

Student Conduct Code

I. Judicial Affairs Mission Statement

Loyola Marymount University (“LMU or University”) provides its students with an academic environment conducive to the pursuit of knowledge. This academic environment is based upon respect, trust, integrity, and accountability among all members of the University community.

Operating within the context of the University’s mission, the Department of Judicial Affairs seeks to maintain the University’s academic environment by educating and upholding community standards. The Department of Judicial Affairs supports the educational mission of the University by administering the Student Conduct Code in a manner that educates and holds Students accountable for Student Conduct Code violations and helps Students grow into more responsible and community- minded persons.

II. Introduction

It is the intention of the Student Conduct Code (sometimes hereinafter “the Code”) to clarify the standards of behavior essential to the University’s educational mission and its community life. Excepting Loyola Law School students (“Law School Students”) who are subject to the Law School’s disciplinary code, the Student Conduct Code is applicable to all LMU Students, undergraduate and graduate. Students are also responsible, and will be held accountable, for the conduct of their Guests.

III. General Guidelines

A. Definitions:

1. “**Advisor**” means any current LMU Student, faculty, staff, or religious community member, but specifically excludes Law School Students, Law School faculty and Law School staff. Off-campus individuals, parents, family members, attorneys, alumni/ae and those persons who have no affiliation with the University are expressly excluded from the definition of “Advisor” and cannot serve as Advisors. Current faculty or staff cannot act as an Advisor to their own family members.
2. “**Assault**” means any actual or threatened action which results in or foreseeably could result in injury or damage to person(s) or property or which otherwise poses a substantial foreseeable threat to the safety, stability or continuance of normal University life or University activities.
3. “**Bullying**” means an intentional course of conduct or series of acts that is intended to impose one’s will or desire and causes harm to others and may include verbal or non-verbal threats, physical assault, stalking, or other methods of coercion such as manipulation, blackmail, or extortion. In addition, bullying includes, but is not limited to, aggressive behavior that intends to hurt, threaten, frighten or intimidate another person and often involves a pattern of behavior that is repeated over time where an imbalance of power exists between the aggressor(s) and the victim.
4. “**Complainant**” means the party who makes the complaint.

5. “**Day**” means regular University business day. It shall not include Saturdays, Sundays or administrative holidays.
6. “**Distribution**” means the actual or intended sale, exchange for personal profit and/or dispensation without regard for personal profit.
7. “**Guest**” means person(s) to whom a Student is extending or has extended hospitality or an invitation to come onto University facilities, to attend University events or permitted to be present or remain in, on or at University facilities.
8. “**Group**” means any number of persons who are associated with each other and who have not complied with University requirements for registration as an organization or University program.
9. “**Harassment**” means unwelcome verbal, non-verbal, physical or visual conduct including, without limitation, physical aggression, intimidation or hostility (including conduct that is undertaken in whole or in part through the use of electronic messaging services, commercial mobile services, electronic communications or other technology) based on any legally protected characteristic that is sufficiently severe, persistent or pervasive so as to limit or unreasonably interfere with a student’s ability to participate in or benefit from any LMU program or activity or which creates an intimidating, hostile, or offensive, living, academic, or work environment.
10. “**Institution**” and “**University**” mean Loyola Marymount University.
11. “**Organization**” means any number of persons who have complied with University requirements for registration as an organization or University program.
12. “**Preponderance of evidence**” means such evidence as, when weighed with that opposed to it, has more convincing force and the greater probability of truth.
13. “**Reckless**” means conduct which one should reasonably be expected to know would create a substantial risk of harm to persons or property or which would otherwise be likely to result in interference with normal University life or University-sponsored activities.
14. “**Retaliation**” means any adverse non-permitted action taken in response to an action or injury by another party towards the actor or by the actor on account of actions toward a third party.
15. “**Respondent**” means the party against whom a complaint is made.
16. “**Sexual Harassment**” means unwelcome verbal, non-verbal, physical or visual conduct of a sexual nature. As defined by Title IX, its implementing regulations and this Code, sexual harassment includes, without limitation, unwelcome sexual advances, requests for sexual favors, sexual violence and sexual coercion.
17. “**Stalking**” means willfully and repeatedly engaging in a knowing course of harassing attention or other conduct including, without limitation, physical, verbal, written or electronic action or conduct directed at another person that reasonably and seriously alarms, torments or terrorizes that person or that would reasonably cause a person to feel fear for their safety.
18. “**Student**” means a person currently enrolled or eligible and intending to enroll

in any University program or class during the fall or spring semesters, recess period between semesters or summer period whether on or off University campus and including all persons taking courses at the University, both full-time and part-time, pursuing undergraduate, graduate or professional studies. Notwithstanding the above, the term “**Student**” does not include Law School students or LMU Extension students. During the recess period between the fall and spring semesters or the summer period, Student includes one who has been enrolled in the immediately-preceding fall or spring term and/or is eligible for continuing enrollment or graduation.

19. “**University community**” means Students, employees, faculty or religious community members of the University, but not the Law School.

