

TABLE OF CONTENTS

TENETS OF THE STUDENT CONDUCT PROGRAM	2
I. RATIONALE	2
II. DEFINITIONS	2-4
III. INTERPRETATION OF REGULATIONS	4
IV. APPLICABILITY OF THE CODE	4
V. STUDENT PARTICIPATION	5
VI. VIOLATIONS AND DISCIPLINARY REGULATIONS	5
VII. PROHIBITED CONDUCT	5
A. ALCOHOL AND/OR DRUG VIOLATION	5
B. CONSPIRACY	6
C. DISRUPTIVE, DISORDERLY OR RECKLESS CONDUCT	6
D. FAILURE TO COMPLY	7
E. FALSE INFORMATION	7
F. FIRE EQUIPMENT/ ARSON / WEAPONS / SAFETY	7
G. GAMBLING	7
H. HAZING	7
I. POLICY REGULATION VIOLATION	7
J. MISUSE OF MATERIALS or PROPERTY	8
K. THEFT	8
L. RETALIATION	8
VIII. SANCTIONS	8
1. DISCIPLINARY REPRIMAND	8
2. RESTITUTION	8
3. DISCIPLINARY PROBATION	8
4. SUSPENSION	9
5. INTERIM SUSPENSION	9
6. EXPULSION	9
7. OTHER SANCTIONS	9
8. REPEAT OR AGGRAVATED VIOLATIONS	9
IX. STUDENT ORGANIZATIONS AND STUDENT GROUPS	10
X. THE OFFICE OF STUDENT RIGHTS & RESPONSIBILITIES	10
XI. HEARINGS	11
STANDARDS OF DUE PROCESS	11
XII. SELECTION AND REMOVAL OF CONDUCT BOARD MEMBERS	11
XIII. CASE REFERRALS	11
XIV. HEARING REFERRALS	12
XV. CONDUCT CONFERENCE	12-14
XVI. ADVISORS	14-15
XVII. APPEALS PROCEDURE	15-16
XVIII. DISCIPLINARY FILES AND RECORDS	16
XIX. PARENTAL NOTIFICATION	16

CODE OF STUDENT CONDUCT

(Approved by the Board of Regents August 11, 2020, Effective on August 14, 2020)

This Code of Student Conduct ("Code") does not govern misconduct involving academic dishonesty. Please refer to the Policy on Academic Dishonesty in the University Catalog.

TENETS OF STUDENT CONDUCT PROGRAM

To regard each student as an individual, deserving individual attention, consideration, and respect.

To consider the facts fully and carefully before resolving any case.

To speak candidly and honestly to each student.

To hold each student to a high standard of behavior, both to protect the campus community, and to promote student moral development.

To contribute to the educational mission of the University by designing policies, conducting programs, and offering instruction that contribute to the intellectual and moral development of the entire student body.

I. RATIONALE

A. The primary purpose of the imposition of discipline in the University setting is to protect the campus community. Consistent with that purpose, reasonable efforts will also be made to foster the personal and social development of those students who are held accountable for violations of University regulations.¹

II. DEFINITIONS

A. When used in this Code:

1. "Aggravated violation" means a violation that resulted in or it was foreseeable that it could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal University or University-sponsored activities.
2. "Appellate Board" means any person or persons authorized by the Vice President for Student Affairs or designee to consider an appeal from a judicial body's determination that a student has violated the Code.

¹ The University is not designed or equipped to rehabilitate or incapacitate persons who pose a substantial threat to themselves or to others. It may be necessary, therefore, to remove those individuals from the campus and to sever the University's relationship with them, as provided in this Code and by other University regulations. Any punishment imposed in accordance with the Code may have the value of discouraging the offender and others from engaging in future misbehavior. In cases of minor disciplinary violations, the particular form of punishment may also be designed to draw upon the educational resources of the University in order to bring about a lasting and reasoned change in behavior. The underlying rationale for punishment need not rest on deterrence or "reform" alone, however.

