

# Concordia Student Union

## Code of Conduct

**Oversight Body:** Policy Committee

**Date Passed by Council:** 10 April 2019

**Date of Next Review:** April, 2021

**Related policies, bylaws, legislation:** Quebec Charter of Human Rights and Freedoms, CSU Sexual Violence Policy, CSU Bylaws and all Policy Books.

### Definitions

**Assault:** An act that invokes fear in a person of an imminent harmful or offensive contact, or has caused harm or offensive contact.

**Complaint:** A written expression of dissatisfaction with the behaviour of a Student Union Representative, which is governed by this Code.

**Complainant:** An individual who makes a complaint under this Code.

**Consent:** The active, ongoing, informed and voluntary agreement to engage in sexual activity. The consumption of drugs and/or alcohol, the party's relationship status and/or sexual history together does not provide an excuse from obtaining consent. Consent can also be withdrawn at any time. Further, consent for one sexual act does not imply consent to a different sexual act.

Consent is not given where:

- a. It is given by someone else;
- b. The person lacks capacity to consent due to their judgement being materially impaired by drugs and/or alcohol, being unconscious, sleeping or otherwise;

- c. It was obtained through the abuse of a position of power, trust or authority, whether through size, strength, or standing/reputation at the university;
- d. It was obtained through threats, coercion or pressure;
- e. If consent was given for an act under certain conditions or circumstances and those were not respected (i.e. the use of a condom).
- f. If consent was given for an act, but the person feels unsure, doubtful, or uncomfortable about the decision to give consent, then it is not considered full, proper consent.

Cyber Bullying: Using the internet, social media, or cellular devices to send or post images or text intended to hurt, embarrass or degrade another person.

Gift: Any item offered to a Student Union Representative that has significant financial value.

Law: The Laws of Canada and the province of Quebec.

Harassment : The act of systematic and/or repeated unwelcome, vexatious conduct directed towards a person;

- a. Which may be based upon one of the prohibited grounds specified in the Quebec Charter of Human Rights and Freedoms, that is; race, colour, ethnic or national origin, sex, gender identity, pregnancy, sexual orientation, civil status, age, religion, political convictions, language, social condition, disability or the use of a means to palliate a disability;
- b. When such conduct has the effect or purpose of unreasonably interfering with a person's right to pursue their work, study or other activities related to University life in a safe and civil manner or of creating an intimidating or hostile environment for such activities.

Member: Student Union membership as defined in By-Law 3.

Reprisal: Any action or threat that can reasonably be perceived as retaliation for exercising a right under this Code.

Respondent: An individual named in a complaint who is alleged to have violated this Code.

Personal advantage: Includes direct financial or monetary advantages as well as those conferred upon close family members or intimate partners. Also includes any preferential treatment or services.

Student Union Representatives: Members of the Executive and members of the Council of Representatives, members of Academic Caucus: Senators and Board of Governors Representatives, Judicial Board members, Students-at-large, and Electoral Officers.

Union Activities: Includes but is not limited to: general meetings, special general meetings, informal general meetings, council meetings, annual general meetings, elections.

Union Premises: building and lands owned, leased, operated in or by, controlled or supervised by the Union, including computer networks.

Union Property: Property or equipment belonging to the Student Union.

Third Party: A third party is any individual who falls outside of the Concordia community. For example, a contracted employee or visitor on the campus who is neither a member of the CSU, nor affiliated with or employed by any other organization within Concordia University, including Concordia itself.

Third Party Ombudsperson: A neutral third party who is well versed in all Concordia Student Union documentation, and is duly appointed by Council for the purposes outlined in this Code in order to investigate and resolve complaints.

## **Purpose**

In recognition of:

- a. The Concordia Student Union (the “Student Union” or “Union”) being committed to improving student life by fostering a university space, which is safe, respectful and conducive to a positive working and learning environment.
- b. To reach this goal, representatives of the Concordia Student Union are encouraged to bring their ideas forward and engage in meaningful conversations, debates, and dialogues with other each other, and members of the Concordia student body.
- c. Establishing a written Code of Conduct (the “Code”) for all Concordia Student Union Representatives, will ensure that union related activities

will be carried out with respect, integrity and ultimately promote good governance. This code will:

- i. Set and define the standards of conduct and behaviour of Student Union Representatives
- ii. Enhance the student body's confidence in the Student Union by ensuring that their Representatives are held to the highest standards of behaviour.
- iii. Define and rectify situations where Student Union Representatives are in a Conflict of Interest
- iv. Set out the disciplinary procedure and sanctions in case of violation of this Code.