20. “**University premises**” means buildings or grounds owned, leased, operated, controlled or supervised by the University.

21. “**University-sponsored activity**” means any activity on or off-campus which is initiated, authorized or supervised by the University or a University recognized organization or University program.

22. “**Weapon**” means any object or substance designed to inflict a wound, cause injury or incapacitate including, but not limited to, all firearms, chukka sticks, explosives, pellet guns, knives, projectile launchers and chemicals such as mace or tear gas.

23. “**Witness**” means any person, excluding experts, called upon to furnish relevant knowledge or information relating to an incident about which he/she is not a complainant or respondent.

24. The terms “**will**” or “**shall**” are used in the imperative sense. The term “**may**” is used in the permissive sense.

B. Interpretations of the Student Conduct Code

Student Conduct Code regulations are set forth in writing in order to give Students general notice of prohibited conduct. The Code and its regulations are intended to be read broadly and are not designed to define misconduct in exhaustive terms. Attempts to commit acts prohibited by this Code shall be handled and remedied in the same manner and to the same extent as completed violations.

C. Jurisdiction of the University

Jurisdiction extends to conduct which occurs on University premises, in study abroad programs or at University events, programs or activities, on or off-campus, as well as to other off-campus misconduct which adversely affects the University, Students and/or the pursuit of the University’s mission, goals, and objectives.

D. Inherent Authority

The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the University and its campus community. The University also reserves the right to take necessary and appropriate action as a result of Student

incidents off-campus which may adversely affect the well-being of the LMU community, LMU community members and/or the mission of the University.

E. Code as Superseding Authority

This Code shall supersede any and all regulations and/or decisions made by Student Organizations and their affiliates, including, but not limited to, the Associated Students of Loyola Marymount University (herein ASLMU), Greek Council, and Service Organization Council.

F. Student Participation

Students are asked to assume positions of responsibility in connection with the enforcement of the Student Conduct Code so that they might contribute their skills and insights toward the resolution of Student Conduct Code matters. However, final authority in Student Conduct Code matters is vested in the University administration and ultimately with the Senior Vice President for Student Affairs.

G. Focus of the Proceedings

The primary focus of the inquiry in Student Conduct Code proceedings shall be to determine if the subject Student is responsible or not responsible for the alleged violation of the Student Conduct Code and, if the Student is found to be responsible for a violation, to provide the appropriate remedy. In keeping with the mission of the Department of Judicial Affairs and purpose of the Code, Student Conduct Code proceedings do not, and are not intended to, emulate the criminal justice system, its processes and/or procedures. Student Conduct Code proceedings are intended to be educational and less formal, adversarial and complex than criminal justice processes and procedures. Formal rules of evidence shall not be applicable nor shall deviations from prescribed procedures necessarily invalidate a Student Conduct Code decision or proceeding.

H. Violations of Law and the Student Conduct Code

Students may be accountable to both civil authorities and to the University for acts which constitute violations of federal, state or local law and of this Code. Because of the need to efficiently, effectively and promptly protect the academic environment, Student Conduct Code proceedings will normally proceed despite the potential or pendency of criminal proceedings and are not subject to challenge on the grounds that criminal charges involving the same incident/conduct are being investigated, prosecuted or have been dismissed or reduced.

Students subject to actual or potential criminal charges relating to conduct alleged in pending Student Conduct Code proceedings, may assert their Fifth Amendment privilege against self incrimination during Student Conduct Code proceedings. While no inference of responsibility for Student Conduct Code violations will be drawn because of the assertion of the Fifth Amendment privilege, the Judicial Officer(s) will nonetheless evaluate all the other evidence in making their determination.

I. Burden of Proof

The burden of proof shall be upon the complainant who must establish the

responsibility of the respondent by a preponderance of the evidence.

J. Statute of Limitations

Unless the law requires a longer period of limitation, a Student Conduct Code complaint against the respondent must be filed within one calendar year of the conduct alleged to be a violation.

K. Student Mail

The Department of Judicial Affairs will, at its discretion, communicate to all Students via any one or more of the following methods: their official University e-mail address and account, campus mail, U.S. Mail, parcel delivery (e.g. UPS, Fed Ex), and/or personal hand delivery. Students should normally expect that the Department of Judicial Affairs' primary medium of communication will be through their official University e-mail address and account, and Students are held responsible and accountable for retrieving communications from their official University email address and account on a daily basis as well as mail from their campus boxes in a regular and timely manner. Failure to do so is not an acceptable excuse for delaying the Code processes.

L. Student Organizations

Student Organizations may be charged with the violation of any section of the Code or violation of any published University policies and procedures. A Student Organization and its officers may be held collectively or individually responsible when violations of this Code by those associated with the organization have received the tacit or overt consent or encouragement of the organization, its leaders, officers or spokespersons. The officer(s), leader(s), or any identifiable spokesperson(s) for a Student Organization may be directed by the Dean of Students or a designee to take appropriate action designed to prevent or end violations of this Code by the Organization. Sanctions for Organizational misconduct may include revocation or denial of registration as well as other appropriate sanctions, pursuant to Section V of this Code.

