

Approval Authority: Board of Governors**Last Approved:** December 22, 2021**Administrative Responsibility:** AVP, Students**Next Review:** 2024-2025

SCOPE

This policy outlines the expectations of the NVIT Community with respect to individual behaviour and how NVIT responds to incidents involving non-curricular individual behavioural misconduct. This policy applies to all members of the NVIT Community in all Institute-related settings, including but not limited to online environments, non-traditional learning campuses and/or when members of the NVIT Community publicly declare they represent the Institute.

This policy does not address matters related to academic integrity policy violations and/or behaviour/issues related to classroom management and/or professional standards required of some academic programs. When Students are enrolled in programs that require additional professional standards, the program has a responsibility to ensure Students are informed of those standards. Where any additional standards are inconsistent with the standards set out in this policy, the standards in this policy shall prevail.

This policy describes the general rights and responsibilities of all members of the NVIT Community. This policy does not limit the powers of the President conferred by the Colleges and Institute Act, nor does the policy preclude the Institute from publishing additional policies, procedures, and standards not described herein which the NVIT Community must respect. When additional policies, procedures and standards have been set for NVIT and NVIT related activities, NVIT has a responsibility to inform the NVIT Community of these additional policies, procedures and standards.

POLICY

NVIT is committed to providing a learning and working environment that is safe, civil, and is respectful of the rights, responsibilities and well-being of all of its members. As such, NVIT Community members conduct themselves in a manner that is consistent with the Institute's mission and values. These standards of conduct require that all members of the NVIT Community obey the law, be aware of and abide by NVIT policies, behave in a safe and civil manner, demonstrate respect for all members of the NVIT Community, its property and resources.

The Institute has the right to evaluate, investigate and adjudicate allegations of conduct violations and to impose Sanctions that reflect the nature and severity of the conduct violation, but also has a responsibility to ensure allegations of conduct violations are handled according to the principles of procedural fairness. NVIT community members who are confirmed to have breached behavioural

conduct will be held accountable by the Institute, and will be subject to disciplinary Sanctions up to and including expulsion or termination. Action may be determined in accordance with federal and provincial laws such as the Criminal Code of Canada, and institutional policies including but not limited to:

- *B.2.6 Human Rights*
- *B.2.8 Conflict of Interest*
- *B.2.9 Health and Safety*
- *B.4.1 Acceptable Computer Use*
- *B.2.13 Consenting Relations*
- *Personnel: Code of Conduct*
- *NVIT/NVITEA Collective Agreement*

The Vice-President of Students has the authority and responsibility to apply this policy, and related procedures for allegations regarding students. The Human Resources Advisor has the authority and responsibility to apply this policy, and related procedures for allegations regarding NVIT employees, members of the Board of Governors, Elders and contractors. If an incident reported as an allegation of a Conduct Violation involves more than one policy, the Vice-President of Students or Human Resources Advisor or designate shall collaborate with the President to determine the appropriate policy(ies) to be applied and this decision will be final.

PURPOSE

NVIT is responsible for maintaining a safe and civil environment conducive to working and learning and that is free from disruptive, dangerous, or threatening conduct. This policy describes conduct required by NVIT Community members and outlines behaviour that may be subject to investigation, discipline and/or suspension and outlines the procedures used to respond to allegations of conduct violations. The primary goals of this policy and its related procedures are to provide a just, timely and effective process for responding to alleged violations of the Individual Conduct Policy, while simultaneously maintaining a conduct process that is educational in nature and supportive of personal learning and growth.

OBJECTIVE

NVIT's response to incidents of non-academic misconduct has the following objectives:

- To ensure incidents of misconduct are handled according to the principles of procedural fairness.
- When possible, provide educational opportunities for those who have breached NVIT policies.
- In determining whether a conduct violation occurred, adhere to a standard of proof based on a balance of probabilities, meaning the act is more likely than not to have occurred.
- When appropriate, provide alternative ways including, but not limited to, Indigenous ways of resolution to address incidents of misconduct.
- To ensure the confidentiality of all parties involved in incidents of misconduct so that the reputations and interests of those subject to allegations are protected.

- To ensure members of NVIT's community who participate in an investigation under this policy can do so without fear of reprisal.
- To hold accountable an individual who is found to have made frivolous, vexatious, or malicious allegations.