3. "Charged Party" means a student or student organization charged with violating the Code.
4. "Complainant" means an individual who experienced the reported Prohibited Conduct, regardless of whether that individual made the report, participated in the University's investigation, or filed a formal complaint alleging violations of this Code. If an individual who experienced Prohibited Conduct chooses not to file a formal complaint, the University may at its discretion initiate an investigation and serve as the Complainant in any proceeding under this Code.
5. "Conduct Board" means any person(s) authorized by the Vice President for Student Affairs or designee to determine whether a student has violated the Code.
6. "Conduct Officer" means "Chief Judicial Officer" or "Assistant Chief Judicial Officer".
7. "Distribution" means sale and/or exchange.
8. "May" is used in the discretionary sense.
9. "Notice of Violations of Code of Student Conduct" means that students or student organizations alleged to have violated the Code shall be provided with a Notice of Violation of the Code of Student Conduct ("Notice") and shall be required to report to the Office of Student Rights and Responsibilities (hereinafter referred to as "Office") within five (5) business days of receipt of the Notice.
10. "Not responsible" means found not to have violated the Code.
11. "Possession" means the exercise of actual or constructive dominion over a thing by one or more persons.
12. A "Preponderance of evidence" means more likely than not.
13. "Presiding Officer" means a conduct board member with voting authority who coordinates the orderly administration of a hearing, including, but not limited to, insuring that the hearing is conducted in accordance with the Code, making rulings on objections in consultation with other board members, sequestering witnesses, and administering an oath.
14. "Reckless conduct" means action which a reasonable person should know creates a clear risk of harm to persons or property, or would disrupt the lawful activities of others, including studying, teaching, research and university administration.
15. "Registered Campus Organization" means a recognized group of persons who have complied with University requirements for registration.
16. "Remand" means to send a case back to the original hearing body for additional proceedings.

17. "Responsible" means found to have violated the Code.
18. "Shall" is used in the mandatory sense.
19. "Sanction" means a penalty for a violation of the Code.
20. "Student"² means all persons who are admitted, taking or scheduled to take courses at the University, both full-time and part-time, pursuing undergraduate, graduate, post graduate, or professional studies. Persons who are not enrolled at the University for a particular term but have a "continuing relationship"³ with the University are considered students.
21. "Student Organization" or "Student Group" means a group of students who are officially recognized by the University as a student organization or student group that serves a purpose, benefits the University and fosters relationships with the entire campus and the surrounding community.
22. "Trier of Fact" can be: (1) the Vice President for Student Affairs, or his/her designee; (2) the Conduct Board; or (3) Ad Hoc Boards
23. "University" means Morgan State University.
24. "University Premises" means buildings or grounds owned, leased, operated controlled or supervised by the University.
25. "University-Sponsored Activity" means any activity on or off campus that is initiated, aided, authorized or supervised by the University.
26. "Weapon" means any object, substance or chemical used to inflict a wound, cause injury, or incapacitate.
27. "Will" is used in the mandatory sense.

III. INTERPRETATION OF REGULATIONS - Disciplinary regulations at the University are set forth in writing in order to give students general notice of Prohibited Conduct. The regulations should be read broadly and are not designed to define every instance of misconduct.

IV. APPLICABILITY OF THE CODE

This Code shall apply to conduct that occurs:

- i.) on University premises;
 - ii.) at sponsored or sanctioned activities on or off campus; and
 - iii.) off-campus non-University sponsored activities or events,
- that adversely affect the University Community and/or the pursuit of its objectives. Specifically, this Code shall apply and each student and student organization shall be responsible for their conduct that occurs as set forth immediately above in (i), (ii) or (iii)

² Former students may be charged for violations that allegedly occurred during their enrollment at the University.

³ A continuing relationship may include but not be limited to a student who is on winter or summer break.

from the time of a student's application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment (and even if their conduct is not discovered until after a degree is awarded). The Code shall apply to a student's conduct even if the student withdraws from school while a disciplinary matter is pending.

For conduct that occurs off-campus at non-University sponsored activities or events, the Chief Judicial Officer shall decide whether the Code shall be applied to such conduct on a case by case basis, in their sole discretion. The University will take disciplinary action against a student or student organization for such an off-campus offense when a student or student organization violates city, state, or federal law, or University policy when the nature of the offense is such that in the judgement of the Chief Judicial Officer:

i.) the continued presence of the student or student organization on campus is likely to interfere with the educational affairs process or the orderly operation of the University;

ii.) the continued presence of the student or student organization on campus is likely to endanger the health, safety or welfare of the University community or is intimidating or threatening to another individual within the University community; and/or

iii.) the offense committed by the student or student organization is of such a serious nature as to adversely affect the student's or student organization's suitability as a member of the University community.

