

Office of Student Accountability

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Student Code of Rights and Responsibilities

1. Introduction

(1) The matriculation of a student at the University of Memphis is a voluntary entrance into the academic community. By such voluntary entrance, the student assumes obligations of performance and behavior reasonably imposed by the University relevant to its lawful missions, processes, and functions. In some instances, these obligations may be higher than those imposed on individuals by civil and criminal law.

(2) The University has established the Student Code of Rights and Responsibilities (“Student Code”) in order to advance the mission of the University by maintaining a safe and secure learning environment, protecting the rights and privileges of all members of the University community, providing a basis for the orderly conduct of the affairs of the University, promoting a positive relationship between the University and its surrounding community, preserving institutional integrity and property, encouraging students to engage in conduct that brings credit to themselves and the University, and ensuring that each student who matriculates at the University graduates ready to contribute to society as an ethical and responsible individual.

(3) Students are responsible for being fully acquainted and for complying with this rule and other processes relating to students. Each student member of the University of Memphis community bears responsibility for their conduct. Students also assume reasonable responsibility for the behavior of others. When student members of the University community fail to or refuse to comply with the rules and requirements established by the University, they may be subject to disciplinary action up to and including expulsion from the University.

(4) The University of Memphis is committed to respecting students’ constitutional rights. Nothing in this chapter is intended or shall be interpreted to restrict students’ constitutional rights, including, but not limited to, rights of freedom of speech and assembly.

(5) Authority and responsibility relating to the Student Code are delegated to the Dean of Students, or designee.

2. Jurisdiction

(1) University rules governing student conduct apply to conduct on and off University property. In the case of conduct that occurs off University property, the Dean of Students, in his/her sole discretion, shall determine whether the Code will be applied to such misconduct by taking into consideration whether the misconduct:

- a. Occurs in connection with a University activity; or
- b. Involves another member of the University community; or
- c. Is fairly attributable to a student organization; or
- d. Consists of academic dishonesty or research misconduct; or
- e. Poses a credible, serious threat to the health and safety of the University community or University property.

(2) Each student shall be responsible for their conduct from the time of admission to the University of Memphis or enrollment in a course offered by the University of Memphis through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year, and during periods between terms. Any student that chooses to take a leave of absence or withdraw from the University of Memphis during any academic period prior to graduation with a pending disciplinary matter will be subject to a disciplinary hold placed on the student's academic record and/or the student's account preventing re-enrollment until resolution of the conduct matter in question. This rule will also apply student found to have submitted false or misleading information to the University for the purpose of admission.

(3) Each student organization shall be responsible for its conduct from the time of application for registration through the time that the organization is voluntarily disbanded or is no longer officially recognized by removal from the University in accordance with this rule. Actions taken by members of a student organization, particularly officers of the student organization, may be imputed to the student organization.

(4) University disciplinary proceedings may be instituted against a student and/or student organization charged with conduct that potentially violates both criminal law and the Student Code (that is, if both possible violations result from the same factual situation) without regard to the pendency of civil or criminal litigation or criminal arrest and/or prosecution. Proceedings under this rule may be carried out prior to, simultaneously with, or following civil and/or criminal proceedings at the discretion of the Dean of Students. Determinations made or sanctions imposed under the Student Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the involved student(s).

(5) When a student is charged by federal, state, or local authorities with a violation of law, the University will not request or agree to special consideration for that individual because of their status as a student. If the alleged offense is also being processed under this rule, the Office of Student Accountability (OSA) may advise off-campus authorities of the existence of this rule and of how such matters are typically handled within the University community. OSA will cooperate with law enforcement and other agencies to the extent possible and as legally allowed or required in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with University rules or sanctions). Individual students and other members of the University community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

(6) Graduate or professional programs within the University may initiate academic retention processes against students for alleged violations of professional standards or ethics (e.g. national accrediting or governing body and/or federal or state regulations) as a separate issue or as an extension of alleged acts of academic misconduct or other violations of the Code.

(7) This code is not applicable to University Schools' K-12 students who shall adhere to the policies of or adopt policies substantially similar to the local education authority through which they receive funding.

3. Definitions

(1) The term “business day” means any weekday not designated by the University as a holiday or administrative closing day. When calculating a time period of business days specified in the Code, the business day of the event that triggers a time period is excluded.

(2) The term “complainant” means an individual who is alleged to be the victim of conduct that could constitute a violation under this Code. In the absence of a complaint from another member of the University community, the University, a University employee, or another office or department within the University may serve in the role as complainant.

(3) The term “conduct educator” means the University official assigned to investigate and document factual findings related to alleged violations of the Student Code. In the case of Academic Misconduct, the faculty member whose course the conduct occurred in, or in the case of academic misconduct occurring outside of a specific course, the faculty member who is responsible for the academic program the conduct occurred in, will serve in the role.

(4) The term “consent” means an informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon activity. Consent cannot be given by an individual who is asleep; unconscious; or mentally/physically incapacitated, either through the effect of drugs/alcohol or for any other reason; or is under duress, threat, coercion, or force. Past consent does not imply present or future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.

(5) The term “Dean of Students” means the University official charged with administration of student discipline for the University, and/or their designee at the University.

(6) The term “member of the University community” means any person who is a student, University official, campus visitor, University approved vendor, and/or participant in a University-sponsored or University-affiliated activity.

(7) The term “notice” means notice given in writing and transmitted by United States mail, courier service, and/or hand delivery to the address the University’s Registrar has on file for the student; and/or by e-mail to the student’s University-provided e-mail account. When a notice is

transmitted by United States mail or courier service, the notice is effective on the date that it is mailed or delivered to the courier service. When a notice is transmitted by hand delivery, the notice is effective on the date that it is delivered to the person to whom the notice is addressed. When a notice is transmitted by e-mail, the notice is effective on the date that the e-mail is sent. A student's University-issued e-mail address is the official method of communication used by the University regarding student conduct matters.

