



Procedure

Procedure Name	Formal Adjudication – Non-Academic Misconduct		
Procedure #	SR 1.4	Parent Policy	SR 1.0 Student Rights and Responsibilities
Policy Owner	Vice President – Students and Campus Life	Effective Date	February 1, 2021
Procedure Owner	Director, Campus Life Administration	Review Date	February 1, 2026
Approved by	Executive Management Committee	Approval Date	January 20, 2021

1.0 Purpose/ Background

This procedure details the steps involved in the Formal Adjudication process for non-academic misconduct. This procedure applies to all students at NAIT.

In keeping with NAIT's core values, the preferred method of resolving issues within our community is through alternative resolution pathways defined in SR 1.2. A formal adjudication system exists to ensure the personal, educational, and social well-being of the NAIT community in cases that are not eligible for an alternative dispute resolution.

The Formal Adjudication Process is grounded in principles of natural justice, with a focus on fair and transparent processes for respondents and complainants. Students have the right to have their case adjudicated by an impartial and unbiased decision maker.

2.0 Definitions

Term	Definition
Alternative Dispute Resolutions	Pathways to resolve a dispute that typically have some level of collaboration or cooperation between both a complainant and a respondent. Resolutions are recorded on a student's conduct file, which is housed with the Student Resolution Office. Failure to abide by the terms of an Alternative Resolution, or repeated behaviour requiring alternative resolutions, may result in a Formal Adjudication Procedure taking place.
Apology Letter	A letter written by a respondent to a complainant(s) that follows guidelines from the Student Resolution Office and apologizes, in writing, for harmful actions. This is seen as both an admission of responsibility and a commitment to not engage in the harmful behaviour again.
Balance of Probabilities	The evidentiary standard used at NAIT. This standard requires that when all available evidence is reviewed, whatever the evidence suggests is <i>most likely</i> to have happened is considered true. Also known as Preponderance of Evidence.
Behavioural Agreement	A binding contract between NAIT and a respondent that details specific behaviours a respondent will or will not do for the duration of his or her

	time at NAIT. The student and NAIT must agree to the clauses in the agreement.
Community Service	Volunteer work within the NAIT community that is designed to demonstrate to the NAIT community that a respondent is taking responsibility for his or her actions and willing to correct the harms they have caused.
Complainant	The person who brings forward information that a violation of this Policy may have occurred OR who was primarily impacted by the violation.
Complaint	A formal allegation of a policy violation submitted to NAIT by a complainant seeking recourse in accordance with NAIT policy and/or procedure.
Conduct Probation	Written behavioural requirements for a student to follow for a communicated period of time, with consequences should they fail to meet the terms of their probation.
Expulsion	Permanent removal from all NAIT programs, properties, and services. Noted on the student's transcript. Expelled students are not allowed to register in any NAIT courses in the future.
Formal Adjudication	The process followed when an alleged violation has taken place that cannot be resolved via Alternative Dispute Resolutions, or where an Alternative Dispute Resolution has tried and failed. The violation is investigated and a decision of responsibility is rendered along with sanctions as appropriate.
Full Suspension	Temporary removal from all NAIT programs, properties, and services. May be noted on a student's transcript if the suspension is over 4 months. During Full Suspension, students are not permitted to register for any NAIT courses or classes.
Not Responsible	A declaration or determination that a student did not engage in the commission of a negative behaviour or harm.
Partial Suspension	Temporary removal of a student from a class, course or program while a dispute resolution process is underway designed to mitigate the risk of harm to the NAIT community.
Respondent	A person who is alleged to have violated the policy.
Responsible	A declaration or determination that a student did engage in the commission of a behaviour or harm.
Sanction	Binding requirements that a student must follow resulting from formal adjudication of misconduct that are recorded on a student's conduct file.
Student Resolution and Appeals Board	A body of 3-5 NAIT community members who hear appeals and render decisions on process when the Student Resolution Office is in conflict or unavailable. They are called as needed from the Student Resolutions and Appeals Board Pool.
Removal from a Program	Permanent or temporary removal of a student from a specific program or programs due to student behaviour posing a risk to certain elements of those programs. For instance, if a student is found responsible for being cruel to animals, they may be removed from the Animal Health Technology program and related programs.
Violation	Behaviour that is contrary to one or more of the rights, or negligent of one or more of the responsibilities, listed in this Policy.
Warning Letter	An educational letter addressed to a student designed to describe specific behaviours that are a violation of the Student Rights and Responsibilities Policy, and to advise the student of consequences should they engage in those behaviours again.