M. Reservation of Rights

Loyola Marymount University expressly reserves the right to revise, supplement or withdraw any Code section, University policy or portion of a University policy from time to time as it deems necessary.

N. Knowledge and Awareness of Policies

Students are expected to know and understand University policies. Ignorance is not an acceptable justification for committing violations of University policies. Lack of intent or awareness of such policies will not be accepted as an excuse for violations and will generally subject the respondent to the same consequences as deliberate violations.

IV. Prohibited Conduct

A. Violation or attempted violation of federal, state and local laws, including, but not limited to, operating a motor vehicle under the influence of alcohol or other controlled

substance, published University regulations or policies including, but not limited to, the Alcohol and Drug Policy, Community Relations Policy, Discriminatory Harassment Policy, Guest Policy, Anti-Hazing Policy, Social Media Policy, Student on Student Sexual Misconduct Policy and Protocol, Student Housing Policies, and Study Abroad Policy.

B. Intentionally or recklessly causing psychological or physical harm or harassment to any LMU community member, yourself, or to any person on University premises or at University-sponsored activities or causing reasonable apprehension of such harm. This includes, without limitation, harm related to Harassment, Sexual Harassment, Stalking, assault, Hazing, Bullying, and damage to reputation.

C. Intentionally or recklessly retaliating against any LMU community member in a physical, verbal, electronic or written manner for your own benefit or on behalf of another.

D. Intentionally or recklessly interfering with normal University life, activities, processes or University-sponsored activities including, but not limited to: studying; teaching; research; classroom instruction; University administration; judicial proceedings; or fire, police, or emergency services.

E. Failure to comply with the directions of University officials including, but not limited to: University officers, administrators and officials, faculty and staff, Public Safety Officers, Resident Directors, and student staff and employees (i.e. Student Managers, Resident Advisors, Lion Express Shuttle Drivers) acting in performance of their University duties. Prohibited conduct includes verbally threatening, abusing or harassing of any of the above in the performance of their duties.

F. Intentionally or recklessly destroying or damaging University property or the property of others on University premises or at University-sponsored activities.

G. Intentionally and substantially interfering with the recognized freedom of expression of others on University premises or at University-sponsored activities.

H. Intentionally furnishing false information, on or off-campus, to any University officer, administrator or official or to the University or failure to carry and provide upon the request of a University officer, administrator or official, on or off-campus, valid official picture identification, including, without limitation, the LMU OneCard and a governmental issued identification card.

I. Intentionally initiating or causing to be initiated any false report, warning or threat respecting the University, the University community or members thereof, University property or facilities or University-sponsored activities.

J. Theft of property or services on University premises, University facilities or at University-sponsored activities or knowingly possessing stolen property on University premises, University facilities or at University-sponsored activities.

K. Use, possession or being under the influence of any controlled substance or illegal

drug; misuse of prescription drug(s); possession or use of *Salvia divinorum*, or drug related material(s), including, but not limited to, drug pipes, bongs, roach clips, or other drug paraphernalia.

L. Distribution or possession for purposes of distribution of any controlled substance, illegal drug, prescription drug(s), *Salvia divinorum* or drug paraphernalia.

M. Use, possession, or storage of any weapon on or at any University premises, or University facilities, and the use, possession or storage of any weapon off campus that is reasonably adjacent or proximate to University premises, University facilities or University-sponsored activities.

N. Intentionally or recklessly misusing, disabling, tampering or damaging University related fire safety equipment, doors and signs.

O. Use or possession of fireworks and/or other incendiary materials on or at University premises, University facilities or at University-sponsored activities and the use, possession or storage of fireworks and/or incendiary materials off campus that is reasonably adjacent or proximate to University premises, University facilities or University-sponsored activities.

P. Unauthorized use, forgery, or unauthorized alteration of any University mark, logo or intellectual property, document, instrument, card, certificate, record, instrument of identification or student electronic employment time card.

Q. Unauthorized presence in or use of University premises, facilities or property including, but not limited to, roofs, balconies, ledges, and trellises.

R. Engaging in disorderly conduct, public intoxication, or lewd, indecent, or obscene behavior.

S. Any behavior that disrupts or causes disruption of University or related technology services; damages, alters, or destroys University or related data or records; adversely affects University or related computer software, programs, systems, or networks. The use of data, computer systems or networks to devise or execute any scheme to defraud, deceive, extort, or wrongfully obtain money, property or data. The intentional introduction of any contaminant into any University or related network or computers. Unlawful downloading or use of patented, copyrighted, or trademarked works, or violating the Information Technology Service's (ITS) Acceptable Use Policy.

