed in writing of the reasons for the prohibition. The student shall be afforded the opportunity to respond to the allegations being made against him or her. If the student responds, the Ombudsperson will reassess the prohibition and either revoke or continue the prohibition pending formal disposition of the matter.

VIII. Complaint Procedures

1. Any member(s) may submit a complaint of misconduct against a member(s). A complaint should be submitted to the Ombudsperson.

2.

(a) The Ombudsperson shall not make a finding of misconduct nor impose a sanction or sanctions against a student unless the student has been informed, in writing, of the nature of the complaint, the facts alleged against him/her, and has been given a reasonable opportunity to respond to them and to submit relevant information. The student shall also be given a reasonable opportunity to meet personally with the Ombudsperson to discuss the matter. It is the responsibility of both parties to provide all materials and information that will support their positions. Furthermore, the Ombudsperson will make reasonable attempts to ascertain the truth to the best of their ability.

(a).1 If the Ombudsperson feels that they are not in a position to fairly rule on a complaint due to conflict of interest or recuse themselves for any reason, they

- can forward the complaint to a member of the ARC, chosen at random, by the Speaker, to act as the Ombudsperson for this matter only.
- (b) If the Ombudsperson concludes that there has been misconduct, he/she may impose an appropriate sanction or sanctions.
 - (c) If the student does not respond to the allegation or does not meet with the Ombudsperson after having been given a reasonable opportunity to do so, the Ombudsperson may proceed to dispose of the complaint without such a response or meeting.
 - (d) At all meetings with the Ombudsperson, both parties may be accompanied by a colleague of their choosing. Legal representation is not permitted at this stage; it is permitted at the appeal stage.
 - (e) In determining an appropriate sanction or sanctions, the Ombudsperson may take into account any previous findings of misconduct. The Ombudsperson may direct that a sanction be held in abeyance if a member's registration at the University is interrupted for any reason.
 - (f) The decision of the Ombudsperson, with reasons, shall be communicated in writing to the member. If there is a finding of misconduct, a copy of the decision will be retained in the SOGS Office. A copy of the decision shall be provided on a need-to-know basis to administrative units (e.g. Executive Officers and Non-Executive Officers). The Speaker and the relevant Executive is responsible for the implementation of any decision made under the Code.
 - (g) All notices and other communications from the Ombudsperson to the student or any other member of the University community, shall be by personal delivery, campus mail, e-mail, priority post, courier, or registered mail.
 - (h) Complaints of misconduct shall be reported, investigated, and decided in a timely manner.
 - (i) The Ombudsperson shall report annually to the AGM, summarizing the number of complaints received, number of complaints investigated, and the general nature of the matters investigated.
 - (j) After 5 year the files will be expunged.

IX. Appeals

1. A student may appeal an Ombudsperson's finding of misconduct to the Appeals Review Commission on one or more of the following grounds:
 - (a) that there was a serious procedural error in the hearing of the complaint by the Ombudsperson which was prejudicial to the appellant;
 - (b) that new evidence, not available at the time of the earlier decision, has been discovered, which casts doubt on the correctness of the decision;
 - (c) that the Ombudsperson did not have the authority under this Code to reach the decision or impose the sanctions he/she did.
2. Filing an Appeal Application will not stay the implementation of any sanctions imposed.
3. The ARC may:
 - (a) Deny the appeal.
 - (b) In the case of an appeal under section 1(a) or (b), grant the appeal and direct the Ombudsperson to rehear the matter or reconsider some pertinent aspect of its decision, and may include recommendations relating to the conduct of any rehearing, or quash the original decision.
 - (c) In the case of an appeal under section 1(c), grant the appeal and quash the original decision.
4. The right to be represented by legal counsel will be accorded to the principal parties to the appeal at this level. ARC also reserves the right to retain counsel only when the appellant is being represented by legal counsel with the approval of the executive.
 - 4.1 If the appellant wishes to bring legal counsel to the appeal, the appellant must inform the ARC in writing 72 hours prior to the meeting.