DEFINITIONS

Allegation – a complaint or report about an alleged conduct violation.

Complainant – an individual and/or entity that submits a complaint or report alleging a conduct violation.

Conduct Hold – a note on a Student's student record prohibiting access to that record and registration in any NVIT course/program until an issue regarding an allegation is resolved. A Conduct Hold is an administrative action to ensure the allegation and conduct violation, if applicable, are addressed.

Vice-President – Vice-President of Students or designate.

Investigation – An information gathering and assessment process used to determine the nature and circumstances of alleged misconduct, matters of credibility and whether it is more probable than not, that a breach of this policy occurred. The investigation process may include, but is not limited to, the collection and review of written statements, witness interviews, notes, logs, papers, assignments, digital and print records, and any other relevant material.

NVIT Community - Students, employees, Elders, Board of Governors members and contractors at any NVIT campus or community where NVIT courses are delivered.

Report – the report issued by the Vice-President of Students or Human Resources Advisor following an investigation.

Respondent – an individual and/or entity alleged to have been engaged in a conduct violation.

Sanction - A consequence imposed on an individual for a violation of NVIT policy.

Student – an individual registered in an NVIT course approved and articulated through the NVIT Education Council. Does not include an individual registered only in Continuing Studies courses.

Suspension – denial of access to academic programs, Institute property and services, and Institute and Institute related activities imposed by the President.

CONDUCT VIOLATIONS

The following list sets out examples of conduct that would be in contravention of NVIT's mission, vision, values, and policies. It is intended to help individuals understand the type of behaviour that will be subject to discipline. This is not an exhaustive list and individuals should be aware that their behaviour might still be considered under this policy, even if it does not appear in the list below.

Individuals engaging in, attempting to engage in, or assisting others to engage or attempt to engage in the following examples will be subject to investigation under this policy:

1. Violation of NVIT policies, rules or regulations.
2. Failure to comply with the reasonable direction of NVIT employees in the performance of their duties.
3. Behave in disruptive ways that obstruct the learning and teaching environment, including making it difficult to proceed with scheduled lectures, seminars, meetings, examinations or tests.
4. Threatening, intimidating, endangering or creating conditions or situations which may endanger the health, safety, property, well-being or dignity of any person e.g. verbal abuse, physical assault, bullying, harassment or hazing. Hazing is an act which endangers the mental or physical health or safety of a student for the purposes of initiation or admission into, affiliation with, or as a condition for continued membership in, a group or organization.
5. Damage, remove, or make unauthorized use of NVIT property, or the personal property of faculty, staff, students or others at NVIT.
6. Use any NVIT facility, equipment, material, or service in a manner that places another person at risk.
7. Abuse any NVIT computer, computer-related facility, or software; alter or remove computer files or software without proper authorization; purposefully misplace, or deprive others of access to such computer resources.
8. Except for the purpose of legitimate research for a specific course or program, individuals shall not receive, upload, download, distribute, or send offensive, racist, pornographic, discriminatory, and/or harassing material using:
 - NVIT owned or operated equipment or software whether it be on campus or off campus;
 - Personal computers and communication devices software or hardware on campus equipment on campus;
 - NVIT owned or operated networks.
9. Be disruptive by reason of use of and/or impairment by alcohol, drugs, or other substances in circumstances where this policy applies.
10. Possess or consume illegal drugs.
11. Possess or consume alcohol or cannabis while on campus.
12. Illegal or unauthorized possession of real or replica firearms or other weapons, explosives, or dangerous chemical or use of any such item, even if legally possessed, in a manner that harms, threatens or causes fear in others.
13. Retaliation against any individual who is involved in an Allegation under this policy or any other Institute policy
14. Breach of confidentiality under this policy or under any other Institute policy.
15. Making a frivolous, vexatious, or malicious Allegation under this policy.

16. Misuse, abuse or unauthorized use of the Institute's name, symbols, facilities or equipment.
17. Interference with the Institute's services or operations, including access to the Institute.
18. Impersonation of an instructor, Student, or other member of the NVIT community in relation to non-academic matters.
19. Falsification of any non-academic NVIT related document or supplying false information to NVIT in relation to non-academic matters.