(8) The term "party" means either complainant or respondent. References in this rule to the plural "parties" includes complainant and respondent.

(9) The term "possession" means having, owning or controlling a substance or property or being in such close proximity to the substance or property that it is a reasonable presumption that one had knowledge of the substance or property.

(10) The term "retaliation" means any action taken by an accused individual or an action taken by a third party against any person because that person has reported a violation of this rule or the University's processes or because that person has filed a complaint, served as a witness, assisted, or participated in an investigation or proceeding under this rule or any other University process. This includes action taken against a bystander who intervened to stop or attempt to stop a violation of this rule or any other University process. Retaliation includes, but is not limited to, intimidating, threatening, or coercing an individual because of the individual's complaint or participation.

(11) The term "respondent" means an individual or student organization who has been reported to be the perpetrator of conduct that could constitute a violation under this Code.

(12) The term "student" includes all persons who are admitted, enrolled, or registered for courses at the University, either full-time or part-time, pursuing undergraduate, graduate, continuing education, vocational education, or professional studies. Persons who withdraw after allegedly violating the Student Code, who are not officially enrolled for a particular term but who have a continuing relationship with the University or who have been notified of their acceptance for admission are considered "students" as are persons who are living in University owned or controlled housing, although not enrolled at the University.

(13) The term “student conduct board” means an annually appointed, trained pool of eligible University community members (i.e. students, faculty, staff, or contractors) who are responsible for conducting student disciplinary hearings.

(14) The term “student organization” means any organization comprised primarily of currently enrolled students who unite around a common purpose or interest for educational, social, recreational and/or service purposes.

(15) The term “threat” means any written, verbal, or non-verbal conduct by a student or student organization that causes a reasonable expectation of injury to the health and/or safety of any person and/or damage to any property.

(16) The term “University” means the University of Memphis.

(17) The term “University-affiliated activity” means any activity on or off University property that is initiated, aided, authorized, sponsored, or supervised by the University.

(18) The term “University property” means all land, buildings, facilities, grounds, structures, or any other property controlled, owned, leased, used, maintained, or operated by the University. For purposes of this rule, University controlled property includes all streets, alleys, sidewalks, public ways abutting such property, and computers and network systems owned, maintained, or controlled by the University or funded by the University.

(19) The term “University official” means an employee of the University including, but not limited to, faculty members, staff, University-recognized volunteers. Student employees may be considered University officials when acting in the performance of their duties such as event staff, building monitors, resident assistants, teaching assistants, or others designated by the University.

(20) The term “weapon” means any device, instrument, or substance that is designed to inflict a wound, incapacitate, or cause bodily injury or death, including, but not limited to, firearms (loaded and unloaded, real firearms and devices that appear to be real firearms), ammunition, electronic control devices (such as tasers and stun guns), devices designed to discharge an object (such as bb guns, air guns, pellet guns, potato guns, and slingshots), explosives, dangerous chemicals (such as

mace, tear gas, and oleoresin capsicum), martial arts weapons, bows and arrows, artificial knuckles, nightsticks, blackjacks, dirks, daggers, swords, and knives with fixed blades longer than four (4) inches. The term “weapon” does not include pocketknives that fold (but not excluding switchblades); chemical repellents available over-the-counter for self-defense; instruments used solely for personal hygiene, preparation of food, maintenance, University-related instruction, or University employment- related duties. Weapon may also include devices, instruments or substances not designed to inflict a wound, incapacitate, or cause bodily injury or death but that is used in that manner.

4. Behavioral Expectations and Responsibilities

(1) The University considers the behavior described in the following subsections as inappropriate for the University community and in opposition to the lawful missions and core values of the University. Any student and/or student organization found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in Section .05 Disciplinary Outcomes.

(2) **Academic Misconduct:** A student may be found to have engaged in academic misconduct, if they engage in any act of academic dishonesty which may include, but is not limited to the following:

- a. Making use of or providing unauthorized assistance or materials in the preparation or taking of an examination or other academic coursework;
- b. Acting as a substitute for another person in any academic evaluation or assignment;
- c. Utilizing another person as a substitute for him/herself in any academic evaluation or assignment;
- d. Committing plagiarism by presenting as one’s own work, for academic evaluation or assignment, the ideas, representations, or works of another person or persons or oneself without customary and proper acknowledgment of sources;
- e. Knowingly submitting one’s work for multiple assignments or classes unless explicitly authorized by the instructor;

- f. Committing an act that materially prevents, impedes, and/or impairs others from completing an academic evaluation or assignment; and/or
- g. Attempting to influence or change one's academic evaluation or record, through dishonesty, coercion, threat, and/or intimidation.

(3) **Disruptive Classroom Behavior**: Disruptive Classroom Behavior is defined as, but not limited to, behavior by any student that obstructs or disrupts the learning environment such as outbursts that inhibit instruction or concentration, failure to cooperate in maintaining classroom decorum, the persistent use of devices that disturb others, or other similar actions.

- a. The instructor and/or the instructor's designee has responsibility for maintaining control over classroom behavior and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct that violates the general rules and regulations of the University for the class session during which the conduct occurs. Extended or permanent exclusion from the classroom, beyond the session in which the conduct occurred, or further disciplinary action can be affected only through appropriate procedures in this rule.

(4) **Failure to Cooperate with a University Official or Police**: Failure to comply with reasonable directions of University officials or police acting in the performance of their duties.

(5) **Harm to Persons**: Causing physical harm or endangering the health or safety of any person.

(6) **Abuse**: Abuse means acts or omissions that would cause a reasonable person, based on the severity, nature, and/or frequency of the conduct, to believe that an individual was subject to an abusive living, learning, and/or working environment, including but not limited to, repeated verbal abuse, including derogatory remarks, insults, and epithets; verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature; or the sabotage or undermining of an individual's performance in the living, learning, and/or working environment.