T. Violating the terms of any disciplinary sanction imposed in accordance with this Code.

U. Failing to complete, tampering with, or providing a positive result for sanctioned drug tests.

V. Sanctions

One or more of the following sanctions may be imposed for violations of the Code. Violations of the provisions of Section IV (Prohibited Conduct) of this Code may result in suspension or dismissal from the University unless specific and significant

mitigating factors are present. Factors to be considered in mitigation shall be severity of the violation, the present demeanor and past disciplinary record of the respondent, the nature of the offense, and the severity of any damage, injury or harm resulting from it, and the overall safety of the Student and the University community.

A. Dismissal from the University

Dismissal is the permanent separation of the Student from the University. Permanent notification may appear on the Student's academic transcript. The Student will also be barred from University premises. The sanction of dismissal requires the review and approval by the Senior Vice President for Student Affairs, who may alter, defer, or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions.

B. Suspension from the University

Suspension is the separation of the Student from the University for a specified period of time. Permanent notification of the suspension may appear on the Student's academic transcript. The Student shall not participate in any University-sponsored activity and may be barred from University premises during the period of the suspension. Suspended time will not count against any time limits of graduate schools or programs for completion of a graduate degree. The sanction of suspension requires the review and approval of the Senior Vice President for Student Affairs, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions.

C. Banned from Campus, University Premises or Facilities

Banning a Student from campus, University premises or University facilities means that the Student is not allowed to be on the campus, University premises or at University facilities for or during specific time periods without express written approval to the contrary. This may include authorizing limited access to limited University premises or facilities for specific purposes (e.g. to attend class) but otherwise banning access or banning from specific University premises (e.g. University housing facilities).

D. Disciplinary Probation

The Student is given written and verbal notice that any further infractions of the Code or University policies may result in further sanctions. The Student may be restricted from participating in present and future student and University activities. This includes, but is not limited to, co-curricular and organizational activities, ASLMU positions and activities, resident advisor positions, study abroad programs, orientation leadership positions, and other student leadership positions. Notification of Disciplinary Probation may be sent to the appropriate University offices and officials.

E. Housing Probation

The Student may be removed from University housing and/or determined to be ineligible for or restricted from present and future housing opportunities if further violations of

University and/or Student Housing policies occur during the probation period.

F. Removal From or Relocation Within Student Housing

University housing accommodations are a privilege. Students who demonstrate that they are unable to live in residential housing facilities as demonstrated by material and/or repeated Code or policy violations may be relocated to another housing facility, or have their housing license agreement terminated, and if removed may be banned from housing facilities and ineligible for future housing, including during the summer.

G. Ineligibility for Graduation and Participation in Ceremonies

A Student charged with alleged Code violations prior to graduation may not graduate, participate in graduation ceremonies, or receive a diploma until the Student Conduct Code proceedings have been adjudicated and, if found responsible, sanctions completed.

H. Restitution

The Student is required to make payment to the University for damages assessed or incurred as a result of a determined Code violation. Restitution payments between individual Students, groups, or Student Organizations will not be sanctioned, mandated or administered.

I. Fines

A reasonable monetary fine may be assessed to a Student as a deterrent to future policy violations.

J. Restriction

The Student is restricted from entering a specific area on campus or from participating in University-sponsored activities.

K. Community Service/Educational Project

Community service, work on campus, research projects or other appropriate learning experiences may be assigned.

L. Disciplinary Warning

The Student is given verbal and/or written warning that future misconduct may result in more severe disciplinary action.

M. Random Drug Testing

In response to violations of the Code relating to use or possession of illegal drugs, controlled substances, Salvia divinorum, or drug paraphernalia, the sanctions may include random and other drug testing.

N. Educational Programs

The Student is assigned to attend educational programming (e.g. Heads UP!, Choice Theory) to increase his/her awareness of the effects and issues of alcohol, drugs, and

other behaviors.

O. Other Sanctions

The University and its Judicial Officers and Hearing Boards retain the right to impose additional and/or different sanctions according to the specific circumstances and needs of a situation including, but not limited to, loss of on campus driving privileges, loss of network privileges, other conditions and restrictions and meetings with professional staff and/or faculty members.

VI. Roles and Responsibilities

A. The Role and Responsibility of the Chief Judicial Officer

1. Supervising, training, and advising all Judicial Officers, Hearing Boards and Student Conduct Committee members.
2. Except as otherwise provided in this Code, reviewing and approving the recommended decisions of the Judicial Officers, Hearing Boards, and the Student Conduct Committee. This review may include the alteration, deferral, or suspension of any recommended decision and the imposition of conditions.
3. Ensuring the maintenance of all student disciplinary records on file in the Department of Judicial Affairs.
4. Administering procedures for resolution of a Student's challenge of bias for any Judicial Officer or Hearing Board member.
5. Submitting a statistical report each semester reporting the number of cases referred to the office, the number of cases resulting in disciplinary action, and the range of sanctions imposed.
6. Conducting an annual review of the Student Conduct Code.