PROCEDURES

When it is possible and appropriate to do so, members of NVIT's community are encouraged to resolve minor non-academic conduct issues by informal means using respectful and direct communication.

Confidentiality

Confidentiality is required so that all parties involved in incidents of Conduct Violations will come forward and so that the reputations and interests of those who are subject of allegations are protected. Confidentiality is different from anonymity and for an allegation of a Conduct Violation to proceed, the identity of the Complainant and the details of the allegation will normally be released to the Respondent.

During the course of an investigation into an allegation of a Conduct Violation, sensitive personal information may need to be collected, used and/or disclosed. NVIT employees are required to maintain confidentiality over information gathered during the course of an investigation into an allegation of a Conduct Violation, except where disclosure is required in order to investigate and resolve the allegation or is otherwise permitted or required by any Institute policy. NVIT will share Confidential Information with its faculty and staff if the information is necessary for the performance of their duties. Other persons do not have the right to know any Confidential Information except to the extent required to conduct the investigation. NVIT may also authorize the sharing of Confidential Information in any of the following circumstances:

- I. The person the information is about has consented in writing;
- II. Sharing the information is necessary for the protection of health or safety;
- III. Sharing the information is otherwise authorized or required by law.

Individuals are required to maintain the confidentiality of any and all information provided to them during the course of an investigation into an allegation of a Conduct Violation, except where disclosure is required by law or is necessary in order for the Individual to participate openly in that investigation. Any person involved in an allegation or investigation of a Conduct Violation who breaches confidentiality may be subject to disciplinary action according to the appropriate Institute policy.

Correspondence

All correspondence with Students and Employees will be done through NVIT issued email. Students and Employees are responsible for ensuring that they check their NVIT email on a regular basis.

Correspondence with all other individuals (i.e. Elders, Board Members, contractors) will be carried out through the email contact address that they have provided to the institution.

Reporting

Complaints regarding a potential violation of this Policy, must be submitted in writing to the Vice-President of Students or Human Resources Advisor or designate as soon as possible. Anonymous complaints may not be investigated.

Review of Allegations

Following receipt of a written complaint or incident report, the Vice-President of Students or Human Resources Advisor or designate will evaluate the allegation on its own merit and inform the Complainant in writing if:

- i. the issue will be referred to another resource/department;
- ii. it is recommended the issue be addressed through alternative dispute resolution;
- iii. the issue will be documented without taking further action; or,
- iv. a formal investigation will be initiated.

Imposed Restrictions

In reviewing the incident, if the Vice-President of Students or Human Resources Advisor or designate deems an individual poses an imminent risk to members of the NVIT community or property, the Vice-President of Students or Human Resources Advisor or designate may temporarily restrict the individual from access to NVIT services, property and/or NVIT-related activities. A restriction is a temporary administrative action to ensure the safety of the NVIT community and its members. A restriction can be imposed at any time during the investigative process.

When a restriction is imposed, the Vice-President of Students or Human Resources Advisor or designate will inform the Respondent and President, in writing, which will include the reasons for, and the timeframe of, the restriction. At the discretion of the Vice-President of Students or Human Resources Advisor or designate, the period may be extended in the event the risk remains high or imminent. If the period is extended the Respondent and the President will be immediately notified in writing which will include the reasons for the restriction extension.

Alternative Dispute Resolution

In instances where the Vice-President of Students or Human Resources Advisor or designate deems appropriate, the option to resolve the issue through an alternative dispute resolution process may be recommended. An alternative dispute resolution process is a voluntary process in which all parties must willingly agree to participate.

If an alternative dispute resolution process proceeds, the Investigation under this policy and procedures will be held in abeyance pending the outcome of the alternative dispute resolution process. The Investigation will be held in abeyance for no longer than 1 month. If within 1 month of the commencement date of the alternative dispute resolution process either:

- a. the Complainant or Respondent notifies the Vice-President of Students or Human Resources Advisor or designate in writing that he/she withdraws from the alternate dispute resolution process, or
- b. the Vice-President of Students or Human Resources Advisor or designate determines that the alternate dispute resolution process has failed,

The Vice-President of Students or Human Resources Advisor or designate will resume the Investigation under this policy and these procedures.

