

# Code of Conduct Continued

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## A. Complaint Procedure

Complaints, with the exception of those alleging discrimination on the basis of sex as described below, may be brought to the Office of the Dean of Students by an individual acting as a complainant or by a party acting on behalf of the University. Mount Mercy University may act as a Complainant and/or Co-Complainant against a student(s) when there is no other Complainant able to participate and/or willing to participate but the infraction is sufficient for further disciplinary review. Any person may bring a complaint against a student under these procedures, based on an alleged violation of any Mount Mercy University rule or regulation or based on behavior not specifically covered by rules or regulations, but which is considered detrimental to the Mount Mercy community. All complaints shall be made to the Dean of Students (DOS). As the Student Code of Conduct applies to students on and off campus, actions resulting in potential violations may be brought forward by police or through arrest records available to the Office of the Dean of Students.

Complaints will be investigated, hearings may be conducted, disciplinary action may be recommended, and appeals heard as provided for by the Code of Student Conduct.

1. Complaints should be filed as soon as possible after the event takes place. The longer someone waits to report an offense, the harder it becomes for University officials to obtain information and witness statements and to make determinations regarding alleged violations.
2. Individuals may file a complaint in writing or verbally by meeting with the Student Conduct Administrator or his/her designee. Complaints will be considered the main basis of a case and should be made as clearly and carefully as possible. Upon receiving a complaint, the Student Conduct Administrator or designee will review the report and conduct an investigation to determine whether it appears to meet the criteria for a possible violation of the Student Code of Conduct. The investigation may include meeting with the respondent if at all possible.
3. The Student Conduct Administrator or designee may find that the report does not have merit or that it is possible to find a resolution by mutual consent of the parties involved including the Office of the Dean of Students. Such disposition will be final and there will be no subsequent proceedings.
4. If the charges cannot be disposed of by mutual consent, or if the Student Conduct Administrator determines that the alleged violation may result in harm to the Complainant, Respondent or the University community, the Complainant and the Respondent will be given the opportunity to express a preference for a conduct hearing before a hearing officer or a Conduct Board. The Student Conduct Administrator will consider their requests when referring the case to a conduct body. The Student Conduct Administrator is the final arbiter in determining which hearing process will be used to resolve charges.

The Code may be reviewed and amended by the Dean of Students and approved by the President.

## B. Sex Based Discrimination

Complaints involving discrimination on the basis of sex, including sexual misconduct, relationship abuse and violence, stalking, harassment on the basis of gender identity and expression or sexual orientation, and pregnancy discrimination should be reported to the Title IX Coordinator at 319.363.1323 ext. 1630.

Mount Mercy expects students, faculty, and staff to report allegations incidents of sexual misconduct. These may be reported either by the complainant, or by another person with the approval of the complainant, who shall serve as a liaison with the appropriate University personnel. This may be done without revealing the name of the complainant. The information will be kept confidential to the full extent permitted by law. The complainant is encouraged to report any incidents of alleged sexual abuse to the Cedar Rapids Police Department.

A person with a complaint may contact any trusted person (e.g. one of the deans, counselors, residence life staff, an academic advisor. This person will then assist the complainant in contacting the EOO or Title IX Coordinator. The EOO or Title IX Coordinator will maintain a record of and investigate any reported additional incidents.

Students who bring information to the university have four options:

1. Choose to file a report with Mount Mercy University only
2. Choose to file a report with Cedar Rapids Police Department only
3. Choose to file a report with both Mount Mercy University and Cedar Rapids Police Department
4. Choose to file a report with neither

Procedures for the resolution of sex-based complaints are available on the Title IX page of the Good Book and will be provided to appropriate parties if a complaint warrants an investigation under Mount Mercy University policy. The resolution process for complaints requiring investigation is described below:

Procedures for the resolution of sex-based complaints are available on the Institutional Compliance and Ethics website and will be provided to appropriate parties if a complaint warrants an investigation under Boise State Policy 1065. The resolution process for complaints requiring investigation is described below.