(7) **Harassment**: Harassment is unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or

local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to participate in or benefit from the University's educational or employment programs or activities.

(8) **Retaliation**: Engaging in retaliation as defined in this rule.

(9) **Attempting to Violate the Rules Governing Student Conduct**:

Any attempt to commit any of the offenses identified as prohibited conduct, or the aiding/abetting of the commission of any of the offenses listed as such. An attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission.

(10) **Bystanding**: Bystanding is complicity with or failure of any student and/or student organization to appropriately address known or obvious violations of the Student Code or law. Being present during the planning or commission of any offense listed under this section may be considered as bystanding. Students who anticipate or observe an offense must remove themselves from the situation and are required to report the offense to the University.

(11) **Theft of Property or Services**:

- a. Attempted or actual theft, misappropriation, or unauthorized possession of University property, on or off campus;
- b. Attempted or actual theft, misappropriation, or unauthorized possession of the personal property of a Member of the University Community, on or off campus;
- c. Obtaining services, access to events, or access to physical spaces from the University or from a Member of the University Community by deception, force, threat or other means, without compensating the provider for these services; and/or
- d. Knowingly taking or maintaining possession of stolen property.

(12) **Damage to Property**:

- a. Any act of misuse, vandalism, malicious, attempted or actual damage or destruction, defacing, disfiguring of University property; and/or
- b. Attempted or actual damage to the personal property of a member of the University community, including, but not limited to, inflicting, or

attempting to inflict physical injury on any animal owned, possessed, leased, kept, or held by the victim.

(13) **Violation of Privacy:**

- a. Unauthorized creation, use, maintenance, display or transfer of any recording (audio, video, digital, pictorial, etc.) taken without another person's knowledge and effective consent and/or used, maintained, displayed or transferred without the person's express permission;
- b. Engaging in observation of activities occurring in a place or places where there is a reasonable expectation of privacy without the knowledge and effective consent of all parties; and/or
- c. Unauthorized access of another individual's electronic accounts in any manner.

(14) **Firearms, Weapons, Ammunition, and Explosives:**

- a. Possessing, carrying, using, storing, or manufacturing any weapon on University controlled property or in connection with a University-affiliated activity, unless authorized in writing by the Chief of Police or designee or unless federal or state law affirmatively gives a student a right, irrespective of the Student Code, to possess or carry a weapon on University controlled property or in connection with a University-affiliated activity;
- b. Possessing, carrying, using, storing, or manufacturing any replica or toy weapons or items that simulate firearms or weapons on University controlled property. Examples of these items include but are not limited to: BB guns, pellet guns, paintball guns, water guns, cap guns, stun guns, tasers, and toy knives;
- c. Possessing, carrying, using, storing, or manufacturing ammunition on University controlled property unless authorized in writing by the Chief of Police or designee or unless federal or state law affirmatively gives a student a right, irrespective of the Student Code, to possess or carry ammunition on University controlled property or in connection with a University-affiliated activity; and/or
- d. The unauthorized possession, ignition or detonation of any object or article which would cause damage by fire or explosion or other means to persons, or possession of any substance which could be considered to be fireworks or an explosive device.

(15) **Hazing**: As it is impossible to anticipate every situation that could involve hazing, this list does not, and cannot, encompass every circumstance that will cause the University to discipline for hazing.

a. Hazing means any intentional or reckless act, on or off University property, by one (1) student acting alone or with others, that is directed against any other student, that endangers the mental or physical health or safety of that student or that induces or coerces a student to endanger that student's mental or physical health or safety. Hazing shall include, but not be limited to, forcing, compelling, requiring, encouraging, or expecting, whether direct or implied, any individual to participate in any of the following actions or activities:

1. Paddling;
2. Kidnapping;
3. All forms of physical activity which are used to harass, punish, or harm an individual;
4. Excursions or road trips;
5. Confinement;
6. Spraying, painting, or pelting with any substance;
7. Burying in any substance;
8. Nudity with the intent to cause embarrassment;
9. Servitude;
10. Exposure to uncomfortable elements;
11. Verbal abuse;
12. Wearing, in public, of apparel which is conspicuous and/or indecent;
13. Forcing consumption of alcohol or any other substance, legal or illegal;
14. Depriving students of sufficient sleep (six consecutive hours per day is normally considered to be a minimum);
15. Burning, branding, or tattooing any part of the body;
16. Psychological hazing, defined as any act which is likely to:
 - i. Compromise an individual's dignity;

- ii. Cause an individual embarrassment or shame;
 - iii. Cause an individual to be the object of malicious amusement or ridicule; and/or
 - iv. Cause an individual emotional distress;
 - 17. Interrogating an individual in an intimidating or threatening manner;
 - 18. Misleading prospective members in an effort to convince them that they will not become members unless they complete tasks, follow instructions, or act in a certain way;
 - 19. Misleading prospective members into believing that they will be hurt during induction or initiation;
 - 20. Carrying any items (shields, paddles, bricks, hammers, etc.) that serve no constructive purpose or that are designed to punish or embarrass the carrier;
 - 21. Blindfolding and parading individuals in public areas, blindfolding and transporting in a motor vehicle, or privately conducting blindfolding activities that serve no constructive purpose;
 - 22. Binding or restricting an individual in any way that would prohibit them from moving on their own; and/or
 - 23. Requiring or suggesting that an individual obtain, purchase, or possess items or complete tasks in an unlawful manner (i.e. for a scavenger hunt).
- b. Hazing also includes soliciting, directing, aiding, or otherwise participating actively or passively in the above acts.
- c. This rule is not intended to prohibit the following conduct:
- 1. Customary athletic events, contests, or competitions that are sponsored by the University or the organized and supervised practices associated with such events; or
 - 2. Any activity or conduct that furthers the goals of a legitimate educational curriculum, extracurricular program, or military training program, as approved by the University.
- d. An individual may not consent to being hazed, and a victim's voluntary or willful participation in hazing activities will not be

considered as a defense against a violation of the hazing rule by an individual or organization.