## **Scope**

This code applies to:

- a. All conduct that occurs on Union Premises.
- b. All conduct while a Student Union Representative is using any Union facilities.
- c. All off-premises conduct of a Student Union representative that could have an adverse effect on the health or safety of Student Union members.
- d. All conduct by a Student Union Representative while they are acting on behalf of the Union, or could reasonably be considered to be representing the Union, at any event, no matter the location, or whether the event occurs before, after or during normal service hours.
- e. All communications, interactions, or incidents between two or more Student Union Representatives.
- f. All conduct or communications taking place on a Student Union Representative's computer, telephone or network, including but not limited to e-mail accounts, text messages, social media accounts or similar online platforms, whether these devices, accounts or platforms were intended for personal or professional use.

## **Policy Statement**

### **1. Expected Conduct:**

Generally, Student Union representatives are expected to:

- 1.1 Adopt a professional and respectful standard of language when engaging with other Student Union Representatives, members of the Concordia staff and student body, as well a third parties, while in performance of their union duties.

- 1.2 Act reasonably and with due care so as not to disrupt, interfere with or unduly delay Union Activities or union related activities.
- 1.3 Act in good faith towards the Union and the Student Union Representatives.
- 1.4 Understand the scope of the mandate they are responsible for and not infringe on other Representatives' roles.
- 1.5 Maintain professional and respectful relationships with other Student Union Representatives and Student Union Members.
- 1.6 In the capacity as a Student Representative, indicate when opinions expressed are personal opinions and not the official position of the Student Union.
- 1.7 Sign the policy waiver upon taking office to express their understanding and commitment to the expected conduct of a representative of the Union.

## 2. Prohibited conduct

Student Union Representatives are notably prohibited from engaging in the following conduct.

It is understood that it is impossible to list all forms of prohibited conduct. The following list is therefore non exhaustive and shall serve as a guide.

### 2.1 Against Persons

Student Union Representatives shall refrain from:

- 2.1.1 Physically assaulting any person.
- 2.1.2 Threatening to harm any person whether uttered verbally, in writing, or by way of any technological means, including but not limited to a social media platform.
- 2.1.3 Harassing, intimidating, or bullying another person, whether physically or verbally.

- 2.1.4 Engaging in any conduct, which threatens the safety or health of another person.
- 2.1.5 Coercing any person to do any act or thing that is demeaning or degrading towards that person or another.
- 2.1.6 Sexually assaulting, sexually harassing or committing acts of sexual violence towards another person as defined in the Concordia Student Union *Sexual Violence and Safer Spaces Policy*.
- 2.1.7 Participating in or encouraging any form of Cyber Bullying towards another person.
- 2.1.8 Engaging in or disseminating vexatious remarks or rumours dealing with another Student Union Representative.
- 2.1.9 Discriminating against or making discriminatory comments or remarks on the basis of race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status or age in accordance with the *Quebec Charter of Human Rights and Freedoms*.

## 2.2 Misuse of Union Property

Student Union Representatives shall refrain from:

- 2.2.1 Damaging, whether intentionally or by way negligence, or vandalizing Student Union Property or facilities.
- 2.2.2 Using Student Union Property or facilities contrary to their intended and permitted use.
- 2.2.3 Gaining unauthorized access to a Student Representative's personal records and/or communicating these records to a third party without having express authorization and authority to do so.
  - 2.2.3.1 An exemption will be granted at the discretion of the Judicial Board or the Third Party Ombudsperson, as the case may be, if these records are

explicitly related to or going to be used as evidence in any case related to this Code.

- 2.2.4 Using or permitting others to use Student Union Property, facilities or Premises for activities deemed as illegal under Law.

### 2.3 Fraud, Dishonesty and Interference

Student Union Representatives shall not:

- 2.3.1 Participate in conduct that is deceitful or fraudulent.
- 2.3.2 Provide false information to other Student Union Representatives or the media.
- 2.3.3 Forge, falsify, alter or misuse any Student Union documents or records.
- 2.3.4 Make false representations in the exercise of their authority, or knowingly allow others to make false representations to the Union.
- 2.3.5 Interfere or seek to interfere with Union elections, nor frustrate the election process in any manner.
- 2.3.6 Fail or refuse to sign the policy waiver upon taking office.

### 2.4 Gifts and Use of Authority

- 2.4.1 Student Union Representatives shall not accept or agree to accept gifts, rewards, or advantages of any kind in exchange for influencing or what could reasonably be perceived to be influencing their actions or decisions as a Student Union Representative.
- 2.4.2 Student Union Representatives shall not use their position, or act in a manner that could reasonably be perceived as using their position to obtain a personal advantage of any kind.

- 2.4.3 Student Union Representatives shall refrain from acts of retaliation or threaten to act in retaliation against individuals who have made a complaint under this Code.