1. Following a thorough investigation adhering to the University Title IX Conduct Proceedings the Title IX Coordinator will forward an investigation report to the Vice President for Administration, Enrollment, and Student Services. If the investigation concludes there was a violation of University Policy the report will include recommended sanctions.
  - a. Sanction recommendations are processed by the Office of the Dean of Students. The Dean of Students in charge of non-academic student conduct will meet with both the Complainant and Respondent to review recommended sanctions and provide information on the student conduct process. Each party can provide the Dean of Students a statement articulating information, not contained in the summary investigation report, they feel is relevant for the conduct board to know, including whether they agree or disagree with the proposed sanctions.
  - b. The Dean of Students will meet with the Title IX Investigators to review relevant documentation, including the summary investigation report and the Complainant and Respondent statements. The Dean of Students or designee will either choose to implement the recommended sanctions or impose modified sanctions. If modified sanctions are imposed, the Vice President for Administration, Enrollment, and Student Services

will provide specific reasons will be documented for the modifications and send a copy of the reasoning to the Title IX Coordinator. A letter including final sanctions shall be delivered in writing to the Respondent (and Complainant as appropriate pursuant to FERPA) generally within 60 days of notice. This letter may be sent via email and will include information on appeals.

c. Both the Complainant and Respondent may appeal the sanctions imposed by the conduct board under the appeal policy contained in the Student Code of Conduct.

## Informal or Formal Procedure

The Complainant must advise the EOO or Title IX Coordinator in writing within fifteen (15) calendar days of the Initial Meeting whether Complainant chooses to proceed under the Formal or Informal Procedure. If the Complainant does not make a timely choice, the Complaint will be addressed using the Formal Procedure.

### Informal Procedure

1. If the Complainant chooses to proceed under the Informal Procedure, in situations not involving sexual violence, the Title IX Coordinator will inform the Respondent of the nature of the complaint, identity of the Complainant, the complainant's willingness to attempt to resolve the matter informally, and that retaliation by the Respondent is strictly prohibited and will result in sanctions. The Respondent will then be given the opportunity to agree to participate in the Informal Procedure. In the event the Respondent chooses not to proceed under the Informal Procedure, the Complainant will be so advised by the Title IX Coordinator and the Formal Procedure will be initiated.
2. If after consultation with the Complainant and the Respondent the parties agree to proceed under the Informal Procedure, the Title IX Coordinator will notify the appropriate Facilitator of the complaint.
3. If the complaint warrants, the Facilitator may recommend to the Title IX Coordinator actions protecting the rights and privacy of either the Complainant and/or the Respondent until the process is concluded.
4. The Facilitator will meet with the Complainant, the Respondent and the Title IX Coordinator to determine if a resolution is available that is acceptable to the Complainant and the Respondent.
5. If a mutually acceptable resolution is agreed upon, the Facilitator will insure that all agreed to steps are taken to finalize the resolution. Finalization of the resolution includes, but is not limited to, a written document signed by the Complainant, the Respondent and the Facilitator.
6. If a mutually acceptable resolution is not agreed upon, the Facilitator will then advise the Title IX Coordinator to initiate the Formal Procedure.
7. The Facilitator will notify the parties of the conclusion of the Informal Procedure, write a summary of the complaint and the results of the Informal Procedure and file it with the Title IX Coordinator's office. This summary will be available if there are other alleged incidents of sexual harassment. A written record of any sanctions taken will be placed in the Respondent's personnel or academic file.

### Formal Procedure

If a complaint is not resolved informally or if the Complainant chooses to initiate the Formal Process:

1. The Title IX Coordinator or his/her designee will begin a prompt and thorough investigation. The investigation normally will be

started no later than ten (10) days after the Formal Process is initiated.