(16) **Unauthorized Access to University of Memphis Facilities**

and/or Grounds: Any unauthorized access or occupancy of University facilities, grounds, and/or other property designated or used for academic and/or research purposes, including but not limited to internship and practicum locations, is prohibited, including, but not limited to, gaining access to facilities and/or grounds that are closed to the public, being present in areas of campus that are open to limited guests only, being present in academic buildings after hours without permission, and being present in buildings with no legitimate reason. This also includes unauthorized entry into or use of University or a Community member's premises and/or equipment, property, room, or distinct physical space. This rule also prohibits trespassing, propping of doors, or unauthorized use of alarmed doors for entry into or exit from a University building.

(17) **Unauthorized Duplication or Possession of Keys**: Making, causing to be made, or the possession of any key (including electronic and/or card keys) for a University grounds, facilities, and/or other property designated or used for academic and/or research purposes, including but not limited to internship and practicum locations, without proper authorization.

(18) **Litter**: Dispersing litter which includes, but is not limited to, garbage, refuse, rubbish and other waste material, in any form onto the grounds or facilities on University property.

(19) **Disorderly Conduct**: Any individual or group behavior which is obscene, lewd, indecent, excessively noisy, disorderly, or which unreasonably disturbs institutional functions, operations, classrooms, residential facilities, other groups, or individuals.

(20) **Falsification**:

- a. Submitting any false, falsified, forged, or altered, materials, documents, accounts, records, identification, or financial instruments to the University or a University official;
- b. Failure to disclose complete official transcripts of all domestic and/or international coursework for the purpose of admission into the

University, admission to a program of study, or for consideration of transfer articulation;

- c. Any forgery, alteration of or unauthorized use of University documents, forms, and/or records;
- d. Providing false or misleading information to a University official;
- e. Withholding necessary information from any University official acting in the performance of his/her duties; and/or
- f. Impersonating another member of the University community or a University official.

(21) **University Identification Card:**

- a. The student's University identification card must be provided when requested by any University official.
- b. Misuse of a student identification card is prohibited. Misuse includes, but is not limited to, any of the following:
 - c. Allowing others to use your identification card;
 - d. Using another student's identification card;
 - e. Representing an invalid identification card as valid to a University official or for the purpose of entry into a University resource or event; and/or
 - f. Alteration of the identification card.

(22) **Alcoholic Beverages:** Except as explicitly allowed for by the University, the use and/or possession of alcoholic beverages on University property is prohibited. The unlawful use and/or possession of alcoholic beverages off University property in violation of any University prohibition, local ordinance, state, or federal law concerning alcoholic beverages is prohibited. This rule includes any violation of the following:

- a. Possession or consumption of alcoholic beverages by students under the age of 21;
- b. Possession or consumption of alcoholic beverages by students aged 21 and over on University owned or controlled property;
- c. The intentional or unintentional supply or sale of alcohol to any person under the age of 21;
- d. Consumption of alcohol associated with disruptive behavior;

- e. Possession or use of false forms of identification to enter a liquor establishment or to obtain alcoholic beverages;
- f. Use of alcohol resulting in incapacitation that requires hospitalization or the recommendation of medical personnel that hospitalization occur; and/or
- g. Driving under the influence of alcohol.

(23) **Drugs and other Controlled Substances**: This offense includes the violation of any local ordinance, state, or federal law concerning drugs or controlled substances, on or off University property. This prohibition also includes the following:

- a. The unlawful possession or consumption of drugs or controlled substances (including, but not limited to, any stimulant, depressant, narcotic, hallucinogenic drug, or marijuana);
- b. The intentional or unintentional unlawful supply or sale of drugs or controlled substances to any person;
- c. Consumption of drugs or controlled substances associated with disruptive behavior;
- d. Obtaining prescription drugs under false pretenses;
- e. Knowing misuse, possession or sale, or distribution of prescription drugs;
- f. Improper use of drugs or controlled substances resulting in incapacitation that requires hospitalization or the recommendation of medical personnel that hospitalization occur; and/or
- g. Driving under the influence of drugs.

(24) **Drug Paraphernalia**: The use or possession of equipment, products or materials that are used or intended for use in the unlawful manufacture, growth, use or distribution of any drug or controlled substance. This offense includes the violation of any local ordinance, state, or federal law concerning the unlawful possession of drug paraphernalia, on or off University property.

(25) **Gambling**: Gambling as prohibited by the laws of the State of Tennessee. Gambling may include, but is not limited to, raffles, lotteries, sports pools, and online betting activities. The prohibition against gambling does not apply to approved fundraising and philanthropic activities of the University or registered student organizations.

(26) **Financial Irresponsibility**: Financial Irresponsibility includes any of the following:

- a. Knowingly passing a worthless check or money order in payment to the University or a member of the University community; and/or
- b. Knowingly using counterfeit money to pay for goods or services provided by a member of the University community.

(27) **Wheeled Devices**: Skateboards, roller blades, roller skates, bicycles and similar wheeled devices are not permitted inside University buildings, University owned or controlled housing, or on tracks or tennis courts. Wheeled devices may not be ridden on railings, curbs, benches, or any such fixtures that may be damaged by these activities, and individuals may be liable for damage to University property caused by these activities. Additionally, wheeled devices must not be stored or deposited in areas that block entry or exit to/from any University building or facility or block the effective use of railings, curbs, benches, and/or sidewalks/walkways.

(28) **Trademark**: Unauthorized use (including misuse) of University or organizational names and images.