- V. **STUDENT PARTICIPATION** – Students are asked to assume positions of responsibility in the University student conduct system in order that they might contribute their skill and insights to the resolution of disciplinary cases. Final authority in disciplinary matters, however, is vested in the University administration.
- VI. **VIOLATIONS AND DISCIPLINARY REGULATIONS** – Students and student organizations may be accountable to both civil authorities and to the University for acts that constitute violations of federal, state, or local laws. Disciplinary action at the University will normally proceed even if criminal proceedings are pending. The outcome of a disciplinary action will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.
- VII. **PROHIBITED CONDUCT** - All misconduct, including, but not limited to, the Prohibited Conduct listed hereafter, is subject to disciplinary action, unless such misconduct is governed by the Sexual Harassment and Prohibited Conduct Policy, where in those instances, the misconduct shall be governed by the terms of that policy. Attempts to commit acts prohibited by this Code shall be punished to the same extent as completed violations.

A. ALCOHOL AND/OR DRUG VIOLATION:

1. Consumption or possession of alcohol on University premises.
2. Unauthorized distribution or possession for purposes of distribution of any controlled dangerous substance or illegal drug.⁴
3. Use or possession of any controlled dangerous substance or illegal drug.

⁴ The “controlled dangerous substances” or “illegal drugs” prohibited in this section are set forth in Schedules I through V in Criminal Law Article, § 5-401 *et. seq.* of the Annotated Code of Maryland.

4. Any other violation of the Morgan State University Alcohol and Drug Policy.

B. CONSPIRACY

A combination by two or more persons to plan, attempt and/or execute a violation of the Code or some act which is not a violation of the code, in itself, but becomes a violation of the Code when done by the concerted acts of the conspirators.

C. DISRUPTIVE, DISORDERLY OR RECKLESS CONDUCT

1. Intentionally or recklessly causing physical harm or intentionally or recklessly causing reasonable apprehension of such harm, including conduct that endangers the health, safety and wellbeing of others.
2. Intentionally and substantially interfering with the freedom of expression of others.
3. Intentionally or recklessly destroying or damaging the property of others and/or the University.
4. Trespass or unauthorized entry to any University premises, facility, property or at a University-sponsored event or activity.
5. Engaging in disorderly or disruptive conduct, which interferes with the activities of others.
6. Classroom Disruption - The primary responsibility for managing the teaching and learning environment rests with the instructor, which includes faculty, teaching assistants, laboratory assistants, librarians or any other person acting in a supervisory capacity over the instructional forum. Students who engage in unlawful or prohibited conduct in those forums which includes any behavior prohibited by the instructor (including but not limited to use of cellular phones, bringing unregistered persons to class, smoking, persistently speaking without being called upon, refusing to be seated, disrupting the class by leaving and entering without authorization, etc.), may be directed by the instructor to leave the class for the remainder of the class period. Depending on the severity and frequency of the conduct, the University may impose any other sanction available to it at law, or under section 8 of this Code.
7. Stalking - means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
8. Abuse of any person; this includes verbal, written, electronic, or telephone abuse.
9. Harassment of any person which is defined as unwelcome conduct (including written or electronic communication) directed at a specific person(s), which is so severe, pervasive or persistent that it interferes with or limits a person's ability to participate in, or benefit from the services, activities, or opportunities offered by the University. In no event shall this provision be used to discipline a student for speech protected by the First Amendment of the United States.

D. FAILURE TO COMPLY

1. Failure to comply with the directives of University officials, administrators, or judicial board(s), including campus police officers, acting in performance of their duties.
2. Failure to comply with any official University protocols and/or procedures implemented to ensure the health, safety and well-being of the campus community, including but not limited to statements by any faculty, staff or members of the campus community intended to ensure compliance with such protocols and/or procedures.
3. Knowingly violating the terms of any disciplinary sanction imposed in accordance with this Code.

E. FALSE INFORMATION

1. Intentionally furnishing or causing false information or a false report to be furnished to the University.
2. Making, possessing, or using any forged, altered, or falsified instrument of identification.
3. Making, possessing, or using any forged, altered, or falsified University document, on or off-campus.

F. FIRE EQUIPMENT/ARSON/WEAPONS/SAFETY

1. Setting fires, intentionally or recklessly misusing or damaging fire safety equipment, including, but not limited to, alarms, heat sensors, smoke detectors, hoses, fire extinguishers, and emergency telephones.
2. Failure to exit any building when a fire alarm has sounded or a building is evacuated.
3. Unauthorized use, possession or storage of any weapon.
4. Unauthorized use or possession of fireworks on University premises.
5. Trespass or unauthorized entry to any University premises or at a University-sponsored event or activity.

