

Complete Policy Title: <b>Persona Non Grata Declarations</b>	Policy Number:
Approved by: <b>President and Vice Presidents</b>	Date of Most Recent Approval: <b>June 2019</b>
Date of Original Approval: <b>N/A</b>	Supersedes/Amends Policy dated: <b>New Policy</b>
Responsible Executive: <b>Vice-President (Administration)</b>	Enquiries: <b>Assistant Vice-President and Chief Human Resources Officer</b>
<b>DISCLAIMER:</b> <i>If there is a discrepancy between this electronic policy and the written copy held by the policy owner, the written copy prevails.</i>	

## Purpose

The purpose of this policy is to establish the protocols and processes for the issuance of a Persona Non Grata declaration as a mechanism to help ensure the health, safety and security of the McMaster University campus and its community members.

## Authority

The McMaster University Act, 1976 (the “Act”) assigns authority to the University’s Board of Governors to conduct the general management of the University, including its property, revenues, business and affairs. The Board of Governors has delegated the day-to-day management of the University to the President and University leadership, including the ability to execute documents and take decisions on behalf of the University.

## Scope

This policy applies to:

### All Members of the University Community (“Community Members”)

Community Members include students (graduate, undergraduate, and continuing education), staff, faculty, postdoctoral fellows, adjunct professors, visiting professors, sessional faculty, teaching assistants, clinical faculty, medical residents, volunteers, visitors, contractors, tenants of McMaster property and institutional administrators and officials representing McMaster University.

### All University-related Activities

University-related activities are activities (authorized and non-authorized) that occur on University premises or on non-University premises where there is a clear nexus to the University.

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## Definitions

### Persona Non Grata

Persona Non Grata is a documented University declaration, which describes official restrictions placed upon an individual who is denied the privilege of entering specific parts of the University or the University as a whole. If individuals so served are found or seen in the area they are denied, then they may be subject to apprehension and charge by McMaster University Security Services under the Trespass to Property Act, R.S.O. 1990.

### Review of Decision

A Review of Decision is a request by an individual who has received an official declaration to have the decision or their status reassessed by the University. A review of the declaration does not act as a stay of the original decision. The declaration remains in effect during and after the review process, unless the declaration is modified or withdrawn.

### University Property

Includes all indoor and outdoor spaces owned, operated or leased by or from McMaster University, including all off campus McMaster locations. A declaration will not restrict access to the McMaster University Medical Centre or other hospital or health service location affiliated with McMaster for the sole purpose of accessing medical treatment, unless specifically identified, for the individual or a family member.

## Policy

### 1. Authorized Persons

- a. The following positions are authorized to approve a declaration in relation to identified community members:
  - Assistant Vice-President and Chief Human Resources Officer (or designate) for all employees including faculty
  - Associate Vice-President (Students and Learning) and Dean of Students (or designates below), for all students
    - Director of Student Support and Case Management Office, for all students
    - Director of Housing and Conference Services, for students in residence
  - Associate Vice President and Dean of Graduate Students for all graduate students
  - Director of Security Services for all community members, including visitors and contractors.
- b. Where the individual who has received a declaration has multiple roles at the University (i.e. is both a student and employee), authorization will be required from either the Director of Security Services or both the Assistant Vice-President and Chief Human Resources Officer and the Associate Vice-President (Students and Learning) and Dean of Students.
- c. The following positions are authorized to review the issuance of a declaration upon request for a Review of Decision:
  - Provost and Vice-President (Academic)
  - Vice-President (Administration)

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## 2. Circumstances Justifying Issuance

- a. Authorized Persons must ensure that a reasoned determination has been made that a person:
  - is, has been, or there are reasonable grounds to believe the person has the potential to engage in threatening or violent behaviour, and is likely to be present on University property;
  - has engaged in, or is reasonably likely to engage in, criminal activity that may impact the University or members of the University community;
  - is in violation of a University policy and there are reasonable grounds to believe the individual has the potential to (or has) materially interfered with or impacted the University's teaching and research mission, or use of the University's property for such purposes; or
  - is, or has engaged in, or is reasonably likely to engage in, conduct that threatens or endangers the health, safety or property of the University or of any person, including issues of domestic violence, sexual assault, discrimination and/or harassment.
- b. Considerations to be taken into account prior to the issuance may include:
  - The severity of the conduct of the relevant individual and or the offence(s) they have committed or have allegedly committed, including the impact on others;
  - Whether the individual accepts responsibility for their action and is amenable to educative remedies;
  - Any extenuating circumstances that may help explain the action taken;
  - Any record of previous offences known to the University; and
  - When a person has been charged under the Criminal Code of Canada or any federal or provincial statute depending on the nature and severity of the offence with which the person is charged and the scheduling of criminal proceedings.

## 3. Term

A declaration remains in effect until the end of one (1) year from the date of issuance or until modified or withdrawn in writing by an Authorized Person. However, a declaration may be issued for a shorter term, or interim period, with the approval of an Authorized Person depending on the specific circumstances. A declaration may also be utilized as an interim measure to assist in the management of a situation, pending the outcome and conclusion of a formal investigation by the University.