(29) **Ineligible Pledging or Association**: Pledging or associating with a student organization without having met the University's registration requirements.

(30) **Animals**: Animals are not permitted on campus except as allowed by law or as allowed by the University.

(31) **Drones**: Any use of an unmanned aircraft system or drone vehicle in, from, and/or above University property is prohibited except for University approved educational and/or research purposes.

(32) **Life, Property, and Fire Safety**: Violation of local, state, federal or campus fire and safety regulations including, but not limited to:

- a. Intentionally or recklessly causing a fire which damages University or personal property or which causes injury;
- b. Failure to evacuate a University-controlled building during a fire alarm;
- c. Improper use of University fire safety equipment;

- d. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on University owned or controlled property;
- e. Tampering with or disabling locks, other door hardware, cameras or other equipment used to provide security on campus; and/or
- f. Tampering with or improperly engaging Automated External Defibrillator or other first-aid equipment while on University property.

(33) **Abuse of the Conduct Process, Unacceptable Conduct in**

Disciplinary Proceedings: Any conduct at any stage of a disciplinary proceeding or investigation that may be contemptuous, disrespectful, threatening, or disorderly, including, but not limited to:

- a. Failure to obey the directives of a disciplinary body or University official(s) in the performance of their duties;
- b. Knowing falsification, distortion, or misrepresentation of information before a disciplinary body;
- c. Deliberate disruption or interference with the orderly conduct of a disciplinary proceeding;
- d. Failure to provide, destroying, or concealing information during an investigation of an alleged violation;
- e. Attempting to influence the impartiality of a member of a disciplinary body prior to, or during the course of a disciplinary proceeding;
- f. Harassment or intimidation of any participant in the University disciplinary process;
- g. Attempting to discourage an individual's proper participation in, or use of the disciplinary process;
- h. Failing to appear at a University hearing, including, without limitation, a hearing of a University conduct board, following a request to appear either as a party or as a witness;
- i. Violation of Interim Administrative Actions, Disciplinary Sanctions, or Conditions of Re- enrollment. Violating the terms of a no-contact directive, an interim restriction, a disciplinary sanction, or a condition of re-enrollment imposed by the University;
- j. Influencing, or attempting to influence, another person to commit an abuse of the disciplinary process; and/or

k. Failure to abide by a resolution agreement.

(34) **Violation of General Rules and Regulations, State, Local or Federal Laws**: Any violation of the general rules and regulations of the University of Memphis as published in official University publications and websites, including but not limited to, the intentional failure to perform any required action or the intentional performance of any prohibited action. Further, any violation of any local, state, or federal laws is also prohibited.

5. Disciplinary Outcomes

(1) Purposes of disciplinary outcomes. The purposes of disciplinary outcomes that are implemented include, but are not limited to:

- a. To educate the Respondent about appropriate conduct;
- b. To promote the personal and professional development of the Respondent;
- c. To repair harm to the Complainant, University, and/or Community;
- d. To discourage the Respondent and other students from violating the Behavioral Expectations and Responsibilities; and
- e. To protect other members of the University community.

(2) Appropriateness of disciplinary outcomes. The disciplinary outcomes imposed on a Respondent should be proportional to the Respondent's misconduct and appropriate for the particular case based on the gravity of the offense (including, without limitation, how the violation affected or reasonably could have affected other members of the University community). Consideration may also be given to the Respondent's conduct record; whether the Respondent acted in self-defense, and, if so, whether the amount of force used was reasonable under the circumstances; and other aggravating or mitigating factors.

(3) **Administrative sanctions**. A student who accepts responsibility or is found responsible for violating the Behavioral Expectations and Responsibilities generally will be given one (1) or more of the following administrative sanctions:

- a. **Warning**. A warning is a written notice to a student that informs the student that the student has violated the Behavioral Expectations

and Responsibilities, that the misconduct must cease and/or not reoccur, and that further misconduct may result in the imposition of more serious sanctions.

- b. **Disciplinary probation**. Disciplinary probation is imposed for a specified period of time during which the student may continue to be enrolled but must demonstrate conduct that conforms to the Behavioral Expectations and Responsibilities. Conditions may be placed on the student's continued enrollment. A student may be placed on disciplinary probation for moderate misconduct or in the case of repeated minor misconduct. Also, a student allowed to re-enroll following a suspension will be placed on disciplinary probation. Subsequent violations of the Behavioral Expectations and Responsibilities during a period of disciplinary probation may result in more serious sanctions such as suspension or expulsion from the University.
- c. **Deferred suspension**. A deferred suspension is a designated period of time during which a student, while continuing to be enrolled, is given an opportunity to demonstrate the ability to abide by the Behavioral Expectations and Responsibilities. A student may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student is found responsible for any additional violation(s) of the Behavioral Expectations and Responsibilities while the student is on deferred suspension, then the sanction of suspension will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Students who are placed on deferred suspension are also generally given developmental sanctions.
- d. **Suspension**. A suspension is an official separation of a student from the University for a specific period of time and/or until certain conditions are met. A suspension may be imposed for serious misconduct and/or for a violation of deferred suspension. Suspension may include conditions that must be satisfied prior to a student being allowed to re-enroll and/or conditions that will be in place if the student is allowed to re-enroll. The effective date of a suspension may be imposed retroactively to the date that the misconduct occurred. While suspended, the student loses all University rights and privileges (e.g., enrollment privileges), shall not represent the University in any official manner, and shall not be present on University property without the prior approval of the

Dean of Students. The student may be required to meet with an assigned staff member periodically while suspended to ensure the student is making satisfactory progress regarding the developmental sanctions issued. The Dean of Students will determine whether the student is eligible for consideration for re-enrollment by the University's admissions office(s). Students who are permitted to return to the University following a period of suspension will automatically be placed on disciplinary probation by OSA for a designated period of time, which is designed to facilitate a smooth transition back to the University community. A student on post-suspension disciplinary probation must abide by the Behavioral Expectations and Responsibilities and all terms and conditions placed on the student's re-enrollment.