G. GAMBLING

Participation in illegal games of chance or raffles for which there are not appropriate permits.

H. HAZING

Hazing is defined as any activity undertaken or situation created by any individual, group of individuals or organization, in which individuals are voluntarily or involuntarily subjected to activities which have the potential to harass, intimidate, impart pain, humiliate, invite ridicule of, cause mental or physical fatigue or distress, or to cause mutilation, laceration, or bodily injury.

I. POLICY/REGULATION VIOLATION

Violation of published University regulations, procedures, and policies. Such regulations or policies may include but are not limited to the residence hall contract, as well as those regulations relating to entry and use of University facilities, sale, possession, or consumption of alcoholic beverages, use of

vehicles ⁵ and amplifying equipment, campus demonstrations, misuse of identification cards, hazing or gambling.

J. MISUSE OF MATERIALS OR PROPERTY

1. Embezzling University funds; unauthorized reading, duplicated, removing, photographing, forging, counterfeiting, altering, or misuse of any document permit or record.
2. Misuse of materials, including but not limited to, student identification cards, keys, computers or computer-related items, laboratory equipment, athletic equipment, or other materials issued by the University.
3. Destruction, damage, misuse, defacing or littering of any University building, property, or private property on the campus or at University sponsored events.

K. THEFT

1. The unauthorized taking, misappropriation, or possession of a property owned or maintained by the University or owned by any person on campus or attending a University sponsored event.
2. Possessing, retaining, and/or disposing of any stolen property, knowing or having reason to know that the property is stolen.

L. RETALIATION

Acts or words against an individual because of the person's participation in a complaint, investigation, and/or resolution of an allegation of Prohibited Conduct.

VIII. SANCTIONS

Sanctions for violations of disciplinary regulations consists of:

1. **DISCIPLINARY REPRIMAND** - The student is warned in writing that further misconduct may result in more severe disciplinary action.
2. **RESTITUTION** - The student is required to make payment to the University or to other persons, groups, organizations for damages incurred as a result of a violation of this Code. Restitution may not be in excess of the damage or loss incurred.
3. **DISCIPLINARY PROBATION** - A specified period of time during which the student must demonstrate the ability to comply with University rules, regulations and other conditions of the probation, and any other imposed sanctions. During the probationary period, the student shall not represent the University in any extracurricular activity, run for, or hold office in any student group or organization. Additional restrictions or conditions may also be imposed. Notification will be sent to appropriate University offices, including the Office of Student Activities. Failure to comply with the conditions of probation shall result in the imposition of the original sanction. Additional findings of responsibility for violating the Code shall

⁵ Parking and traffic violations may be processed in accordance with procedures established by the Vice President for Finance and Management.

result in disciplinary sanctions.

4. **SUSPENSION –**
 - a. Separation of the student from the University for a specified period. A notation will appear on the student's transcript. A suspended student will be withdrawn from all divisions of the University for at least the remainder of the semester/session in progress. A student who is suspended from the University is not eligible for the return of tuition, room or board fees, or other fees paid or owed to the University. The student shall not participate in any University-sponsored activity and will be barred from University premises. Suspension requires administrative review and approval by the Vice President for Student Affairs or designee.
 - b. Suspension of a Student Organization: Please refer to Section IX – STUDENT ORGANIZATIONS AND STUDENT GROUPS.
5. **INTERIM SUSPENSION -** The Vice President for Student Affairs or a designee may suspend a student for an interim period pending disciplinary proceedings or medical evaluation. Such interim suspension is immediately effective without prior notice whenever there is evidence that the continued presence of the student on the university campus poses a substantial threat to themselves, to others, or to the stability and continuance of normal University functions. Students on interim suspension are barred from University Premises and University-Sponsored Activities. Students suspended on any interim basis shall be given an opportunity to appear personally before the Vice President for Student Affairs or a designee within five (5) business days from the effective date of the interim suspension in order to discuss the following issues only:
 - a. The reliability of the information concerning the student's conduct.
 - b. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on the University campus poses a substantial threat to themselves, to others, or to the stability and continuance of normal University functions.
6. **EXPULSION -** Permanent separation of the student from the University. A notation will appear on the student's transcript. The student will also be barred from the University premises. A student who is expelled from the University is not eligible for the return of tuition, room or board fees, or other fees paid or owed to the University. Expulsion requires administrative review and approval by the Vice President for Student Affairs or designee.
7. **OTHER SANCTIONS -** Other sanctions may be imposed, including but not limited to: paying fines, participating in workshops, or performing community service. For example, a student may be subject to dismissal from University housing for disciplinary violations that occur in the residence halls, denial of or restrictions on driving privileges for disciplinary violations involving the use or registration of motor vehicles. Other types of sanctions may include work on research projects.
8. **REPEAT OR AGGRAVATED VIOLATIONS -** Increased penalties may result from repeated or aggravated violations of any section of this Code.