B. The Roles and Responsibilities of the Judicial Officers and Hearing Boards

1. Hearings or other proceedings as provided in this Code may be held before a Judicial Officer or an applicable Hearing Board.
2. The Senior Vice President for Student Affairs or designee shall appoint Judicial Officers and Hearing Boards.
3. The Judicial Officers and Hearing Board members shall develop procedures consistent with all provisions in this Code. All procedures must be approved by the Senior Vice President for Student Affairs or designee.
4. In the event of a vacancy or disqualification of a Judicial Officer or Hearing Board member, the disciplinary matter shall be assigned to another Judicial Officer or Hearing Board by the Senior Vice President for Student Affairs or designee.
5. Judicial Officers may be called upon to participate in the annual review of the Student Conduct Code.

C. The Roles and Responsibilities of the Student Conduct Committee

1. Appeals or other proceedings (de novo) as provided in this Code may be held

before the Student Conduct Committee.

2. The Student Conduct Committee may develop procedures consistent with all provisions in this Code. Procedures must be approved by the Senior Vice President for Student Affairs or designee.
3. The Student Conduct Committee members shall be selected as follows:
 - a. The ASLMU President shall recommend members from the undergraduate student body.
 - b. The Student Housing Office shall recommend Resident Housing Association student members and two Resident Ministers as members.
 - c. The Graduate Council shall recommend graduate faculty and graduate student(s) as members.
 - d. The Senior Vice President for Student Affairs shall appoint a minimum of two faculty/staff members, one of which shall be from the Division of Student Affairs.
 1. One of the Senior Vice Presidential appointees shall be designated by the Senior Vice President as the presiding officer of the Student Conduct Committee.
 - e. The Chief Judicial Officer or designee shall serve as an ex officio member.
4. The Senior Vice President of Student Affairs shall appoint all members of the Student Conduct Committee.
5. The term of office for the student or faculty/staff Student Conduct Committee members shall be a minimum of one year as determined by the Senior Vice President for Student Affairs. Members may be re-appointed for additional terms.
6. Prior to participating in Student Conduct Committee deliberations, new members of the Student Conduct Committee will participate in one orientation session offered at least once each academic year by the presiding officer of the Student Conduct Committee.
7. Student members of the Student Conduct Committee who are charged with any violation of this Code or with a criminal offense may be suspended from their judicial positions by the Chief Judicial Officer while charges are pending against them. Students found responsible for any such violation or offense may be disqualified from any further participation in the University judicial system by the Chief Judicial Officer.
8. In the event of a vacancy, suspension, or disqualification of a Student Conduct Committee member, the Senior Vice President for Student Affairs shall fill the vacancy.
9. A quorum for the Student Conduct Committee shall be three members with a minimum of one Student and one faculty member.

VII. Student Procedural Protection

A. Referrals

Suspected violations of this Code, including those discovered during the adjudication and/or investigation of Student Conduct Code proceedings, shall be submitted to the

Department of Judicial Affairs. Persons making such referrals (the complainants) are required to provide information and evidence pertinent to the case and may be asked to appear before a Judicial Officer/Hearing Board and/or the Student Conduct Committee.

B. Student Conduct Code Hearings

The Chief Judicial Officer or designee shall review referrals to determine whether or not there is sufficient evidence to charge a Student with a violation of the Code and to hold a Student Conduct Code hearing.

C. Due Process

Students charged with Code violations are accorded the following procedural protections:

1. A written or electronic notice of misconduct charges, the location of copies of the Student Conduct Code, and a scheduled hearing with a Judicial Officer or applicable Hearing Board. Students who fail to appear after proper notice will be deemed to have accepted responsibility for the charges asserted against them.
2. A hearing during which the Judicial Officer/Hearing Board shall specify the nature of the alleged misconduct and the basis for the charge, including the time, date, and place where it is alleged to have occurred. Students (Complainants and Respondents) shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the evidence against them including the right to offer evidence and call appropriate fact (non-expert) witnesses. Expert witnesses are not allowed and character witnesses are disfavored. Students (Complainants and Respondents) may utilize the assistance of an Advisor during the hearing.
3. During the hearing, the Judicial Officer/Hearing Board shall explain the University's judicial system and Student rights and provide a copy of the Student Conduct Code. The Judicial Officer/Hearing Board shall also explain the quasi confidential nature of the judicial process and the fact that the hearing may become a part of the file relating to the case.
4. Reasonable access to the evidence supporting the charge will be made available to the Students (Complainants and Respondents), upon request, prior to the hearing.
5. If a further hearing is necessary, a supplemental proceeding will be scheduled.
 - a. Students (Complainants and Respondents) or the Judicial Officer/Hearing Board may submit new and/or additional evidence and call appropriate fact (non-expert) witnesses at the supplemental proceeding. Expert witnesses are not allowed and character witnesses are disfavored. Students (Complainants and Respondents) shall have the opportunity to respond to any new or additional evidence that is presented for the first time at the supplemental proceeding.
 - b. Students (Complainants and Respondents) may utilize the assistance of an Advisor during the supplemental hearing.
6. Students who wish to have the assistance of an Advisor must inform the presiding Judicial Officer in writing or via email at least two days prior to the scheduled date

of the hearing. The Advisor's role is to assist students in understanding the judicial process during hearings. Advisors may not address the Judicial Officer/Hearing Board or play any other role during hearings. All communication involving Advisors must be between the Advisor and Student. An Advisor may not appear in lieu of the Student.