If a resolution can be found through the alternative dispute resolution process, to the satisfaction of all parties, the matter will be closed and no further steps will be taken under this policy and procedures. Resolutions must be formalized in a written agreement and will be provided to all parties involved and the Vice-President of Students or Human Resources Advisor or designate. The written resolutions will become part of the individual's conduct record.

Investigation of the Allegation

Following a review of the allegations, if the Vice-President of Students or Human Resources Advisor or designate decides to move forward with an investigation, the Respondent will be notified in writing. The notification will include:

1. nature of the allegation along with the essential of the case (e.g. date of incident);
2. a statement that the matter will be investigated;
3. reference to pertinent policy(ies);
4. indication that the individual's conduct or situation may be subject to discipline;
5. a request for a meeting with the individual which will include meeting details and who will be in attendance at the meeting; and,
6. the consequence(s) in case of a failure to respond to the letter by a specific timeline.

The Vice-President of Students or Human Resources Advisor or designate will gather any relevant information by interviewing the Complainant, the Respondent, potential witnesses and others who may have pertinent information, and provide the Respondent with an opportunity to respond to the Allegation and the information collected.

Failure to Cooperate with an Investigation

In the event that a Student Respondent chooses not to participate or fully cooperate in the investigation, a Conduct Hold may be instated. Should the Respondent choose not to participate in the investigation, the Vice-President of Students or Human Resources Advisor or designate may move forward with the investigation and make a determination based on the information received. Every reasonable effort will be undertaken to have a respondent participate in the investigation.

If the Respondent does not participate in the investigation and the Vice-President of Students or Human Resources Advisor or designate determines that the Respondent did not commit a policy violation the Conduct Hold will be removed.

Support Person

A Complainant or Respondent may bring one support person to the interview for moral support, but a support person may not speak on behalf of the individual.

Individuals acting as support during an investigation are expected to conduct themselves in a respectful manner. Failure to do so may result in the individual being withdrawn from an interview, in which case, the Complainant/Respondent can agree to proceed with the interview without the support person or request the interview to be rescheduled until an alternate Support Person has been identified. Any postponement of the interview and the length of such a postponement will be at the discretion of the Vice-President of Students or Human Resources Advisor or designate.

Decision

Within 10 working days of the Vice-President of Students or Human Resources Advisor or designate completing the investigation, the Vice-President of Students or Human Resources Advisor or designate will send a decision letter to the Respondent. The decision letter will outline:

- 1) a description of the Allegation;
- 2) the process that was taken to investigate the allegation;
- 3) the Vice-President of Students or Human Resources Advisor or designates findings from the investigation;
- 4) the Vice-President of Students or Human Resources Advisor or designates decision as to whether a Conduct Violation has occurred;
- 5) the disciplinary Sanctions imposed on the Respondent (if any);
- 6) the reasons for the decision; and,
- 7) appeal information (if applicable).

After a decision has been rendered regarding the allegation and the Respondent has received the decision letter, the Vice-President of Students or Human Resources Advisor or designate will inform the Complainant that a decision regarding the allegation has been made. Additional information may be provided to the Complainant regarding the decision if the Vice-President of Students or Human Resources Advisor or designate deems it appropriate. Any disclosure will be made in accordance with NVIT policies.

Sanctions

If the Vice-President of Students or Human Resources Advisor or designate determines a Conduct Violation has occurred, he/she will determine what disciplinary Sanctions will be applied with the exception of a Suspension, which, will be determined by the President as per Section 37.2 of the College and Institutes Act. Sanctions will be considered in accordance with federal and provincial laws such as the Criminal Code of Canada, and institutional policies including but not limited to;

- *B.2.6 Human Rights*
- *B.2.8 Conflict of Interest*
- *B.2.9 Health and Safety*

- *B.4.1 Acceptable Computer Use*
- *B.2.13 Consenting Relations*
- *Personnel: Code of Conduct*
- *NVIT/NVITEA Collective Agreement*

Determination of sanctions will involve consideration of the following factors:

- 1) the nature and severity of the Conduct Violation;
- 2) the impact the Conduct Violation has had on the NVIT community;
- 3) the inadvertent or deliberate nature of the Conduct Violation;
- 4) whether the Respondent accepts responsibility for the Conduct Violation;
- 5) whether the Conduct Violation is an isolated incident or not; and
- 6) any other mitigating or aggravating circumstances.