IX. STUDENT ORGANIZATIONS AND STUDENT GROUPS

1. Student organizations and student groups may be charged with violations of the Code to the same extent as students.
2. Student organizations and student groups, as well as their members and other students, may also be held collectively and/or individually responsible for violations including but not limited to misconduct that occurs: (a) on University property; (b) on premises used or controlled by the group or organization; (c) at University-sponsored activities; or (d) in violation of University hazing policies or any other applicable policies.
3. The officers or leaders of a student organization or student group may be held collectively and/or individually responsible when such violations are committed by persons associated with the student organization or student group who have received consent or encouragement from the student organization's or student group's officers or leaders, or if those officers or leaders knew or should have known that such violations were being or would be committed.
4. The officers or leaders of a student organization or student group may be directed to take action designed to prevent or end such violations by the student organization or student group or by any persons associated with the student organization or student group. Failure to comply with a directive may be considered a violation of the Code, both by the officers or leaders of the student organization or student group and by the student organization or student group.
5. Sanctions or suspension for student organization's or student group's misconduct may include revocation or denial of recognition or registration by the University for a stated period of time, when the student organization or student group is found to have violated the Code. Any suspension shall result in complete suspension of activities of the student organization or student group during the stated period of time and may include conditions of removal of suspension. Suspension of a student organization or student group requires administrative review and approval by the Conduct Officer.

X. THE OFFICE OF STUDENT RIGHTS AND RESPONSIBILITIES

The Office of Rights and Responsibilities directs the efforts of students and staff members in matters involving student discipline. The responsibilities of the Office include:

- A. Determination of the disciplinary charges to be filed pursuant to this Code.
- B. Interviewing and advising parties involved in disciplinary proceedings.
- C. Recruiting, selecting, training, supervising, and advising all conduct boards.
- D. Reviewing the decisions of all conduct boards.
- E. Maintenance of all student disciplinary records.
- F. Resolution of cases of student and student organizations misconduct, as specified in this Code.
- G. Collection and dissemination of research and analysis concerning student conduct.
- H. Submission of a statistical report each semester to the campus community, reporting the number of cases referred to the Office, the number of cases

resulting in disciplinary action, and the range of sanctions imposed.

XI. HEARINGS

STANDARDS OF DUE PROCESS - A student or student organization who is alleged to have engaged in conduct in violation of the Code shall be provided with notice of the alleged allegations and an opportunity to be heard. Disciplinary proceedings shall determine whether a Charged Party is responsible or not responsible for violating the Code or other University regulations. The Office of Student Rights and Responsibilities will determine the method of adjudication. Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student Charged Party or the University may result. Hearings or other proceedings as provided in the Code may be held before the following triers of fact, who are responsible for hearing evidence presented during a hearing and, based on that evidence, determining whether the Charged Party has committed the alleged violation of the Code:

1. VICE PRESIDENT FOR STUDENT AFFAIRS OR DESIGNEE (trier of fact)
2. CONDUCT BOARD hears cases involving disciplinary violations of the Code. The Conduct Board is composed of three to five (3-5) students. The Chief Judicial Officer shall designate a presiding officer.
3. AD HOC BOARDS may be appointed by the Vice President for Student Affairs or a designee when a Conduct Board is unable to obtain a quorum or is otherwise unable to hear a case. Each Ad Hoc Board shall be composed of three members, including at least one student. The Chief Judicial Officer shall designate a presiding officer.

XII. SELECTION AND REMOVAL OF CONDUCT BOARD MEMBERS

A. Members of the conduct boards are selected in accordance with procedures developed by the Chief Judicial Officer and approved by the Vice President for Student Affairs. Prior to serving on boards, student members shall successfully complete training provided by the Office of Student Rights and Responsibilities.

B. The Vice President for Student Affairs or designee may suspend conduct board members who are charged with any violation of this Code or with a criminal offense from their board positions during the pendency of the charges against them. Board members found responsible for a Code violation or guilty of a criminal offense may be disqualified from any further participation in the University's student conduct system by the Vice President for Student Affairs or designee.