7. Sanctions shall be levied if it is determined that the Student is responsible for the violation. If not, the charge will be dismissed.

8. Students (Complainants and Respondents) may have the assistance of fact (non-expert) witnesses. Expert witnesses are not allowed and character witnesses are disfavored. The Judicial Officer/Hearing Board must be notified prior to the hearing that the Student plans to provide witnesses. These witnesses must have relevant knowledge and information pertaining to the case.

9. Complaints will be promptly investigated. In normal circumstances, complaints will be investigated and at least an initial determination made within sixty (60) days of the receipt of the complaint.

10. For compliance with Clery Act records retention requirements, all official judicial correspondence will be retained for a minimum of seven years.

11. A Student's judicial history and record is cumulative; therefore increased sanctions may be imposed to take into consideration the Student's overall record of violations of all types, not just those of a similar type.

VIII. Hearing Procedures

The following procedural guidelines shall be applicable in judicial hearings before the Judicial Officer/Hearing Board:

A. The Judicial Officer/Hearing Board has the right to request the presence of and interview witnesses.

B. Hearings will generally be private except for Judicial Officers/Hearing Boards, parties and Advisors. Recording devices (audio and/or video) of any kind are not permitted for use by the Students, witnesses or Advisors. Nothing herein shall prevent the Judicial Officer/Hearing Board from arranging to have the Complainant and the Respondent participate in the hearing before the Judicial Officer/Hearing Board without the ability to observe or physically see the other. If observation is permitted, it may be by electronic or other means intended to screen the parties' view of each other.

C. The Judicial Officer/Hearing Board shall exercise control over the procedures to avoid needless consumption of time. Any person, including the Advisor, who disrupts a hearing, refuses to follow the rules or procedures or who fails to adhere to the admonitions and rulings of the Judicial Officer/Hearing Board may be excluded from the proceedings.

D. The decision of the Judicial Officer/Hearing Board must include a summary of the testimony, findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review as provided in this Code.

E. Prior to the hearing, Students (Complainants and Respondents) may challenge a

Judicial Officer/Hearing Board member on the grounds of personal bias. Any such challenge must be made in writing to the Dean of Students or designee not less than two (2) days prior to the hearing. The disqualification challenge of a Judicial Officer/Hearing Board member shall be determined by the Dean of Students or designee. If a challenge is sustained, the charge shall be referred to another Judicial Officer/Hearing Board member.

F. Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section IV (H) of this Code.

G. The burden of proof shall be upon the Complainant who must establish the responsibility of the Respondent by a preponderance of the evidence.

H. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to this Code. The Judicial Officer/Hearing Board shall give effect to recognized rules of privacy (including the Family Education Rights and Privacy Act (FERPA)) and privilege but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

I. Written statements shall not be admitted into evidence unless signed by the affiant and witnessed by a person designated by the Dean of Students or designee.

J. A Student with a case assigned to a Student Hearing Board has the option to have the matter heard by a Judicial Officer. Notice of such election must be given to the presiding Judicial Officer no less than two business days prior to the date of the hearing.

IX. Appeal Procedures

A. Except for appeals of charges of Sexual Harassment, any Judicial Officer or Hearing Board disciplinary sanction not resulting in suspension or dismissal may be appealed by the Respondent to the Student Conduct Committee on one or more of the following grounds:

1. The sanction is substantially disproportionate to the offense.
2. The procedures provided for in this Code were not materially followed resulting in significant prejudice to the Student.
3. New relevant evidence is available which in the exercise of reasonable diligence could not have been produced at the time of the hearing.
4. The decision is not supported by substantial evidence.

B. All petitions for appeals shall be submitted to:

The Student Conduct Committee
c/o The Department of Judicial Affairs
Malone 355

C. Appeal petitions must be submitted via electronically printed statement by the Student and received by the Student Conduct Committee c/o The Department of Judicial Affairs within three days from the date of the imposition of the original decision. Appeal petitions may not be submitted by Advisors or third parties (including without limitation lawyers or Law Students) on behalf of the Student. Failure to appeal within the allotted time will render the original decision final and conclusive. Failure to comply with these procedures may result in the rejection of an appeal petition.

D. The appeal petition must be accompanied by a written statement in support of an appeal pursuant to either Section IX (A) or Section X (A). Upon notification of the receipt of a proper and timely appeal petition, the Chief Judicial Officer or designee shall convene the Student Conduct Committee.

E. On appeal pursuant to Section IX (A), the Student Conduct Committee will review the Judicial Officer's/Hearing Board's summary of the testimony, findings and decision and the recommended sanction, the Student's disciplinary history, and the written statement of the Student filed with the appeal petition. The Student Conduct Committee may, but is not required to, request either the Judicial Officer/Hearing Board or the Student to submit additional information in writing. If the Judicial Officer/Hearing Board is requested to submit additional information, the Student shall be entitled to reply in writing to the additional written information supplied by the Judicial Officer/Hearing Board.