2. The Title IX Coordinator will provide the Respondent a Notice of Investigation (NOI). This NOI will outline the nature of the complaint, identity of the Complainant, and explain that retaliation by the Respondent is strictly prohibited and will result in sanctions.
3. The Complainant, Respondent and appropriate witnesses will be interviewed by trained Title IX Investigators. The Complainant and the Respondent may identify witnesses to be interviewed. All interviewees will be directed to maintain confidentiality with respect to the investigation and will be informed about the non-retaliation policy.
4. The investigation will be conducted by trained Title IX Investigators who will coordinate all interviews and evidence collection.
5. Upon completion of the investigation, the Title IX Coordinator or Deputy Title IX Coordinator, will prepare a written report which details the findings, conclusions and any recommended actions, which will be shared with the Complainant and the Respondent once approved by the Title IX Coordinator.
6. The Title IX Coordinator or Deputy Title IX Coordinator will provide a Finding Letter to both the complainant and respondent. Each party will have three (3) calendar days to appeal the finding.
7. If sanctions are to be imposed, the Title IX Coordinator or Deputy Title IX Coordinator will distribute a letter including final sanctions. This shall be delivered in writing to the Respondent (and Complainant as appropriate pursuant to FERPA) generally within 60 days of notice. This letter may be sent via email and will include information on appeals.
8. If the Complainant and Respondent accept the Title IX Coordinator's recommended actions, they will be implemented and a final report will be placed on file in the Title IX Coordinator's office. Any formal action against the Respondent will be placed in the Respondent's personnel or conduct file.
9. If either the Complainant or the Respondent appeal the findings and/or sanctions, they must give written notification of appeal to the Title IX Coordinator within three (3) calendar days after the Title IX Coordinator delivers written notice. The Title IX Coordinator will then notify the other party within three (3) calendar days thereafter and the Complainant, the Respondent or the Title IX Coordinator will then request a fact-finding hearing.
10. Both the Complainant and respondent may appeal the sanctions imposed under the appeal policy contained in the Student Code of Conduct. All appeals are reviewed by the Vice President for Administration, Enrollment, and Student Services. A full review of all documentation and evidence will take place. If additional are meetings are required the Vice President for Administration, Enrollment, and Student Services will contact the necessary parties involved.
11. Legal representation representation is allowed during the process, but counsel's presence is limited to observation and advising the party.

## C. Respondent and Complaint Rights and Responsibilities

- 1, To challenge any member of the Conduct Body if the Complainant believes that the person is biased (challenges to be ruled on by the Student Conduct Administrator);

2. To document in writing any response to the alleged violation. This report would then also be a part of any appeals process and should be written as carefully and completely as possible.
3. To identify an advisor to assist during the conduct process. The Office of the Dean of Students can assist identifying an advisor if requested by either the Complainants or Respondents.

## D. Record of Hearing

It is the sole discretion of the hearing officer to determine whether or not an official audio or visual recording of a hearing will be made. If a record is to be made, a single record, such as a written record or audio recording, of every hearing before a Conduct Body will be maintained by the Office of Student Rights and Responsibilities. The record will be the sole property of Mount Mercy University. No other audio or visual recordings of hearings will be allowed. Deliberations will not be recorded. All audio and visual recordings will be destroyed at the conclusion of seven (7) years following completion of the individual conduct process. After that time, the written decision letters will remain as the official University record.

## Section 5: Sanctions

The following sanctions comprise a range of official action that may be imposed for Good Book and Student Code of Conduct policy violations by individuals or groups. One or more sanctions may be imposed at the discretion of the hearing officer or conduct board in an effort to promote behavioral change. Sanctions attempt to teach alternative behaviors; increase personal and social skills; increase a student's awareness of obligations to others; demonstrate implications of actions; and explain rationale behind regulations. This list does not limit the actions available to a hearing officer or conduct board and is not inclusive of all possible actions that could be taken as a result of a violation of University policy. Students found responsible for violations will receive a minimum of disciplinary warning with expulsion being the maximum sanction.

During the adjudication process, a student's previous behavior will not be considered in the determination of his/her responsibility. However, if a student is found responsible, his/her previous behavior will be reviewed as part of the sanctioning process.

There are two levels of sanctions for the Student Code of Conduct.