XIII. CASE REFERRALS

A. Any person may refer a student or a student group or organization suspected of violating this Code to the Office of Student Rights and Responsibilities. Persons making such referrals are expected to cooperate fully with the Office of Student Rights and Responsibilities. It is very important that persons making such referrals provide detailed and complete information pertinent to the referred matter. In addition, persons making such referrals may be needed to appear in a hearing.

B. If the Office of Student Rights and Responsibilities preliminarily determines that the allegation has merit and the alleged conduct is a violation of the Code, specific charges shall be drafted and referred for a hearing or conduct conference.

XIV. HEARING REFERRALS

Notice of Violations of Code of Student Conduct – Students and student organizations alleged to have violated the Code shall be provided with a notice of Violations of Code of Student Conduct ("Notice") and are required to report to the Office of Student Rights & Responsibilities within five (5) business days of receipt of the Notice for a Conduct Conference. Any of the following methods may be used to provide a student with notice:

1. Hand-delivered and the deliverer will execute an Affidavit which verifies the delivery to the student or to the student organization representative.
2. Sent to student's or the student organization representative's official University E-mail address and a delivery receipt and read receipt are confirmed (and placed in the student's or the student organization's file) which documents the receipt of the message by the addressee.
3. Delivered by certified, return receipt requested first class mail and return receipt, signed by the student or the student organization representative, is returned to the sender and placed in the student's or the student organization's file.

If methods 1-3 do not successfully result in documentation or receipt by the student organization representative, then the University shall mail on the same date an identical notice to the student organization representative's local-to-campus address by first class mail and correspondence will be deemed delivered and received by the student organization five (5) working days after mailed.

Note: A student is required to maintain their University/local and permanent mailing addresses with the Office of Records and Registration and check their University E-mail account for news and information. Failure to do so may result in the student not receiving routine, critical or urgent correspondences and to be held responsible for the content of certain notices.

XV. CONDUCT CONFERENCE - In this conference, the student and student organization has the following options:

- A. Student and Student Organization Waiver Of Hearing When Student or Student Organization Does Not Dispute The Charges - When the Charged Party does not dispute the facts upon which the charge(s) are based, pleads "responsible" to the alleged code violations and executes a written waiver of the hearing procedures, the Conduct Officer shall assess a sanction that is appropriate to the charge(s). The student or student organization may present any mitigating evidence at this time. The student or student organization shall be informed in writing of the action taken. Where the sanction of suspension (greater than one year) or expulsion may be imposed, then this option is not available. Where the sanction of suspension of one year or less may be imposed, a student or student organization may waive a hearing.
- B. Hearing - The following procedural guidelines shall be applicable in disciplinary hearings:

1. A Charged Party shall be given notice of the hearing date and the specific charges against them at least five (5) business days in advance.
2. The Chief Judicial Officer shall issue notices requesting the appearance (Notice to Appear) of witnesses at the hearing. Notices to Appear are issued upon the request of either party (Charged Party or the University) or a board member. All lists of witnesses for hearings must be submitted to the Chief Judicial Officer at least five (5) business days in advance of the hearing. Witness testimony is important to the effective administration of a hearing. Witnesses are expected to appear.
3. The Vice President for Student Affairs, or designated Conduct Officers are Prohibited from serving as witnesses during a hearing due to their responsibilities for managing the adjudication process.
4. Charged Party who fails to appear after proper notice shall be deemed to have failed to comply with directives of University officials, which may result in further disciplinary action pending against him/her. Disciplinary Hearings may be held in the absence of a properly notified Charged Party.
5. Hearings will be closed to the public, except for the Charged Party's advisor or the alleged victim in the particular case. Upon approval and within the sole discretion of the presiding officer, other persons may be permitted to attend. An open hearing may be held, at the discretion of the presiding officer, if requested by the Charged Party.
6. The presiding officer of each board shall exercise control over the proceedings to avoid needless consumption of time and to achieve the orderly completion of the hearing. Except as provided in this Code, any person, including the Charged Party, who disrupts a hearing, may be excluded by the presiding officer.
7. A hearing may be tape recorded or transcribed. If a recording or transcription is not made, the decision must include a summary of the testimony and shall be sufficiently detailed to permit review by appellate bodies and by staff members in the Office of Student Rights and Responsibilities.
8. Any party may challenge a board member on the grounds of personal bias. Board members may be disqualified upon majority vote of the remaining members of the board, conducted by secret ballot, or by the Chief Judicial Officer.
9. Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of providing false information to the University.
10. Prospective witnesses, other than the Charged Party, shall be excluded from the hearing during the testimony of other witnesses. All parties, witnesses, and the public shall be excluded during board deliberations
The burden of proof shall be upon the University, which must establish the responsibility of the Charged Party by a preponderance of the evidence.
11. The presiding officer of each board shall give effect to the rules of confidentiality and privileges, but shall otherwise admit all matters into evidence that reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.
12. A Charged Party shall be accorded an opportunity to question those witnesses who testify for the University at the hearing.
13. An affidavit may be admitted into evidence unless unsigned or if other circumstances suggest that, it is unreliable.
14. Board members may take judicial notice of matters that are within the general experience of University students.
15. Board advisors may be designated by the Chief Judicial Officer. Board advisors