**Extended Term:** In exceptional circumstances, a declaration may be issued with an extended term of up to five (5) years, or declaring a permanent ban with the authority of either the Assistant Vice-President and Chief Human Resources Officer or the Associate Vice-President (Students and Learning) and Dean of Students.

## 4. Format

- a. A declaration will be issued to an individual in writing by Security Services, on behalf of the Authorized Person or by the Authorized Person under advice to Security Services.

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- b. If time or circumstances do not permit the issuance of a written declaration, an interim declaration may be made verbally and will remain in effect for seven (7) days. Written confirmation of the status must be provided as soon as reasonably possible (normally within seven (7) days) and approved by an Authorized Person.
  - c. A declaration will inform the person:
    - that they are prohibited from all University property, or parts of University property specifying the portion or restricted area;
    - of the duration of the prohibition;
    - of the reason for the prohibition;
    - that if they return to University property (or the designated portion) they may be subject to apprehension and charges under the Trespass to Property Act;
    - that a review of the decision is available; and
    - that declarations are effective immediately and remain in effect for the specified term, unless revoked in writing.

The suggested text of a Persona Non Grata Declaration is given in Appendix A and will be modified by the Authorized Person to address the specific circumstances.

An Interim declaration may be issued as authorized in other related policies.

## **5. Reporting by Authorized Persons**

The issuing and approving Authorized Person must ensure that:

- a. Security Services are notified immediately, in writing, of all individuals so declared;
- b. the Vice-President (Administration) will be notified of all issued declarations; and
- c. the Provost and Vice-President (Academic) will be notified of an issued declaration that involves a student, faculty member, or faculty visitor.

In the event that an individual so served is seen to be on McMaster property, Security Services should be notified immediately by contacting 88 from any University phone or by dialing 905-525-9140 ext. 24281.

## **6. Student Support and Case Management (SSCM)**

If a student is declared, the Director of Security Services shall forward a copy of the issued declaration to Student Support and Case Management for consideration under the Code of Student Rights and Responsibilities.

If the student issued a declaration is currently living in Residences, the Authorized Person shall forward a copy of the declaration to the Director of Housing and Conference Services.

## **7. Notification to a Third Party**

PNG notifications may be shared internally within McMaster with departments that need to know of the incident and declaration. Notifications will not be made to third party employers of individuals declared PNG without the prior approval of the VP Administration or the Provost.

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## 8. Review of Decision

An individual issued a declaration may make a written request to have the declaration reviewed by directing correspondence to the Vice-President (Administration) who will initiate the review process. The written request must include the reasons for the review request, a complete explanation for the conduct that precipitated the declaration, the need to be on University property, as well as any other information the person wishes to be considered.

Normally, a substantive determination on the petition will be made and communicated in writing within thirty (30) days of receipt of a request to review. The declaration remains in effect during and after the review process, unless the declaration is modified or withdrawn.

The Reviewer will be one of the Authorized Persons in section 1(c) of this policy. If either of the Reviewers has been part of the original decision to issue the declaration, the review will be conducted by the other Reviewer.

The Reviewer will be informed in their decision making by any other University processes that have been undertaken. The Reviewer may defer a request for review pending the outcome of any investigation by the University, including the filing of a grievance or similar steps.

## 9. Storage

Declarations will be retained by Security Services for a period of seven (7) years from the date of issuance, or renewal of issuance.

## Related Policies and Documents

- Residence Agreement Contract
- Residence Handbook
- [Code of Student Rights and Responsibilities](#)
- [Sexual Violence Policy](#)
- [Policy on Discrimination and Harassment: Prevention and Response](#)
- [Violence in the Workplace Policy](#)
- [Trespass to Property Act](#)
- [An Act Respecting McMaster University, 1976](#)

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## Appendix A

*This document is suggested wording that must be reviewed, altered by the issuing department to address the specific of each case*

### Private and Confidential

(Date)

(Name and Address)

### Re: Persona Non Grata

Dear [...]:

McMaster University is currently involved in an (incident) ongoing investigation of matters related to [...].

As the (Position) [...] for McMaster University, I am advising that you are not permitted to be on the properties of McMaster University. This directive is made in the interest of safeguarding yourself, the University and all Community Members. As such, this Persona Non Grata declaration will be in effect immediately for a period of one (1) year, unless an interim or extended term is authorized).

Effective immediately, you are denied the privilege of attending any McMaster University property with the exception of McMaster [...] (Student Wellness Centre, SSCM for the purpose of meetings).

A declaration will not restrict access to the Hamilton Health Sciences McMaster hospital or other health services locations for the sole purpose of accessing medical treatment, unless specifically identified, for you or a family member.

Please contact [...] to make arrangements to have your declaration temporarily lifted during the date/times that you plan to attend specific appointments.

As an individual declared, if you are found on McMaster University property you may be subject to a charge by McMaster University Security Services under the Trespass to Property Act, which may result in your arrest and charges being laid.

A copy of this declaration is filed with McMaster Security Services and shall remain in effect for the specified term or until revoked in writing.

If you wish to have this decision declaring you reviewed, please contact the Vice-President (Administration) at (905) 525-9140 ext. 24755 or by email at [vpadmin@mcmaster.ca](mailto:vpadmin@mcmaster.ca).

We seek your willing compliance with this directive and look forward to your cooperation.

Thank you,