### 3. Confidentiality

Student Union Representatives shall maintain strict standards of confidentiality. They shall:

- 3.1 Respect the privacy of meetings held In-Camera.
- 3.2 Safeguard sensitive legal information pertaining to the Union.
- 3.3 Not disclose details of decisions, investigations or policy changes that have yet to be finalized and or made public.
- 3.4 Not use confidential information in order to obtain a Personal Advantage of any kind.

### 4. Conflict of Interest

- 4.1 A conflict of interest exists where a Student Union Representative's interests conflict with their duty to act in the best interests of the Union, thereby creating a risk or a perceived risk that the Student Union Representative's decision making will be influenced by their potential benefit rather than the best interest of the Student Union.

These interests can be direct personal interests or include those of family, friends, organisations or businesses that the Representative is associated with.

A conflict of interest also exists where a Student Union Representative's duty to the Student Union conflicts with their duty to another organisation or committee.

- 4.2 Student Union Representatives must disclose any actual, potential or perceived conflict of interests as soon as practicable to the Judicial Board.
  - 4.2.1 An investigation will be conducted in a way that takes into account how the complainant and/or respondent's racial, economic, gendered or non-



gendered, age, language and abled/disabled status affects their position and complaint.

- 4.3 Once a conflict of interest is disclosed, the Council must evaluate whether there is a real or perceived conflict of interest and whether the conflicted member should be permitted to participate in discussions and debates and or partake in decision making.
- 4.4 The decision regarding the existence of a conflict or potential conflict as well as the decision regarding ability to partake in decision making shall be determined by a majority vote of the Council.
- 4.5 In circumstances where a conflict of interest is so serious that it is apparent that the Student Union representative cannot perform their core role in the best interests of the Student Union, the concerned member should consider resigning from their position.
- 4.6 The conflicted Representative may appeal Council's decision to the Judicial Board. This appeal must be submitted through the Judicial Board general complaint form.
- 4.7 The Judicial Board upon receiving the written appeal shall decide as soon as practicable whether Council erred in their finding of a conflict or potential conflict.
- 4.8 If the Judicial Board determines that no conflict or potential conflict exists, a re-vote of the concerned decision shall take place as soon as practicable, and the concerned representative will be permitted to participate in the re-vote.
- 4.9 Where a conflict is only brought to Council's attention after a vote has already taken place, Council shall decide whether a conflict or potential conflicts exists, and if so, a re-vote will be held without the conflicted Representative.

## 5. Complaint Procedure

The following section outlines the procedure to be followed in order to hold Student Union Representatives accountable for respecting their obligations under this Code.

Where possible, and if the circumstances are appropriate, the parties are encouraged to resolve the complaint informally.

## 5.1 Making a Complaint

- 5.1.1 Individuals may make a formal written complaint to the Judicial Board regarding a Student Union Representative's conduct under this Code.
- 5.1.2 Complaints should be made as soon as practicable, but no later than 90 business days after the events or circumstances giving rise to the complaint. In exceptional circumstances, complaints made outside this deadline may be considered. In this case, the Complainant shall detail the reasons for missing the deadline. In the case that the complaint is specific to sexual violence, this deadline does not apply.
- 5.1.3 This complaint should contain the names of Complainant and Respondent, the reason for the complaint, evidence supporting the complaint and any other information the Complainant finds necessary.
- 5.1.4 After receiving the complaint the Judicial Board shall review the complaint and supporting evidence and either dismiss the complaint, further investigate the complaint, or, transfer the complaint to the Third Party Ombudsperson for investigation, review and decision.

## 5.2 Dismissing a Complaint

- 5.2.1 A complaint shall be dismissed before investigation only when either i) the complaint is frivolous or vexatious or ii) if there is insufficient evidence to warrant further investigation.
- 5.2.2 If the Judicial Board decides to dismiss a complaint they shall provide the Complainant with clear written motives for the dismissal.

## 5.3 Investigating a complaint

- 5.3.1 If the Judicial Board finds that there is sufficient evidence to warrant an investigation into the Complaint, they shall communicate with the necessary witnesses, and collect any other relevant evidence in order to complete an investigate report detailing their findings.

5.3.2 Where the alleged violation of the Code could result in legal ramifications for the Respondent and or the Union, the Judicial Board should seek independent legal counsel.

#### 5.4 Transfer to Third Party Ombudsperson

5.4.1 Where the Judicial Board finds the nature of the complaint falls outside their area of expertise, they may transfer the complaint to the Third Party Ombudsperson for investigation, review and decision.

5.4.2 The Judicial Board must communicate all evidence and information previously collected in relation to the forwarded complaint to the Third Party Ombudsperson at this time.

5.4.3 The Third Party Ombudsperson shall speak to the necessary witnesses, and collect any other relevant evidence in order to complete an investigative report detailing their findings before making a decision.