3.0 Procedures

3.1 Engaging with a Formal Adjudication Process

- 3.1.1 The Formal Adjudication Procedure is triggered by a complaint to the Student Resolution Office. Upon hearing a complaint, the Student Resolution Office will evaluate the case to evaluate the possibility of Alternative Dispute Resolutions.
- 3.1.2 Should Alternative Dispute Resolution procedures not be a viable option, the Student Resolution Office will gather information relating to the incident. This includes meeting with complainants, witnesses, and respondents, and collecting any relevant data as appropriate (E-mails, text messages, assignments, etc.)
- 3.1.3 If the respondent is a NAIT staff member and the complainant is a student, the student can access the Student Academic Rights Advisor (SARA) at NAITSA. The SARA can provide options and refer the complaint to the Director of Employee and Labour Relations with NAIT Human Resources for follow-up.
If the respondent is a staff member *and* a student, the case may proceed through a Formal Adjudication Process and/or a Human Resources process. The decision as to the most appropriate process is the responsibility of the Student Resolution Office for the Formal Adjudication Process, and the Director of Employee and Labour Relations for the Human Resources process.
If the respondent is an applicant, the file is sent to the Registrar with a recommendation by the Student Resolution Office for a decision.
- 3.1.4 Any member of the NAIT community involved in a Formal Adjudication procedure has the right to consult an advisor such as a member of the NAITSA executive. Other advisors are permitted to attend after consultation with the Student Resolution Office. Any advisor is restricted to advising the student involved in the process; all students must represent themselves through this process barring accommodations for medical reasons.
- 3.1.5 Meetings with any individuals involved in the case (a complainant, a respondent, or a witness) will be summarized either by the Student Resolution Office or by the student in the form of a written statement. Should a summary be provided by the Student Resolution Office, the individual will have at least 24 hours after the summary is sent to contact the Student Resolution Office with any changes or corrections. This timeline may be extended by the Student Resolution Office at its discretion. Failure to respond to the summary will result in the statement standing as written and used to inform a decision on the case.
- 3.1.6 A respondent may at any time declare themselves to be responsible for the allegations levelled by the complainant. In the event that a student accepts responsibility, the Student Resolution Office may choose to, but is not required to, end the investigation and issue a sanction or re-open the possibility of an Alternate Dispute Resolution process with the agreement of the complainant(s).
- 3.1.7 When the Student Resolution Office staff member is satisfied that the information gathering is complete, the information will be reviewed and used to render a decision of either “responsible” or “not responsible”. Authority for decisions of responsibility rests with the Student Resolution Office (or designate) and are made based on a Balance of Probabilities.

- 3.1.8 If a student is found “Not Responsible”, the decision will be communicated by the Student Resolution Office to the student and related stakeholder/s, such as program leadership. The file is closed without sanction.
- 3.1.9 If the evidence supports a finding of “Responsible”, an appropriate sanction will be issued as per section 3.2 and 3.3 of this procedure.
- 3.1.10 Should a respondent wish to appeal the decision, they may do so by emailing resolutionappeals@nait.ca within 10 business days of the decision. The appeals process is governed by SR 1.5: Student Appeals Procedure.
- 3.1.11 Should the respondent or complainant feel that the Student Resolution office has a conflict of interest that would impact the outcome of their case, they may request a Conflict Hearing by the Student Resolution and Appeals Board.
 - 3.1.11.1 This must be raised by the respondent or complainant *before* a decision is rendered on the case. Otherwise, the case is appealed according to SR 1.5: Student Appeals Procedure
 - 3.1.11.2 A conflict of interest is based on a “Reasonable Apprehension of Bias” standard, which means that an informed person would think it more likely than not that the decision maker would unconsciously or consciously decide the issue unfairly.
 - 3.1.11.3 If the Board finds the Student Resolution Office in conflict, they may appoint an alternate investigator (such as Protective Services or an external firm with experience in investigation techniques).
 - 3.1.11.4 The investigation will then be submitted to the Dean of the School of the Respondent for a decision, in accordance with section 3.2 and 3.3. Appeals to these decisions follow the process outlined in section 3.1.10.
- 3.1.12 The employees of the Student Resolution Office may declare themselves to be in a state of conflict with a case. If another Student Resolution Office staff member is unable to take the case, the matter will be referred to the Student Resolution and Appeals Board to appoint an alternative investigator as per section 3.1.11

3.2 Sanctions under the Formal Adjudication Process

- 3.2.1 Should a student be found responsible under this policy, they will face some form of sanction as defined in section 3.2.5.
- 3.2.2 Multiple sanctions can be applied to the same case, in any order.
- 3.2.3 Issuing of sanctions is specific to each case, and not dependent on precedent cases.
- 3.2.4 When determining sanctions, the decision maker will examine responsible party’s past behaviour and conduct history as a mitigating or an aggravating factor(s) and may adjust the sanction(s) accordingly. They may also consider other mitigating and aggravating factors and adjust the sanction(s) accordingly.
- 3.2.5 This policy allows for three categories of sanction: Restorative, Educational, and Risk Mitigation.
 - 3.2.5.1 **Restorative Sanctions** are sanctions designed to help repair the harms caused by the student. The purpose of these sanctions is to have the

respondent take steps to repair the harm they caused and prove to members of the NAIT community that they can be trusted to behave appropriately in the future. Whenever possible, Restorative Sanctions will be explored before Educational or Risk Mitigation sanctions are considered, however in some cases, such as apology letters or behavioural agreements, respondents must accept that they are responsible for the harm caused in order to make these sanctions appropriate and effective. Complainants may be consulted on these sanctions. These sanctions will have required completion timelines and failure to complete the conditions of these sanctions may result in additional sanctions. Any sanction that is designed to repair harm and rebuild trust is considered a Restorative Sanction, and may include (but are not limited to):