- e. **Expulsion**. Expulsion is a sanction that permanently bars a person from the University and from re-enrolling as a student at the University. This sanction generally is imposed when the student's misconduct is deemed so serious as to warrant total and permanent disassociation from the University community without the possibility of re-enrollment; and/or when, by the student's repeated misconduct, a student has exhibited a blatant disregard for the health, safety, or welfare of other members of the University community or the University's right to establish rules of conduct. A person who has been expelled shall not be present on University property without the prior approval of the Dean of Students.
- f. **Withholding of degree**. The University may withhold a degree as a disciplinary sanction for a specified period of time or until the student's completion of all other sanctions imposed, whichever occurs later.
- g. **Revocation of degree**. The sanction of the revocation of a degree may be imposed if a student has obtained a degree at least in part through cheating, plagiarism, other academic dishonesty, or through research misconduct. This sanction will be noted on the student's academic transcript on a permanent basis.
- h. **Disciplinary probation for student organizations**. A student organization given the sanction of disciplinary probation is permitted to retain University student organization registration on a probationary status. As a condition of the disciplinary probation, the student organization also may be given developmental sanctions.

Disciplinary sanctions imposed on a student organization may be applicable to members of such organization.

- i. **Social probation for student organizations**. Social probation prohibits a student organization from sponsoring or participating in specified social activities. While on social probation, a student organization may not host social events or participate in University-affiliated activities. Any exceptions to social probation must be approved, in advance, by the Dean of Students.
- j. **Deferred suspension for student organizations**. A deferred suspension is a designated period of time during which a student organization, while continuing to be active, is given an opportunity to demonstrate the ability to abide by the Behavioral Expectations and Responsibilities. A student organization may be placed on deferred suspension for serious misconduct or in the case of repeated misconduct. If the student organization is found responsible for any additional violation(s) of the Behavioral Expectations and Responsibilities while the student organization is on deferred suspension, then the sanction of revocation or suspension of University registration will be the minimum sanction that will be imposed in a Formal Hearing on the subsequent misconduct. Student organizations who are placed on deferred suspension generally also receive disciplinary probation and developmental sanctions.
- k. **Revocation or suspension of University registration**. In cases of serious or repeated misconduct, a student organization's University registration may be suspended or revoked.

(4) **Developmental conditions**. A student may be given one (1) or more of the following developmental conditions in an effort to foster student learning and development:

- a. **Educational activities**. Educational activities are designed to educate the student about why certain conduct was inappropriate. Examples of such activities include, without limitation: attending an educational class, training, or workshop; giving or attending a presentation; preparing and submitting a research project or paper on a designated topic; or offering a written reflection responding to a prompt given by OSA.

- b. **Restitution**. Restitution is compensation for loss, damage, and/or injury incurred as a result of the student's behavior. Compensation may take the form of money, service, and/or material replacement. Restitution may be required to be made to the University, a specific individual, or a specific organization.
- c. **Supervised service**. A student may be assigned service that is both beneficial to the University community and/or likely to assist the student in understanding the effects of the student's conduct.
- d. **Loss or restriction of privileges**. Specified student privileges are lost or restricted. Such privileges include, without limitation, representing the University in any official manner, the use of or access to University-controlled property, University parking privileges, University owned housing, or participation in University-affiliated activities including, but not limited to, extracurricular activities.
- e. **University housing reassignment or removal**. A student may be assigned to a different residence hall or residence hall room. A student's residence hall contract also may be terminated, and the student may be prohibited from residing in University housing for a definite or indefinite period of time.
- f. **Mandatory education**. A student may be required to participate in one (1) or more educational programs, classes, or workshops relating to the student's misconduct, including, without limitation, education concerning alcohol or drugs. The student may be held responsible for the payment of expenses relating to the educational program/class/workshop(s).

(5) **Academic sanctions**. The following academic sanctions may be imposed by a faculty member in response to student academic misconduct:

- a. **Diminished assignment grade**. An instructor may issue a diminished grade for the academic exercise that was the subject of a finding of academic misconduct.
- b. **Failing assignment grade**. An instructor may issue a failing grade for the academic exercise that was the subject of a finding of academic misconduct.
- c. **Diminished course grade**. An instructor may issue a diminished grade for the course in which there was an academic exercise that

was found to be academic misconduct.

- d. **Failing course grade.** An instructor may issue a failing grade for the course in which there was an academic exercise that was found to be academic misconduct.

6. Conflicts of Interest

- (1) The student conduct process will be carried out in a manner that is free from conflicts of interest consistent with due process of law.
- (2) A University employee shall not act on behalf of OSA in the student conduct process in any case in which:
 - a. the employee is a Complainant or a witness;
 - b. the employee serves in an advisory or supervisory capacity to the Complainant and/or Respondent or student organization; or
 - c. the employee determines, for any other reason (e.g., personal prejudice or bias), that he/she cannot be fair or impartial.