may comment on questions of procedure and admissibility of evidence and will otherwise assist in the conduct of the hearing. Board advisors will be accorded all the privileges of board members, and the additional responsibilities set forth in this Code, but shall not vote. Board advisors are responsible to the Chief Judicial Officer and shall not be excluded from hearings or board deliberations by any board or by the presiding officer of any board.

16. The Chief Judicial Officer may appoint a "special presiding officer" to any board in complex cases or in any case, in which an attorney advises the respondent. Special presiding officers may participate in board deliberations but shall not vote.
17. A determination of responsibility shall be followed by a supplemental proceeding in which either party and the board advisor may submit evidence or make statements concerning the appropriate sanction to be imposed.
18. Final decisions of all judicial boards shall be by majority vote of the members present and voting. A tie vote will result in a recommendation of non-responsibility in an original proceeding. A tie vote in an appellate proceeding will result in an affirmation of the original decision.
19. Final decisions of all disciplinary hearings shall be accompanied by brief written findings of fact.

XVI. ADVISORS - A charged student or student organization may have present at a hearing an advisor who will not serve as a witness. The advisor may not speak or present the student's case, but may provide the student with advice during the course of the proceeding. Official notices will be sent to a Charged Party, not their advisor. Students or student organizations that are charged with Code violations are responsible for maintaining direct communication with the University and the Office of Student Rights and Responsibilities. Any request, or questions pertaining to the Code are to be made directly by the charged student or student organization representative. The University will respond to the charged student or charged student organization during the adjudication process.

- A. All advisors who attend a disciplinary hearing shall not:
 1. Engage in conduct to disrupt a hearing;
 2. Attempt to improperly influence an officer of the Office of Student Rights & Responsibilities, a board advisor or member of a judicial board;
 3. Fail to obey a reasonably definite and specific order by a presiding officer;
 4. Knowingly advise a student or student organization representative to make a false statement of material fact, law or representation of the Code to other participants in a hearing;
 5. Knowingly advise a student or student organization representative to fail to disclose a material fact in a hearing when disclosure is necessary to avoid assisting a future criminal or fraudulent act;
 6. Knowingly advise a student or student organization representative to offer false evidence, falsify evidence, counsel or induce witnesses to testify falsely, or offer improper inducements to testify; or
 7. Recklessly and unlawfully obstruct another party's access to evidence, or alter, destroy or conceal material not protected by privilege having potential evidentiary value.
- B. If the presiding officer finds an advisor responsible for violation(s) of the provision(s) of this sub-section of the Code, the presiding officer may suspend an advisor from the privilege of advising. A suspended representative may appeal the suspension to the

Vice President for Student Affairs, or designee, within ten (10) business days of receipt of the letter notifying the representative of the appealed decision. Decisions of the Vice President shall be final. When the appealed decision is made by the Vice President for Student Affairs, an appeal of that decision shall instead be made to the Chief of Staff to the President, or designee, within ten (10) business days of receipt of the letter notifying the party of the Vice President's decision, in such cases the decision of the Chief of Staff, or designee shall be final.