F. The Student Conduct Committee shall give deference to the determinations of the Judicial Officer/Hearing Board, and may make one of the following recommendations:

1. Recommended sanctions may be reduced, if found to be substantially disproportionate to the offense; increased, if found to be an inadequate response to the misconduct; or affirmed.
2. The case may be referred back to the Dean of Students or designee for reassignment to a new Judicial Officer/Hearing Board if specified procedural errors in interpretation of this Code were so substantial as to effectively deny the student a fair hearing or if significant new evidence became available which could not have been discovered by a properly diligent Student before or during the original hearing.
3. The case may be dismissed if the decision is not supported by substantial evidence.
4. The Student Conduct Committee will not disturb a decision of the Judicial Officer/Hearing Board if there is any amount of evidence, or reasonable inferences arising therefrom which supports the decision, regardless of the amount or quality of contradictory evidence or conflicting evidence.

G. A tie vote in an appellate proceeding will result in affirmation of the original decision.

H. In regards to appeals of Sexual Harassment Charges resulting in a dismissal of the charge or in a sanction other than suspension or dismissal of the Respondent, in accordance with the April 4, 2011 Guidance issued by the U.S. Department of

Education, Office of Civil Rights, both Complainants and Respondents may appeal determinations of sexual harassment charges under this Code. Sexual harassment determinations that result in a dismissal of the sexual harassment charge or a sanction against the Respondent other than suspension or dismissal shall be appealable as provided for in this Section IX.

X. de novo Hearing Procedures

The following procedural guidelines shall be applicable in de novo hearings before the Student Conduct Committee:

A. Except for appeals of Sexual Harassment charges, any recommended Judicial Officer or Hearing Board disciplinary sanction resulting in suspension or dismissal from the University may be appealed by the Respondent to the Student Conduct Committee for de novo review. The sanction may be appealed to the Student Conduct Committee on the following grounds:

1. The sanction is substantially disproportionate to the offense.
2. The procedures provided for in this Code were not materially followed, resulting in significant prejudice to the Student.
3. New relevant evidence is available within the exercise of reasonable diligence that could not have been produced at the time of the hearing.
4. The decision is not supported by substantial evidence.

If the appeal petition requesting a de novo hearing is granted, the Student shall receive a de novo hearing before the Student Conduct Committee.

B. The presiding officer may request the presence of fact witnesses upon his/her motion or upon the motion of the Student Conduct Committee or of the Complainant or Respondent. Requests will be determined and approved or disapproved by the Senior Vice President for Student Affairs or a designee and shall be transmitted to the witness by personal delivery, campus mail, or U.S. Mail, or by email to the witnesses' official University email address and account. University Students and employees are expected to comply with requests issued pursuant to this procedure, unless compliance would result in significant and unavoidable personal hardship or substantial interference with normal University activities.

C. Respondents who fail to appear at a de novo hearing after proper notice will be deemed to have abandoned their appeal and to have accepted responsibility for the charged misconduct.

D. Hearings will generally be private except for Student Conduct Committee personnel, the parties and their Advisors.

E. The presiding officer shall exercise control over the hearing to avoid needless consumption of time. Any person, including the Advisor, who disrupts a hearing or who fails to adhere to the admonitions or rulings of the presiding officer may be excluded

from the proceedings.

F. Hearings may be recorded and transcribed by the Student Conduct Committee only. If a recording or transcription is not made, the decision of the Student Conduct Committee must include a summary of the testimony, findings and recommended decision, and recommended sanction if a violation is found.

G. Recording units (audio and/or video) are not permitted for use by the Student (Complainant or Respondent), witnesses and/or Advisors.

H. Concurrent with the filing of an appeal petition, any party may challenge a member of the Student Conduct Committee on the grounds of personal bias.

All disqualification challenges of Student Conduct Committee members shall be determined by the Dean of Students or designee. If a challenge is sustained, the proceedings will continue without the participation of the disqualified member.

I. Witnesses shall be asked to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section IV (H) of this Code.

J. Prospective witnesses, other than the Complainant and the Respondent, may be excluded from the hearing during the testimony of other witnesses. All parties, Advisors, and witnesses shall be excluded during Committee deliberations. Nothing herein shall prevent the Student Conduct Committee from arranging to have the Complainant and the Respondent view and participate in the hearing before the Student Conduct Committee without the ability to observe or physically see the other. If observation is permitted it may be by electronic or other means intended to screen the parties' view of each other.

K. The burden of proof shall be upon the Complainant who must establish the responsibility of the Respondent by a preponderance of the evidence.

L. Except as provided herein, formal rules of evidence and discovery shall not be applicable in these proceedings conducted pursuant to this Code. The Student Conduct Committee shall give effect to the recognized rules of privacy (including the Family Education Rights and Privacy Act ("FERPA")) and privilege but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

M. Affidavits shall not be admitted into evidence unless signed by the affiant and witnessed by a person designated by the Dean of Students or designee.