The purpose of Sanctions are to affirm the standard of conduct required from members of the NVIT community as outlined in this policy, to repair harm that has been done and/or restore what has been damaged, and to guide Respondents in making appropriate choices in the future. While NVIT may impose a variety of Sanctions in response to a Conduct Violation, Respondents may also be provided with educational and professional development opportunities promoting good citizenship and personal growth and development.

Options for Sanctions, which may be imposed singularly or in combination, may include but are not limited to those identified in the NVITEA Collective Agreement and/or:

- i. A letter of reprimand;
- ii. Writing an apology;
- iii. Writing a reflection paper;
- iv. Undertaking an educational project;
- v. Undertaking community service;
- vi. Paying for damage or harm that has been done to NVIT or a NVIT community member's property;
- vii. Losing the privilege of access to designated NVIT property, services and/or NVIT or NVIT-related activities;
- viii. Being placed on probation for a specified period of time during which certain conditions or must be fulfilled or otherwise be subject to the imposition of further or more severe Sanctions;
- ix. Receiving a Suspension or expulsion or termination notice from NVIT by the President; and/or,
- x. Any combination of the above.

Cases that result in a recommendation to suspend, expel or terminate must be approved by the President.

Upon hearing from the Respondent and considering the recommendations of the Vice-President of Students or Human Resources Advisor or designate and any other party(ies) the President deems

appropriate, the President will send a decision letter to the Respondent. That letter will outline the decision of the President, the reasons for the decision and the length of the Sanction (with the exception of expulsion and termination). A copy of this letter will be provided to the Vice-President of Students or Human Resources Advisor or designate to be placed in the Respondent's institutional record(s). The President will also Report the action to the Board with a statement of the reasons. If the President determines that a Suspension, expulsion or termination is not required, the Vice-President of Students or Human Resources Advisor or designate will determine what, if any, lesser alternative sanction is to be imposed and communicate that decision in writing to the Respondent.

Sanctions imposed upon a student shall not ordinarily be recorded on the student's transcript unless the student is suspended or expelled. In the case of a suspension, the transcript notation shall be removed within one academic year of lapsing of the suspension.

If Sanctions are imposed on a Respondent, the Vice-President of Students or Human Resources Advisor or designate will assess whether or not the Sanctions are completed satisfactorily. If the Sanctions are not completed satisfactorily the Vice-President of Students or Human Resources Advisor or designate may place a Conduct Hold on the Student Respondent's institute record until such time as the Sanctions have been satisfactorily completed. When a Conduct Hold is placed on a Student Respondent's record, the Student Respondent must be notified in writing, and notification must include reasons for the Conduct Hold.

Appeal of Decision

When a conduct violation results in a disciplinary decision involving Sanctions, appeals of said decisions will be referred to the NVIT Appeals Committee. All appeals of decisions under this policy will be subject to and will proceed in accordance with the established procedures of the Appeals Committee. Individuals seeking to file an appeal under this policy and its procedures should refer to those procedures.

Any decision of the Appeals Committee in respect of a Respondent's appeal under this policy and these procedures is final and there is no further right to appeal.

A Respondent may appeal a decision of the Vice-President of Students or Human Resources Advisor or designate to the Appeals Committee only based on:

- i. procedural unfairness, which means that established procedures were not followed or were improperly applied during the Investigation and/or decision making process; and/or
- ii. new information became available, which could not have been available at the time of the Investigation, that could have reasonably impacted the decision.

In cases where the President has imposed a suspension, expulsion or termination, the decision of the President as related to a Respondent, may be appealed to the Board. Respondents seeking to file an appeal of the President's decision should refer to the procedures outlined in NVIT policy 5.7 *Appeals to the Board* in accordance with *Section 37 of the College and Institute Act*.

Any decision of the Board in respect of a Respondent's appeal under this Policy and its Procedures is final and there is no further right to appeal.

Records

Records created as a result of actions taken under this Policy and its Procedures shall be marked as confidential and managed in accordance with NVIT's Records and Retention Schedule.

Any record of disciplinary actions imposed for a Conduct Violation under this Policy and its Procedures will be included in appropriate person records normally held in either the Human Resources, Finance or Registrar's Office.

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