- A. Reparations (monetary or in-kind)
- B. Apology Letter
- C. Community Service
- D. Behavioural Agreement

3.2.5.2 Educational Sanctions are sanctions specifically designed to teach or develop the student to ensure they understand why their actions are not acceptable within the NAIT community. Educational sanctions should be considered before Risk Mitigation sanctions, or when Restorative Sanctions are deemed to be insufficient or unlikely to be successful on their own. Educational Sanctions have required completion timelines, and failure to complete the conditions of these sanctions in time may result in additional sanctions. Any sanction that is intended to serve as an educational resource without directly repairing the harms caused is considered an educational sanction and may include (but is not limited to):

- A. Requirement to take a Course, Class or Program offered by a qualified service provider as determined by the Student Resolution Office.
- B. Warning Letter

3.2.5.3 Risk Mitigation sanctions are sanctions designed to mitigate the risk of harm to the community, property, reputation, or other identified value of NAIT. Risk Mitigation Sanctions should be determined by the minimum sanction reasonably necessary to ensure the avoidance of harm. Any sanction that is primarily intended to reduce the risk to the institution will be a Risk Mitigation sanction, and may include (but is not limited to):

- A. Expulsion
- B. Partial Suspension
- C. Full Suspension
- D. Removal from Program
- E. Denial of admission or re-admission
- F. Rescinding of Degrees or Certifications
- G. Financial Hold on Student Account

- H. Forfeiture and/or ineligibility for awards and scholarships
- I. Exclusion from NAIT properties
- J. Conduct Probation

3.2.5.3.1 Expulsions, degree rescissions, and suspension of longer than 4 months may be noted on a student's Transcript with the registrar.

3.3 Authority Levels for Imposing Sanctions

- 3.3.1 For instances of non-academic misconduct, the authority for sanctions under this policy lies with the Student Resolution Office unless otherwise specified.
- 3.3.2 If a discipline decision will result in a full suspension, expulsion, or rescission of a credential, the final authority for the decision rests with the Vice President – Students and Campus Life based on a summary and recommendation by the Student Resolution Office.
 - 3.3.2.1 The Vice President – Students and Campus Life may order an additional investigation into the matter before rendering a decision.
 - 3.3.2.2 The Vice President – Students and Campus Life may reduce, increase, or determine an alternate sanction as appropriate.

3.4 Student Conduct Record

- 3.4.1 The Student Resolution Office will maintain records of all conduct cases, decisions, and appeals in accordance with NAIT Document Retention Policy
- 3.4.2 Conduct Decisions that alter a student's transcript, their ability to access NAIT's physical or virtual environments, or their ability to register for or attend classes will be held by the Student Resolution Office, with access given to the Office of the Registrar.
- 3.4.3 Access to information in these files is restricted and may only be accessed by the Vice President – Students and Campus Life, the Registrar, the Threat Assessment Team, and the Student Resolution Office (or designate).
- 3.4.4 In the event of an appeal, the Student Resolution Office will share the full conduct file(s) with the Student Resolution and Appeals Board chair and members after they have been selected.

3.5 Notification of Decisions

- 3.5.1 The determination, the sanction(s), reasons for the sanction, rights of appeal, decision of appeal, and appropriate timelines (as relevant to the stage of the process) will be communicated to the student via secure means (electronic or hard copy delivered to last known address). The entire process is considered confidential; however, the complainant will be informed when the process is complete if that notification has been requested.

4.0 Exceptions to the Procedure

- 4.1 Exceptions to this procedure must be documented and formally approved by the Policy Lead.

Procedure exceptions must include:

 - The nature of the exception

- A reasonable explanation for why the procedure exception is required
- Confirmation that the exception aligns with the general principles
- Any risks created by the procedure exception and how they will be managed.

5.0 Related Documentation

HS 3.0: Gender Based and Sexual Violence Prevention and Response Policy

HS 3.2: Gender Based and Sexual Violence Complaints Procedure

CS 1.1.1 Threat Assessment Team Procedure

HR 6.0: Respectful Workplace Policy

HR 6.1: Respectful Workplace Procedure

Document History

<i>Date</i>	<i>Action/ Change</i>
January 2021	Three-year review complete. Minor revisions.
May 18, 2021	Clarified role of SRO in 3.1.3
May 9, 2022	Updated Policy Owner 3.3.3 and 3.4.3 – included Vice President - Students and Campus Life
March 31, 2023	Removed reference to Ombuds in 3.1.4 and 3.5
November 28, 2023	Scope changed to non-academic misconduct; removed references to academic misconduct; changed procedure owner
February 12, 2024	Updated 3.1.3 to reflect new process to include SARA and updated HR contact