### Level One

Level One sanctions are not subject to appeal. Under special circumstances, the Dean of Students & Director of Residence Life may consider an appeal at this level.

### Level Two

Level Two sanctions are for violations that limit a student's rights or have the potential of separation from the University. The student will be afforded a formal hearing process and may appeal that decision.

The following sanctions serve as guidelines rather than as a definitive list.

## Level One Sanctions

**Disciplinary warning** – written warning that if there is a repetition of the same action or any other action in violation of the rules or regulations of Mount Mercy, the student can expect additional disciplinary action. A disciplinary warning is intended to promote reflection on the decisions and behavior leading up to a violation and promotes an increased awareness of the University's behavioral expectations.

**Disciplinary probation** – This action is designed to assist students in developing behavior appropriate to the University community through placing them on a warning status.

1. **Residence Hall Probation:** A change in student status for violating policies outlined in the Good Book and the Student Code of Conduct and Regulations involving written notice of the probation, its terms and time limit as established by the hearing officer or Conduct Board. Privileges of residents, including visitation, may be revoked for all or part of the time the resident is on probation. The resident is also informed that further violations may result in greater levels of sanctions. This level of probation is intended to provide the student an opportunity to reflect on, and learn from, his/her behavior while increasing awareness of the impact of his/her behavior on themselves and others and of the University's behavioral expectations. The importance of making mature decisions is stressed while a student is on probation.

2. **University Probation Level I:** A change in student status involving written notice of the probation, its terms and time limit as established by the hearing officer or University Conduct Board. The student is notified that further infractions of any University regulation may result in more stringent restrictions being placed on his/her actions. This level of probation is intended to provide the student an opportunity to reflect on and learn from his/her behavior while increasing his/her awareness of the impact of his/her behavior on themselves and others and of the University's behavioral expectations. The importance of making mature decisions is stressed while a student is on probation.

3. **University Probation Level II:** This is the most serious level of conduct sanction, short of suspension from the University, during which the student is considered not in good standing. The student remains enrolled at the University under circumstances defined by the hearing officer or Conduct Board, and may not represent the University in any official capacity or hold office in any student organizations including, but not limited to, intercollegiate athletic events or teams, recognized student organizations, theater groups or productions, musical organizations or SGA Officer positions. This probation level indicates to the student that further violation(s) of University regulations will result in more stringent conduct action, including but not limited to suspension or expulsion from the University. This level of probation is intended to promote reflection on the student's behavior and decisions while stressing making mature decisions, engaging in critical thinking and developing more appropriate behaviors as a member of the University community.

**Restitution Fines** – a student may be assessed the repair/replacement cost for any damage he or she has caused to property. When appropriate, fines may also be assessed.

**Restitution Service:** As part of the sanctioning process, students can be required to perform service to assist in developing increased awareness of the impact of their decisions and strengthen critical thinking abilities to identify appropriate behavior. These services can include performing assigned duties, sponsoring programs, etc.

**Educational sanction** – a student may be required to provide a specific service or participate in a specific program, receive specific instructions, or complete a research assignment. The student may be responsible for related expenses, including expenses for education, counseling, or treatment, if any expense is entailed.

**Behavior Contract:** A student and hearing officer may reach a written agreement concerning expectations for future behavior and decisions to assist in preventing inappropriate behaviors from recurring.

**Restriction of Privileges:** This action consists of an effort to assist students in developing an awareness of the responsibilities that go along with privileges and increase an awareness of appropriate behavior and how decisions impact themselves and others. Under this sanction, students may be restricted from entering certain buildings, attending certain events or using specific programs due to their behavior

Housing students may have their visitation privileges restricted or revoked for a certain time period, or specific guests may not be allowed into Mount Mercy University housing property. Participation in University organizations or holding office in organizations or other privileges can also be included under this sanction as deemed appropriate by the hearing officer or board based on the incident.

