

TIP SHEET for Instructors

How do I prove a case of academic misconduct?

What is the Instructor's role?

Under the Code of Student Behaviour (the "Code"), Instructors require only a reasonable suspicion of academic misconduct. An instructor collects the relevant evidence and information in support of an allegation under the Code, but is not required to prove a case in order to refer it to the Dean (or designate). The responsibility to meet the standard of proof is on the Dean and/or Discipline Officer (i.e. those authorized to make findings and decide sanctions under the Code). According to the procedures for decision makers¹ set out in the Code, the standard of proof required is **balance of probabilities**.

Our standard of proof

Unlike the criminal system which must meet a "*beyond a reasonable doubt*" standard of proof, but can compel evidence and witnesses and can incarcerate offenders, the Code is based in Administrative Law, which lowers the requirement for proof but also limits our ability to compel evidence or witnesses and confines our potential sanctions to those that affect a student's status at the University.

Balance of probabilities is the "*more likely (or probable) than not*" standard. In other words, if the available evidence convinces the Dean to the point that he or she is 50% + 1 certain that a student has committed an offence, the standard of proof has been met.

Conflicting evidence or denial of guilt

Note that evidence is required to make a determination, but that a finding on what is more likely than not (balance of probabilities) can be made even when a student has not admitted to wrong-doing or when there are minor discrepancies in the evidence gathered. Often a decision maker has to assess the credibility of witnesses or of conflicting accounts. This forms part of the process of

establishing balance of probabilities and meeting our standard of proof.

Gathering evidence

Finally, while our standard of proof may be easier to meet, it is prudent to gather all relevant evidence when documenting a potential Code charge so that the Dean can make an informed decision. This might include evidence that the student committed the offence, as well as evidence of what the student knew (or ought to have known) about academic integrity, such as course outlines with statements about academic integrity or handouts/discussions on plagiarism or cheating. The onus is on the University to establish, on a balance of probabilities, that a student has committed an offence under the Code. The Dean, Discipline Officer and University Appeal Board (decision-makers under the Code) are all required to provide written decisions explaining the reasons for any decision, and part of that is to list the evidence reviewed in order to establish that our standard of proof has been met.

Examples

The following are examples of how a balance of probabilities might be established by the Dean:

1. After turning in marginal work for an entire term, a student submits a paper with excellent grammar, diction and syntax, including advanced vocabulary and sophisticated ideas. The professor asks the student how she came to the ideas, and she is unable to describe what she meant or even to define some of the terms used. *Possible Code charges:*
 - 30.3.2(1) Plagiarism – No Student shall submit the words, ideas, images or data of another person as the Student's own in any academic writing, essay, thesis, project, assignment, presentation or poster in a course or program of study.
 - 30.3.2(2)c Cheating – No student shall represent another's substantial editorial or compositional assistance as the Student's own work.

¹ Sections 30.5.5(3) Procedures for Unit Directors, 30.5.7(4) Procedures for Deans, 30.5.8(4)c Procedures for the Discipline Officer, and 30.6.5(12) Procedures for Appeal of Decisions to the University Appeal Board.

Commentary: It is not necessary to find a source that the student might have copied or uncover who actually wrote the paper for the student. The standard of proof is met when it can be established that the student did not write the paper on her own.

2. A student approaches the proctor during an exam to report two other students engaging in cheating. The proctor observes the pair whispering, pointing at each others' papers and erasing and writing. A second proctor observes and documents the same behaviour. The two students deny discussing their exams and explain that they were arranging to take the bus home together later. *Possible Code charge:*
- 30.3.2(2)a Cheating – No Student shall in the course of an examination or other similar activity, obtain or attempt to obtain information from another Student or other unauthorized source, give or attempt to give information to another Student, or use, attempt to use or possess for the purposes of use any unauthorized material.

Commentary: It is not necessary to show that the students copied answers from each other. It is sufficient to find that their behaviour was such that they were attempting to cheat or comparing answers. Since talking during the exam is forbidden, it is reasonable to conclude that students talking during the exam are cheating. Given their behaviour and body language, it is more probable that they were

discussing their exam answers than planning the trip home. Written documentation from the two credible witnesses (the proctors) and possibly, although not necessarily, the reporting student would be sufficient to meet the standard of proof.

3. Two students hand in assignments that are virtually identical despite instructions that the work was to be done individually. The students denied working together, claiming that they had used the same tutor and therefore approached the problems in the same way. The professor notes that even their punctuation and odd or incorrect formulations were identical. *Possible Code charges:*
- 30.3.2(1) Plagiarism – No Student shall submit the words, ideas, images or data of another person as the Student's own in any academic writing, essay, thesis, project, assignment, presentation or poster in a course or program of study.
 - 30.3.2(2)c Cheating – No student shall represent another's substantial editorial or compositional assistance as the Student's own work.

Commentary: The likelihood that two students would make the same punctuation errors or unusual mistakes throughout their assignments, despite sharing a tutor, is extremely low. Therefore a balance of probabilities can be established on that basis, even if the students continue to deny working together.

For more information please contact Student Conduct and Accountability at 780-492-0777, or studentconduct@ualberta.ca.

Please note this publication does not replace or supersede the policies and procedures outlined in the Code of Student Behaviour. In the case of any disagreement, the Code of Student Behaviour takes precedence.