7. Process: Initial Stages

- (1) Reporting and Investigation of Misconduct
 - a. Receipt and Review of Allegations of Misconduct. OSA may initiate the student conduct process on the basis of written allegations received from any source, including, without limitation, a student, a faculty member, a University residence life employee, or a law enforcement agency. OSA also may initiate the student conduct process in the absence of written allegations if OSA becomes aware, through other means, of potential misconduct committed by a student. Upon receipt of written allegations or other information concerning potential student misconduct, OSA will review the information and determine whether to initiate the student conduct process. OSA's determination of whether to initiate the student conduct process generally will be based on: the preliminary investigation by OSA or other University official(s), if any, into the allegations received by OSA; OSA's determination of whether the alleged conduct falls within the jurisdiction of the Code; and OSA's

determination of whether the alleged conduct, if true, violated the Student Code.

b. Investigation of Allegations of Misconduct. OSA may investigate the allegations against the Respondent by interviewing witnesses and obtaining other information. OSA is not obligated to interview a witness identified by the Respondent or the Complainant if OSA believes the witness is not likely to possess relevant information, is not likely to lead OSA to the discovery of relevant information, or the information the witness is likely to possess is cumulative of other information gathered by OSA. OSA may re-interview the Complainant, the Respondent, and/or any other person at any time during the investigation in order to obtain additional and/or clarifying information. Investigations conducted by OSA will be prompt, thorough, and equitable. In conducting an investigation, OSA will act as a fair and impartial party rather than a representative of the person, office, unit, organization, or entity that submitted the allegations to OSA. Parts of OSA's investigation may occur before, during, and/or after the Educational Conference and/or any other part of the student conduct process. At the conclusion of its investigation, OSA may prepare a written report of the findings of the investigation. The report may include an assessment of the credibility of persons interviewed during the investigation and an assessment of whether it is more likely than not that the Respondent violated the Student Code. OSA may refer the investigation of certain types of allegations to other University offices in accordance with University rules.

(2) Educational Conference for Misconduct.

- a. Scope of the Educational Conference. The Educational Conference is a meeting between OSA and the Respondent in which the following generally occurs:
1. OSA orally informs the Respondent about the allegations made against the Respondent and, if requested by the Respondent, provides the Respondent with a reasonable opportunity to review the written allegations, if any, received by OSA.
 2. OSA provides the Respondent with an opportunity to respond to the allegations, including, without limitation, an opportunity to present information to OSA concerning the allegations and

identify witnesses whom the Respondent believes OSA should interview to obtain additional information.

3. Both OSA and the Respondent may ask questions of each other and seek clarifying information about the allegations, the possible sanction(s), and the student conduct process.
4. Based on information provided by the Respondent during the Educational Conference, OSA may issue a no-action determination or continue its investigation in order to determine whether it is more likely than not that the Respondent violated the Behavioral Expectations and Responsibilities.

b. Notice of Educational Conference. A Notice of Educational Conference is a written notice through which OSA notifies the Respondent that OSA has received allegations that the Respondent has engaged in misconduct; instructs the Respondent to attend or schedule an Educational Conference; and provides the Respondent with other information about the student conduct process. A Notice of Educational Conference generally will include the following information:

1. Notice that OSA has begun or will begin an investigation of allegations OSA received concerning the Respondent's conduct;
2. Notice of a disciplinary hold, if any, that the University has implemented or will implement with respect to the Respondent;
3. A brief description of the Respondent's alleged conduct;
4. A preliminary list of potential violations of the Behavioral Expectations and Responsibilities, based on the Respondent's alleged conduct;
5. Notice of the Respondent's right to be assisted and/or supported by an Advisor throughout the student conduct process, in accordance with Section .12, including information about the role of an Advisor;
6. The internet address where the Respondent can review a copy of the Student Code;
7. A date, time, and place for an Educational Conference with OSA to discuss the incident, or, in the alternative, an instruction that the Respondent contact OSA to schedule an Educational

Conference within the time frame designated in the Notice of Educational Conference; and

8. Notice of the consequences of failing to comply with OSA's instruction to attend or schedule an Educational Conference.

c. Consequences of Failing to Attend or Schedule an Educational Conference. If the Respondent fails to attend or schedule an Educational Conference after OSA has sent the Respondent a Notice of Educational Conference, then the Respondent waives all rights to further participation in the disciplinary process including a Formal Hearing, and OSA has the discretion to deem the Respondent to have accepted OSA's determination of responsibility for misconduct and may impose appropriate sanction(s) for the misconduct (unless the Respondent's absence is excused by OSA for good cause). OSA also may determine that the Respondent's failure to attend the Educational Conference constitutes a separate violation of the Student Code.

(3) Notice of Allegations for General Misconduct. A Notice of Allegations is a written notice that informs the Respondent that OSA has concluded that it is more likely than not that the Respondent violated the Behavioral Expectations and Responsibilities. A Notice of Allegations generally includes, without limitation, the following information: (i) a brief summary of the facts of Respondent's alleged misconduct; (ii) notice that OSA has determined that it is more likely than not that Respondent violated the Behavioral Expectations and Responsibilities; (iii) notice of the specific Student Code provisions that OSA has determined the Respondent more likely than not violated; (iv) the Respondent's option(s) to elect a Formal Hearing to contest OSA's determination of responsibility for misconduct and/or the sanction(s); and (v) the names of witnesses likely to present information concerning the alleged misconduct if the Respondent elects to contest the allegations through a Formal Hearing. OSA may provide the Respondent with a Notice of Allegations during the Educational Conference.

8. Interim Administrative Actions

(1) General. In certain situations, the University may impose interim administrative actions prior to the conclusion of the student conduct process. The University shall determine the appropriate interim

administrative actions based on the totality of the circumstances. Examples of interim administrative actions include, without limitation, a no-contact directive, a disciplinary hold, and interim restrictions.

(2) No-Contact directive. In cases involving allegations of assault, injury, retaliation or in other cases where there is reason to believe continued contact between a student and specific persons may interfere with those persons' security, safety or ability to participate effectively in work or studies, the University may issue a written instruction to a student, called a no-contact directive, that prohibits a student from having verbal, physical, written, and/or electronic contact with specific other persons for a definite or indefinite period of time. A no-contact directive also may prohibit a student from being present on designated University-controlled property. Any student, faculty or staff member, or other person with a reasonable justification may request that a no-contact directive be issued to a student.