**No-Contact Directive:** This action is implemented at the discretion of a hearing officer directing a student to avoid initiating contact with another member of the University community, it may include limiting access to areas to avoid incidental contact. A No-Contact Directive may be imposed at a student's request without conduct proceedings if it does not involve any accommodation changes. Contact includes direct interactions in person or through technology, as well as the use of third parties to interact. The No-Contact Directive is not limited by location. They are issued open-ended; it would only be considered over if the person who originally requested it asked to have it canceled.

**Conduct Referrals:** Hearing officers may refer students found responsible for violations to campus resources to assist, educate or monitor them in the development of appropriate behavior, critical thinking skills, mature decision-making skills, etc. These referrals are mandatory, and failure to complete a referral could result in additional conduct action. Referrals may include University-sponsored alcohol and drug education programs, the Counseling Center, etc.

**Registration Hold:** A hold may be placed on a student's registration if the student has failed to complete a sanction or withdraws prior to official conduct on an allegation. Holds are intended to be temporary until either the sanction or conduct process is complete. Registration holds may also be used during periods of interim suspension, suspension or expulsion. Holds will not be lifted until the necessary sanctions are completed.

## Level Two Sanctions

**Suspension of Group Recognition:** This action consists of the withdrawal of all or part of the official recognition of a group for a stated period of time and will include conditions for reinstatement of recognition. This sanction is intended to assist groups in developing a stronger sense of the responsibilities that go along with the privileges of University recognition and a commitment to be a positive part of the University community.

**Revocation of Group Recognition:** This action is permanent cancellation of the official University recognition and privileges of a group found in violation of University regulations.

**Housing Reassignment or Removal:** This action is an involuntary reassignment to another assignment on-campus or removal from on-campus housing altogether for a designated period of time and may include restricted visitation privileges. This sanction is imposed to protect the welfare of the building, area, or floor community, and students having this sanction imposed should reflect on the behaviors necessary for an individual to be part of a residential community by respecting others, and developing critical thinking skills and mature decision-making skills.

**Exclusion from Mount Mercy facilities or activities** – a student may be prohibited from attending a class, undertaking Mount Mercy employment, entering a building, participating in an extra-curricular activity sponsored by the institution, representing Mount Mercy in an

official capacity, or using other services provided the institution. Such exclusion may be for a definite or indefinite period of time.

**Interim Suspension** – When the Dean of Students & Director of Residence Life has reasonable cause to believe that a student's presence on University premises or at a University-related or registered student organization activity poses a significant risk of substantial harm to the safety or security of themselves, others, or to property, the student may be immediately suspended from all or any portion of University premises, University-related activities or registered student organization activities. This temporary suspension will be confirmed by a written statement and shall remain in effect until the conclusion of a full hearing or administrative decision, without undue delay, in accordance with the rules of the university.

**Disciplinary Suspension** – A student may be involuntarily separated from Mount Mercy for a stated period of time after which readmission is possible. The Dean of Students shall determine when the suspension will become effective and how long it will be in effect. A student with one or more violations may be suspended from Mount Mercy for an indefinite period of time. A student suspended indefinitely may petition the Dean of Students for reinstatement.

**Expulsion** – for a serious violation of rules or regulations of Mount Mercy, a student may be dismissed from Mount Mercy permanently.

## Section 6: Disciplinary Process

### A. Conduct Officer's Scope of Responsibility

As a general rule, violations of Mount Mercy policies and behavioral standards will be referred to the conduct officer in the following areas:

- **Residential** – Violations of residential policies or of institutional standards of conduct committed in the residence halls or by residential students will generally be referred to the Residence Hall Area Coordinator of the hall the student resides in or in which the incident occurred or the Dean of Students & Director of Residence Life.
- **Athletic** – Violations of athletic department or team policies or behavioral expectations will be referred to the Dean of Students & Director of Residence Life (Please note: sport regulations governed by NAIA are not university regulated; therefore, the university may not set them aside or change their outcome. Example: red cards in Soccer) Violations of the Student Code of Conduct will be handled by the appropriate Conduct Officer.
- **Academics** – Please refer to the Academic Integrity Policy
- **All Other** - Violations of university standards of conduct occurring at campus events or committed by non-residential students will be referred to the Dean of Students & Director of Residence Life or his/her designee.