5. The parties must bear all their own legal expenses, if any. ARC will not order the Society to pay all or part of the appellant's costs nor will it order the appellant to pay all or part of SOGS' costs.

6. Composition

Membership for the ARC panel will be drawn from the Appeals Review Commission, with its membership drawn from Bylaw 9.2.

7. Procedures

An Appeal Application must be filed with the SOGS Office Manager in a sealed envelope addressed to the ARC Chair within two weeks after a decision has been issued by the Ombudsperson. The Application must contain a copy of the decision, the grounds for the appeal, the outcome sought, a full statement supporting the grounds for the appeal, the name of legal counsel or agent, if any, and any relevant documentation in support of the appeal. Where the basis of the appeal is new evidence, such new evidence shall be described comprehensively and the names of any witnesses shall be provided.

7.1. The ARC Chair must inform the Commission that an Appeal has been received.

8. An Appeal Application will not be accepted by the ARC Chair if incomplete or not filed within the time period specified in section 8 above. Exceptions to the time limit for filing an appeal are at the discretion of the ARC upon written application of the student.

9. Parties to an appeal are the student against whom the decision has been made (Appellant) and the Ombudsperson (Respondent).

10. The Respondent shall file a concise written reply to the Appeal Application with the Speaker within 5 business days of receiving the documents. A copy of the reply shall be provided to the Appellant.

11. Upon receipt of an Appeal Application, the ARC Chair shall:

(a) Constitute a Panel of at least 3 members including the chairperson. If the chairperson recuses him or herself from the proceedings, the panel must elect an interim chairperson from within their ranks.

(a.1) Member(s) from the same department as either of the parties shall recuse themselves from the panel.

(b) facilitate the scheduling of the initial meeting of the Panel.

12. Subject to the requirements set out herein, the Panel shall determine its own policy document, subject to approval by Council, as the Commission deems necessary and proper to ensure a fair and expeditious proceeding. The Panel is bound by neither strict legal procedures nor strict rules of evidence. It shall proceed fairly in its disposition of the appeal, ensuring that both parties are aware of the evidence to be considered, are given copies of all documents considered by the Panel, and are given an opportunity to be heard during the process.

13. The Panel may summarily dismiss an appeal if the Appeal Application does not, in the judgment of the Panel, raise a valid ground of appeal or does not assert evidence capable of supporting a valid ground.

14. The Panel shall hold an oral hearing if any party and/or the ARC Panel requests one.

15. Both parties may petition the ARC Panel to make the oral hearing open to the society and in camera.

(a) The decision to make an oral hearing open to the Society rests with the ARC Panel.

16. While an attempt shall be made to schedule an oral hearing at a time convenient to the Panel and the parties, a request by a party for a lengthy delay in the scheduling of the hearing, or a postponement of a scheduled hearing, will be granted by the Chair only in exceptional circumstances. Oral hearings will ordinarily be held within six weeks of filing of the Appeal Application. In the case of an oral hearing, if the ARC Chair is unable to contact the Appellant within a reasonable time to schedule a hearing, the Appellant will be notified by registered mail at the address on the Appeal Application of the deadline by which he/she must contact the ARC Chair to arrange a hearing. If the Appellant has not contacted the ARC Chair by the specified deadline, the appeal will be deemed to be abandoned.

17. Each party to an oral hearing shall be sent a Notice of Hearing, setting out the time, place, and purpose of the hearing. If a party does not attend, the Panel may proceed in the party's absence.

18. Each member of a Panel, including the Chair, shall vote. There shall be no abstentions. A majority of positive votes is required to grant an appeal.

19. The decision, with reasons, shall be filed with the Speaker and copies shall be sent to the parties to the proceedings as well as to others with a legitimate need to know (e.g. Relevant Executive).

X. Review of Code

The Policy Committee shall review the Code within twelve to twenty-four of initial implementation and when deemed necessary thereafter.