

# 'Free to do whatever they want': Why universities can punish students for off-campus behaviour

 [cbc.ca/news/canada/queens-university-costume-party-racist-code-conduct-1.3864531](https://www.cbc.ca/news/canada/queens-university-costume-party-racist-code-conduct-1.3864531)

Queen's University students who attended a [controversial costume party](#) last weekend could be punished for violating the school's code of conduct — a set of rules implemented by many universities that includes off-campus, non-academic behaviour.

But Timothy Boyle, a Calgary-based lawyer who has represented students involved in university disciplinary cases, said many schools may be extending their authority too far.

"Fair enough they have certain standards to expect of you as a student while you're on campus," he said. "But now ... they want to extend themselves past their university boundaries and start regulating [students'] affairs while they are off campus. That has to be a great concern."

Daniel Woolf, principal and vice chancellor of Queen's University, has said the university is investigating the off-campus party, an event that sparked accusations of racism. The party included students dressed up as Middle Eastern sheiks, Buddhist monks, Viet Cong fighters in rice hats and Mexican prisoners.



Some of the students dressed up as Viet Cong fighters wearing rice hats. (Twitter)

"We do have a student code of conduct which was revised last year," Woolf said. "Once we've concluded our investigation, if appropriate, there are actions that can be taken under the code."

[Queen's code of conduct](#) says students are "expected to adhere to and promote the university's core values of honesty, trust, fairness, respect and personal responsibility in all aspects of university life, academic and non-academic."

- [Racists, dummies and bad costumes: Robyn Urback](#)
- [Queen's investigates 'shockingly racist' costume party](#)

The code can apply to non-academic misconduct that occurs on or off university property. For example, a student can be considered in breach of the code if his or her conduct "has a real and substantial connection to the legitimate

interests of the university, which include, but are not limited to, its reputation or goodwill in the community."

## Up to the schools

Greg Ko, a Toronto-based civil litigator who works on cases involving university disciplinary proceedings, said it's really up to each university to figure out how far it wants its code of conduct to apply.

"In this case here, Queen's could very well determine that its reputation or goodwill in the community is affected or that other students' interests are affected as well."

- **Students can criticize prof on Facebook, court rules**

Universities have always had academic conduct standards that deal with infractions such as cheating and plagiarism. But about 25 years ago, schools started introducing non-academic standards, Boyle said.

"They brought in this almost moral code that you had to conduct yourself in a certain way."



Other partygoers dressed as Mexican prisoners. (Twitter)

But Boyle wonders how far a university might go. For example, would a school take disciplinary action against a student for running a stop sign and crashing into a car driven by one of his professors?

"The principle is exactly the same when they're catching these students off campus and saying, 'We don't like the way you're conducting yourself.'"

## Facebook case

Boyle represented twin brothers [Keith and Steven Pridgen](#), whom the University of Calgary found guilty of non-academic misconduct in 2007. The two had posted critical remarks in a Facebook group devoted to complaints about one of their professors.

The brothers argued their charter rights had been violated and that they had a right to free speech. Alberta's highest court agreed.

But Boyle said this decision was an anomaly. He said courts generally have agreed that universities are in a "charter-free zone" and don't have to adhere to its principles because they are private organizations, although

publicly funded. Section 32 states the charter only applies to the government, not private institutions.

"So therefore, the universities are free to do whatever they want. If they want to limit freedom, they can limit freedoms," Boyle said.

Plus, if the Queen's students are punished for their actions at the party, Boyle says they would have a tough time arguing their freedom of expression had been violated.



#### **Queen's students speak out about 'racist' costume party 2:44**

The Pridgen brothers, he said, were on much stronger ground, constitutionally, because they were expressing their opinions about a professor. The Queen's partygoers were having fun, and not taking a political stance.

"So, the standard for giving them that freedom, wouldn't be as great," Boyle said.

He said the issue with the Queen's students really isn't about the Constitution but the jurisdictional reach of the university.

"This is where universities are really extending themselves."

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But Michael McDonald, executive director of the Canadian Alliance of Student Associations, said institutions shouldn't be bystanders and that they play a unique role in the education, as well as the development of many young adults.

Codes of conduct can help facilitate these roles and generally don't amount to overreach by the universities, he said.

"We think that they can play important roles, especially when they're open, clear and they involve input from the rest of the community in those discussions and they are applied in a fair manner."