### B. Notification of Conduct Violations

1. Allegations concerning violations of the Code must be brought in writing to the attention of the appropriate Conduct Officer identified in Section A. above within 120 days of discovery of the alleged offense. Violations alleged to have occurred more than 120 days earlier will be considered "stale" and normally will not be subject to conduct action. Exceptions to this policy will be made at the sole discretion of the Dean of Students & Director of Residence Life or designee. Such exceptions may involve allegations that are still under investigation or cases in which the safety of individuals or the University community is deemed by that official to be at risk.
2. Allegations of Code violations will be presented to the accused student(s) by means of a written notice from the appropriate Conduct



Officer. This notice will contain the substance of the allegations and request the student to schedule a Student Conduct Conference, as outlined below. The Conduct Officer will contact the student in writing and/or by e-mail to the last known and updated address by the student on file with the University. The University has no further obligation to notify the accused with respect to inaccurate addresses if the student fails to properly notify the University of any change of address.

### C. Student Conduct Conference

1. The Student Conduct Conference is an informal hearing to discuss the alleged incident and the student's options.\*
2. The accused student is obligated to contact the Conduct Officer within three (5) business days of receipt to schedule a Student Conduct Conference.
3. The Student Conduct Conference provides the student with:
  - Opportunity to discuss the allegations and provide information
  - Notice of formal charges resulting from allegations
  - Notification of the process for resolving formal charges through conduct process
  - Opportunity to accept or deny responsibility for formal charges
4. After all information is presented the Conduct Officer will determine if the student is responsible for the alleged violations.
5. The student will be notified via mail of the decision of responsible or not and any/all sanctions assigned as a result of this finding.

\*If the student chooses to participate in an Administrative Hearing the above steps are not taken and instead the format below will be followed.

### D. Administrative Hearing – The purpose of the hearing will be to determine:

1. Were policies, standards, or behavioral expectations (i.e. team rules in an Athletic hearing), or legal statutes violated?
2. If it is determined that a violation of the above occurred, the hearing(s) will seek to ascertain who is responsible for the violation(s).
3. Students who fail to schedule or attend a hearing by the deadline indicated will waive their right to such a hearing, and a decision may be made without that student(s)' involvement. All decisions made as a result of the hearing(s) will be communicated in writing.

### E. Process for Administrative and Conduct Hearings

1. Hearings are closed to the public. In addition to the conduct officer only the following normally are allowed to attend:
  - Advisor for the accused or the complainant. The advisor shall be a silent observer and may not have an active role in the hearing. The student may choose only one person such as parent, faculty member, attorney, friend, etc.)
  - The accused
  - Witnesses or persons who have been asked to provide a statement by either the accused or complainant
  - Conduct Officer
  - Complainant
  - Accused

In hearings involving allegations against student groups/organizations, the president or chief officer of the charged group/organization will be expected to participate in the hearing on behalf of the group/organization. The conduct officer may also recommend charges be brought against individual members of the group/organization as a result of information obtained in the course of the hearing.

2. Witnesses or persons asked to provide a statement shall be present only for the portion of the hearing that involves their statement and questions arising from that statement (In keeping with federal law, complainants of violence, whose status is determined by the conduct officer, may be provided the results of the hearing).

3. The conduct officer will preside over the Administrative Hearing. Admission of any additional persons to the hearing shall be at the sole discretion of the conduct officer.