XVII. APPEALS PROCEDURE

- A. Any determination made pursuant to this Code resulting in expulsion or suspension of a student or dissolution or suspension of an organization may be appealed by the Charged Party or a student found responsible to the Vice President for Student Affairs. The Vice President for Student Affairs or designee shall also hear appeals from denials of petitions to void disciplinary records, pursuant to this Code. In instances where the Vice President for Student Affairs has served as the trier of fact/hearing officer, the Charged Party may appeal to the President's Chief of Staff or designee.
- B. In instances where the Vice President for Student Affairs has served as the trier of fact/hearing officer, the party may appeal to the President's Chief of Staff or designee.
- C. Requests for appeals, including the grounds on which the appeal is based, must be submitted in writing to the Vice President for Student Affairs or designee within ten (10) business days from the date of the letter notifying the Charged Party of the original decision. Failure to appeal within the allotted time will render the original decision final and conclusive.
 - 1. If the appellant wishes to submit for an appeal, a written brief in support of the appeal must be submitted to the Vice President for Student Affairs or designee with the written request for an appeal. An appeal which is not submitted in a timely manner or which does not set forth grounds for asking for such appeal shall result in a finding that the original decision is final and conclusive.
- D. An appeal shall be decided upon the record of the original proceeding and upon written briefs submitted by the parties. A new hearing with additional evidence shall not be conducted.
- E. Appellate bodies may:
 - 1. Affirm the finding and the sanction imposed by the original board.
 - 2. Affirm the finding and reduce, but not eliminate, the sanction.
 - 3. Dismiss the case.
- F. Deference shall be given to the determinations of the original hearing body.
 - 1. Sanctions may only be reduced if found to be grossly disproportionate to the offense.
 - 2. A case may be remanded to the original hearing body if specified procedural errors or errors in interpretation of University regulations were so substantial as to effectively deny the Charged Party a fair hearing, or if new and significant evidence becomes available which could not have been discovered by a properly diligent Charged Party before or during the original hearing. On remand, no reference of record of the previous judicial hearing will be introduced or provided to member(s) of the judicial hearing body, except to impeach contradictory testimony at the discretion of the presiding officer.

3. A case may be dismissed only if the finding is held to be arbitrary and capricious.
4. A decision of the Conduct Board shall be a recommendation to the Chief Judicial Officer. A decision altering the determinations of the Conduct Board shall be accompanied by a brief written opinion.
5. The imposition of sanctions will normally be deferred during the pendency of appellate proceedings, at the discretion of the Chief Judicial Officer.

XVIII. DISCIPLINARY FILES AND RECORDS - Case referrals and findings of responsibility shall result in the development of a disciplinary file in the name of the Charged Party, which shall be voided⁵ if the Charged Party is found not responsible for the charges. Disciplinary records may be reported to third parties, in accordance with University regulations and applicable state and federal law. The files of Charged Parties found responsible of any of the charges against them will be retained as a disciplinary record for a minimum of three years from the date of the letter providing notice of final disciplinary action. Disciplinary records may be voided by the Chief Judicial Officer for good cause, and only upon written petition of the Charged Party. Factors to be considered in review of such petitions shall include:

- A. The present demeanor of the Charged Party.
- B. The nature of the violation and the severity of any damage, injury, or harm resulting from it.
- C. Denials of petitions to void disciplinary records shall be appealed to the Vice President for Student Affairs or designee, who will apply the standard of review specified in this Code.
- D. The requirements for appeals as set forth in this Code shall be applicable.

XIX. PARENTAL NOTIFICATION

The Family Educational Rights and Privacy Act (FERPA), permits colleges and universities to inform the parent or guardian of a student under 21 years of age when their student has been found in violation of University alcohol or drug rules and/or in the case of a health or safety emergency.

The Office of Student Rights and Responsibilities will notify the parent or guardian of a student under 21 years of age:

1. By a phone call, if that student is transported to an emergency medical treatment center for drug use or intoxication or if the student's health and safety is at risk, staff will contact the parent or guardian and/or person the student listed as an emergency contact in official University records at the time the student is transported to the emergency medical treatment center.
2. In writing to the parent and/or legal guardian's permanent address on file at the University, if the University determines (after adjudication) that the student has committed a violation of the alcohol or drug policies.

XX. ACCESS FOR PERSONS WITH DISABILITIES

The University will provide reasonable accommodations to students with disabilities upon request, to enable them to participate fully in the process, programs, and services offered by the Office of Student Rights and Responsibilities. Accommodations are determined on an individual

basis by the University's Office of Student Disability Support Services. Any student with a disability requiring an accommodation should notify the Chief Judicial Officer at least seven (7) business days prior to the Conduct Conference or Conduct Hearing.

**This policy approved by the Board of Regents on August 11, 2020 and effective on August 14, 2020 amends and supersedes all prior Board of Regents approved versions of this policy.