N. The Student Conduct Committee may take judicial notice of matters which would be within the general experience of University students.

O. The Student Conduct Committee shall be provided copies of the Student's disciplinary record when reference to the Student's disciplinary history is included in the decision made by the Judicial Officer/Hearing Board.

P. A quorum for the Student Conduct Committee shall be three members with a minimum of one Student and one faculty member.

Q. Procedural, evidentiary, and final recommendations of the Student Conduct Committee shall be by majority vote of the members present and voting. A tie vote in a de novo proceeding will result in dismissal of the charge. Procedural or evidentiary issues in any hearing before the Student Conduct Committee shall be determined by the Committee's presiding officer in accordance with this Code. The Student Conduct Committee shall give effect to the recognized rules of privacy (including the Family Education Rights and Privacy Act ("FERPA")) and privilege but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.

R. In regards to appeals of Sexual Harassment Charges resulting in a dismissal of the charge or a sanction of suspension or dismissal of the Respondent, in accordance with the April 4, 2011 Guidance issued by the U.S. Department of Education, Office of Civil Rights, both Complainants and Respondents may appeal determinations of sexual harassment charges under this Code. Sexual harassment determinations that result in a dismissal of the sexual harassment charge or a sanction against the Respondent resulting in suspension or dismissal shall be appealable as provided for in this Section X.

XI. Exceptional Procedures

A. Repeated or aggravated violations of any section of this Code may also result in suspension or dismissal from the University or in the imposition of such lesser penalties as may be deemed appropriate.

B. The Senior Vice President for Student Affairs or a designee may suspend a Student for an interim period pending Student Conduct Code proceedings or medical evaluation; such interim suspension becomes immediately effective without prior notice whenever there is reasonable suspicion that the continued presence of the Student on the University campus poses a substantial threat to the Student, to others, or to the stability and continuance of normal University functions.

C. A Student suspended on an interim basis shall be given an opportunity to appear personally for an interim suspension hearing before the Senior Vice President for Student Affairs or a designee within three business days from the effective date of the interim suspension to present his or her case to discontinue the interim suspension in accordance with Section XI(D) below.

D. An interim suspension hearing shall determine whether the interim suspension should continue through the hearing and determination on the merits of the Student Conduct Code charge(s) because the conduct and surrounding circumstances reasonably indicate that the continued presence of the Student on campus pending the hearing and determination of the Student Conduct Code charge(s) poses a substantial threat to himself/herself or to others or to the stability and continuance of normal University functions.

E. If, at the interim suspension hearing referenced in Section XI(D) above, the Student's continued presence is determined to pose a substantial threat to himself/herself or to others or to the stability and continuance of normal University functions, the Senior Vice President for Student Affairs or designee may continue the interim suspension through the conclusion of the proceedings on the alleged Student Conduct Code violation.

F. In cases alleging Sexual Harassment, the Senior Vice President for Student Affairs or a designee may take interim measures intended to ensure the well-being of the Complainant, the investigatory process and/or the University community while the complaint is being investigated and prior to the determination on the charge. Any such interim measures shall not be referred to or offered as evidence at the hearing on the underlying charge. Any such interim measures shall be designed and implemented in a manner intended to achieve their purpose while at the same time limiting, to the extent practicable, any adverse effect to the Respondent's educational program.

G. Final decisions of the Judicial Officer, Hearing Board, or the Student Conduct Committee recommending a suspension or dismissal from the University shall be reviewed and approved by the Senior Vice President for Student Affairs. All other final decisions shall be reviewed and approved by the Dean of Students or designee. The reviewing officer may change, defer, or suspend the decision and sanction or impose conditions in connection with any charge, deferral, or suspension.

H. The imposition of sanctions will normally be deferred during the appeal process, unless otherwise decided at the discretion of the Senior Vice President for Student Affairs or designee.

I. A judicial hold may be placed on a Student's file/account when the Student has been dismissed or suspended from the University, or when the Student has incomplete sanctions or open judicial cases and leaves the University for any reason, including, but not limited to, leave of absence, withdrawal or academic disqualification. The Student may also be banned from entering campus during the period of the judicial hold. This judicial hold must be cleared before a Student will be allowed to return to the University.

XII. Judicial Files and Records

A. Case referrals may result in the development of a judicial file in the name of the respondent, which may be voided if the respondent is found innocent of the charges.

B. The files of respondents found responsible for any of the charges against them will be retained as a judicial record for a minimum of seven years from the date of the letter providing notice of final judicial action.

C. Judicial records may be voided and purged by the Dean of Students for good cause, following written petition of respondent. Among the factors considered in review of such petitions shall be:

1. The nature of the charge.

2. The period of time that has elapsed since the violation.
3. The present demeanor of the respondent.
4. The conduct of the respondent subsequent to the violation.
5. The nature of the violation and the severity of any damage, injury, or harm resulting from it.

D. When Students sign a release offered by prospective employers or graduate schools, this release often provides these parties access to student disciplinary records.