4. Hearings are unlike courts. These conduct processes engage in a full discussion of allegations and circumstances. The University's rules differ from proceedings before criminal or civil authorities as follows:

- The presiding officer has sole discretion to decide what information and witnesses are allowed. Information will be allowed if, in the judgment of the presiding officer, it bears on the facts of the case.
  - Information relevant to both the issue of responsibility and appropriate sanctions is normally allowed.
  - Written statements by witnesses or others having knowledge of the allegations may be allowed in the absence of a personal appearance by the author of the statement. If it is later determined that the submitted statement was untrue, conduct action may be taken against the student who wrote the statement. Such statements may be considered by the conduct officer on the basis of their content and relevance.
  - The witness will be heard if the presiding officer deems that it is offered in good faith, bears upon the facts of the case, and is not merely cumulative, i.e. does not simply repeat prior statements.
  - Information that is not from a firsthand source may be considered in the course of a hearing under certain conditions; the legal rules of hearsay evidence do not apply. The presiding officer will rule on whether such information is appropriate and may be admitted in the hearing. In no case should the hearing outcome be decided solely on such information.
  - In some cases, the presiding officer may issue a notice to appear as indicated below. Such internal notices are not issued unless the expected statements would be clearly relevant, and will not be issued with the intent to embarrass or harass a potential witness.
  - All University students are expected to comply with notices to appear. University students who, absent good cause, fail to respond to such notices are in violation of this Code. Third parties not subject to the Code who may be requested to appear in a Conduct Hearing are expected to make every effort to assist the conduct process. The unavailability of such third parties to a hearing procedure will be treated as set forth below.
  - If the presiding officer determines that a fair hearing cannot be held without the involvement of a particular witness, and if after good faith attempts are made, the witness either fails to or refuses to appear, the hearing may be postponed until the witness agrees to appear or provide a written statement; or the charges may be dismissed, at the sole discretion of the presiding officer.
5. The following procedures will be used in conduct hearings:
    - The accused and the complainant will be given the opportunity to challenge a hearing panelist or presiding officer on the grounds of conflict with, bias about, or interest in, the case. It is at the conduct officer's discretion to support or refuse the challenge, unless the conduct officer is the subject of the challenge, in which case an official within the Dean of Students staff shall be brought in to hear the challenge and make the final determination. If a challenge is granted and a hearing panelist or presiding officer is disqualified then the hearing may be postponed as necessary in the discretion of the presiding officer/Student Affairs official.

- The presiding officer will state the charge(s) against the accused.
  - The complainant will present information in support of the charge(s) and may also present written information and witnesses.
  - The conduct officer will be provided access to copies of all written information submitted.
  - The conduct officer may directly question the complainant and witnesses. The accused has the right to question the Complainant and the witnesses who appear. However in cases involving allegations of sexual violence, the complainant may be visually screened or not present during questioning.
  - The accused may respond to the charge(s) and may present information in the form of written information or testimony of the accused or other witnesses.
  - The conduct officer will be provided access to copies of all written information submitted by the accused or the complainant.
  - The conduct officer may then question the witnesses presented by the accused or the complainant and may also question the accused or the complainant. The complainant may then question the witnesses, including the accused.
  - The complainant will be provided the opportunity to make a closing statement.
  - The accused will be provided the opportunity to make a closing statement.
  - The presiding officer will conclude the information gathering portion of the hearing and set a time for deliberations to begin at the earliest possible time.
  - The University may record a formal hearing. The recording shall not include the deliberations.
  - At the conclusion of the hearing, all parties will be excused to allow the conduct officer to begin deliberations.
  - During conduct hearings, deliberations about responsibility of the accused are conducted by the hearing panel/conduct officer in a closed session. Once begun, the deliberations normally will continue until a decision as to responsibility has been reached. Breaks will be granted at the sole discretion of the presiding officer.
6. All issues before conduct officers must be decided according to the preponderance of evidence standard (whether it is “more likely than not”). In finding responsibility of the accused under this standard of proof, the conduct officer must be convinced, based solely upon the information presented in the course of the hearing that the conduct alleged is more likely than not to have occurred.
7. In assigning appropriate sanctions, the conduct officer may consider relevant precedents and the conduct history of the accused. Consideration may also be given to aggravating or mitigating circumstances including but not limited to:
- intent to act in the manner described, regardless of motive;
  - intent to violate the policy or regulation described;
  - prior experience, age, and understanding;
  - prior violations or related behavior;
  - other personal circumstances that might have affected the accused student at the time of the violation; and
  - how the conduct violation affected or potentially affected or still has the potential to affect others.
8. Repeated violations of the Code may result in the imposition of progressively more severe sanctions, although any sanction may be imposed as appropriate under the circumstances.
9. At the conclusion of the deliberation, the presiding officer will provide written notification of the decision within 48 hours to the conduct officer