5.4.4 Where the Complainant believes the Judicial Board may be in a conflict with either the respondent or the Complainant, the Complainant reserves the right to request that the investigation be conducted by the Third Party Ombudsperson.

#### 5.5 Review and Decision

5.5.1 The Respondent shall be provided in writing, full details of the allegations as well as any written evidence (within 7 business days) and shall be given an opportunity to respond to these allegations in person or writing.

5.5.2 If the Respondent's response raises new issues or facts relevant to the decision, an additional investigation period may be undertaken before a decision is rendered.

5.5.3 In deciding whether the Respondent has violated the Code, the decision will be based on the balance of probabilities: whether it is more likely than not that the alleged violation occurred.

5.5.4 Judicial Board or the Third Party Ombudsperson must accompany any sanction under Section 10 of this Code with a deadline within which the Respondent must comply with their sanction(s).

5.5.5 If the Respondent fails or refuses to comply with any their imposed Sanctions within the according stipulated deadlines, the Judicial Board or Third Party Ombudsperson, as the case may be, have the authority to progressively increase the severity of any sanctions.

## 6. Sanctions

6.1 If the Judicial Board finds that a Student Union Representative violated this Code they may impose sanctions listed in Section 10.3 of this Code.

6.2 In determining the just and appropriate sanction the Judicial Board or Third Party Ombudsperson shall notably consider the following factors:

6.2.1 The appropriateness of an informal resolution;

6.2.2 The seriousness of the violation;

6.2.3 Whether the Representative has previously been found to have committed violations of a similar nature;

6.2.4 Whether the violation brings the Student Union into disrepute;

6.2.5 The impact of the sanction on the Representative's education;

6.2.6 Failure or refusal to respect or follow previous sanctions under the Code;

6.2.7 Any other relevant circumstances.

6.3 Where a Student Union Representative has violated this Code the Judicial Board or Third Party Ombudsperson, as the case may be, may impose the following sanctions or a combination thereof:

6.3.1 An Informal warning: A discussion with the representative wherein the purpose is to help the representative understand their misstep and make more appropriate decisions in the future.

6.3.2 A written or verbal apology on behalf of Respondent to Complainant and or the Student Union.

6.3.3 A formal and recorded written warning: This warning may indicate the action which may be taken if there is a further breach of the *Code*. A copy of this warning shall be given to the concerned representative and another retained by the Judicial Board.

6.3.4 Full or partial financial restitution to restore property damage.

- 6.3.5 Withdrawal of right to participate in specified activities or services for a specified period of time.
- 6.3.6 Temporary Suspension: The Student Union Representative will temporarily be suspended from all entitlements and functions and may not participate in any union activities or union related activities for a specified period of time.
- 6.3.7 Automatic Resignation: In the most serious of cases where the violation brings the Union into disrepute the Judicial Board or Third Party Ombudsperson may deem such an action an automatic resignation on the behalf of the Representative .

## 7. Appeal

- 7.1 Where the Judicial Board renders a decision under this Code, both the Respondent and the Complainant have a right to appeal the decision within 10 business days of the transmission of the final decision.
- 7.2 An appeal must be based on either:
  - 7.2.1 Additional new evidence that could not have reasonably be brought to the Judicial Board's attention at the time the Complaint was under review;
  - 7.2.2 Demonstrable prejudice or bias against the Respondent or Complainant;
  - 7.2.3 A procedural error was made, which caused serious prejudice to the Respondent or Complainant;
- 7.3 The appeal shall be made in writing, detail the grounds for the appeal and be lodged with the Third Party Ombudsperson
- 7.4 Where the Third Party Ombudsperson decides that there are sufficient grounds for appeal, they shall review the decision of the Judicial Board, and as soon as practicable render their decision.

## **8. Annual Report on Implementation of the Code**

8.1 By the last council meeting of every mandate, the Judicial Board must submit and present on an annual written report to the Council of Representatives on the implementation of the code.

8.2 This report will include:

- 8.2.1 The number of complaints handled by the Judicial Board directly;
- 8.2.2 The number of complaints submitted to the Third Party Ombudsperson;
- 8.2.3 The number of appeals filed to the Third Party Ombudsperson;
- 8.2.4 The number of complaints dismissed as vexatious or frivolous under Article X;
- 8.2.5 Specification of which articles under Section 6: Prohibited Conduct the respondents violated;
- 8.2.6 Examples of sanctions given under the Code by the Judicial Board;
- 8.2.7 Examples of sanctions given under the Code by the Third Party Ombudsperson.

## **9. Mandatory Review**

9.1 The Policy Committee is hereby directed to conduct a review of this Code in conjunction with the Judicial Board within one (1) year of its enactment, and every two (2) years thereafter.