assigned to the case. Written/electronic notification of the decision and sanctions as well as appeal procedures if applicable will be sent to the appropriate parties to the address(es) most recently made available to the University.

10. A record of the Board’s hearing proceedings will be kept and this will be considered confidential except in cases where it is deemed necessary by the Board that prepared statements be released to protect the welfare of persons or Mount Mercy University.

## Section 7: Appeals

### A. Right to Appeal

1. Students may request an appeal to the Dean of Students on the following grounds:
  - If there is new information not considered in the original hearing.
  - If the sanction(s) applied do not reasonably fit the violation.
  - If a procedural error occurred during the process
  - Whether the rights affirmed by the hearing process have been denied
  - Whether the decision was based on substantive information.
2. Students have 48 hours from the time they receive notification of a sanction to file an appeal.
3. Appeals will be heard by Dean of Students or his/her designee. In order to file an appeal, the student must submit the appeal in writing.
4. If the Dean of Students served as the original conduct officer, or as the assigned conduct officer, or if the Dean of Students was removed from the process; appeals will be heard by the Vice President for Administration, Enrollment, and Student Services.
5. If multiple individuals were found in violation and/or sanctioned and wish to appeal, each individual must submit a separate appeal letter.
6. Every effort will be made to conclude the appeals process in a timely fashion.
7. A student’s status and/or participation in sport or other University activities may be altered until a final decision is made. This is true in cases in which a student’s continued presence constitutes an immediate threat or potential injury to himself/herself or others and/or could disrupt the orderly functioning of Mount Mercy University as determined by Dean of Students & Director of Residence Life or appropriate hearing authority.

B. When the Dean of Students receives an appeal, he/she will determine the format of the appeal either an Appeal Board or a Summary Decision. These are final decisions without further appeal.

### Summary Decision

Dean of Students will review the written appeal and any related documentation from the original hearing. The Dean of Students will make a final judgment and communicate that in writing to the student.

### Disciplinary Appeal Board

1. The Appeal Board of the Student Development Committee will serve as the Disciplinary Appeal Board. Members must comply with all requirements set forth in this document.
2. A conduct officer will be assigned to the Disciplinary Appeal Board to serve as a resource for the chair.
3. A Disciplinary Appeal Board reviews the materials of the original case for any validation of the student’s reason for appeal. The

process is not a rehearing of the case. The Disciplinary Appeal Board's decision is final.

4. At the conclusion of the deliberation, the Presiding Officer will provide written notification of the decision within 48 hours to the Conduct Officer assigned to the case. Written/electronic notification of the decision and sanctions as well as appeal procedures if applicable will be sent to the appropriate parties to the address(es) most recently made available to the University.

## **E. Suspension or Expulsion**

In the event that an Appeal Summary Decision or Disciplinary Appeal Board upholds a sanction of suspension or expulsion, the student has the right to make a final appeal to the Vice President of Administration, Enrollment and Student Services within 48 hours of receiving the sanction.

# **Section: 8 Interpretations & Revisions**

## **Interpretation**

Any question of interpretation regarding the Student Code of Conduct will be referred to the Dean of Students or his/her designee for final determination.

## **Revision**

The Student Code of Conduct is subject to change. In general, the Student Code of Conduct will undergo a review once every three years to determine if significant changes need to be made. The Student Development Committee, comprised of at least one representative each from the student body, the faculty, and the staff, will conduct the review. The review may be made sooner at the discretion of the Dean of Students.

The University is responsible for notifying students when significant changes are made and students are responsible for being made aware of changes.