(3) Disciplinary hold. The Respondent's academic record (including, without limitation, the release of the Respondent's official or unofficial transcript), degree, ability to register for classes, and/or ability to re-enroll may be placed on disciplinary hold by OSA or by another appropriate University office at the request of OSA for the following reasons: (1) to require the Respondent to participate in the student conduct process (OSA will release the hold after the Respondent attends the Educational Conference but may reinstate the hold in order to require the Respondent to participate in other parts of the student conduct process); or (2) to require the Respondent to satisfy the terms and conditions of disciplinary sanctions received (the hold shall be released after the terms and conditions have been satisfied). No diploma shall be given and no grades, academic credit, or degree shall be awarded to a student who has been placed on disciplinary hold.

(4) Interim Restrictions. Generally, the status of a student alleged to have violated the Behavioral Expectations and Responsibilities is not affected until the conclusion of the student conduct process. However, the Dean of Students may impose interim restrictions prior to the conclusion of the student conduct process related to the alleged misconduct when the Dean of Students has reasonable cause to believe that (1) a Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property

or (2) poses an imminent or ongoing threat to the disruption of, or interference with, the normal operations of the University. Interim restrictions shall be confirmed by notice to the Respondent that explains the basis for the interim restrictions and shall remain in effect until the conclusion of the student conduct process, which should be completed without undue delay. Within three (3) days of the imposition of the interim restrictions, the Respondent shall be offered an opportunity to appear before the Dean of Students in order to discuss the following issues only: (1) the reliability of the information concerning the Respondent's conduct; and (2) whether the conduct and surrounding circumstances reasonably indicate that the Respondent's continued presence on University controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others or to property or poses an imminent or ongoing threat of disruption of or interference with the normal operations of the University. Examples of interim restrictions include, without limitation, restricting the student's privileges to participate in University affiliated activities, restricting the student's privileges to access University-controlled property, and University owned housing removal and/or reassignment. Restrictions contained within no-contact directives are not interim restrictions.

(5) Interim Removal. If the continued presence of the Respondent on University property would constitute an immediate threat to the physical safety and well-being of the accused, any other member of the University, its guests, property, or would create a substantial disruption of classroom or other University activities, a Respondent may be removed on an interim basis from the University by the Dean of Students. An interim removal is an official separation of the student from the University until the conclusion of the student conduct process or the interim removal is lifted, whichever occurs first. While the interim removal is in effect, the Respondent loses all University rights and privileges including, but not limited to, enrollment privileges except for the rights and privileges to contest the allegations pursuant to the Student Code, shall not represent the University in any official manner, and shall not be present on University property or participate in University affiliated activities without the prior approval of the Dean of Students. When placed on interim removal, the Respondent may be assigned a grade of "W" or "I," whichever is deemed appropriate by the faculty member involved. A Respondent who violates the terms of an interim removal shall be subject to further disciplinary action and may be treated as a

trespasser. An interim removal shall be confirmed by notice to the Respondent that explains the basis for the interim removal and shall remain in effect until the conclusion of the student conduct process, which should be completed without undue delay. Within three (3) days of the imposition of an interim removal, the Respondent shall be offered an opportunity to appear before the Dean of Students to challenge the interim removal decision.

(6) Coursework. Coursework performed during the student conduct process shall be considered conditional. Credit for such coursework may be affected, delayed, denied, and/or revoked based on a final finding of misconduct and/or a sanction imposed under the Student Code. In addition, subject to the other provisions of the Student Code, a delay in the granting of a degree may be imposed and/or a degree that was awarded prior to a final decision under the Student Code may be revoked.

9. Process: Hearings

(1) Hearings. A Hearing is a process through which a Respondent has a right to contest allegations of misconduct and/or the sanctions proposed by OSA by presenting information (including, without limitation, witnesses) to a decision maker other than the University employee(s) who conducted the investigation and/or Educational Conference.

(2) Rights to a Hearing. In every case, the Respondent has the right to resolve allegations of misconduct and/or proposed sanctions through a Student Conduct Board (SCB) Hearing.

(3) How to Request a Hearing. A Formal Hearing may be requested by the Respondent only in writing using the form(s) approved by OSA. Orally requesting a Hearing shall not constitute a valid request for a Hearing.

(4) Consequences of Failing to Timely Elect a Hearing. If the Respondent fails to elect a Hearing within five (5) business days of OSA transmitting a Notice of Allegations to the Respondent, then the Respondent waives all rights to a Hearing, and OSA has the discretion to deem the Respondent to have accepted OSA's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by OSA (unless OSA extends the time for the Respondent to

request a Formal Hearing for good cause). If OSA extends the time for the Respondent to request a Hearing and the Respondent fails to elect a Hearing within the additional time granted by OSA, then the Respondent waives all rights to a Hearing, and OSA has the discretion to deem the Respondent to have accepted OSA's determination of responsibility for misconduct and may impose sanction(s) deemed appropriate by OSA.

(5) Notice of SCB Hearing.

- a. When a Notice of SCB Hearing is Sent. If the Respondent requests a SCB Hearing in accordance with Section .09(3), then OSA will send the Respondent and the Complainant a Notice of SCB Hearing at least ten (10) business days in advance of the date of the hearing.
- b. Information in the Notice of SCB Hearing. The Notice of SCB Hearing generally will contain, or be accompanied by, the following information:
 1. the date, time, and place of the SCB Hearing (OSA may reschedule the SCB Hearing for good cause and issue a revised Notice of SCB Hearing that contains a new date, time, and place of the SCB Hearing);
 2. a copy of the Notice of Allegations;
 3. the sanction(s) that the Conduct Educator will request the SCB impose on the Respondent;
 4. the names of all witnesses through whom the Conduct Educator is likely to present information during the SCB Hearing;
 5. a notice of the right to the assistance and/or support of an Advisor during the SCB Hearing;
 6. a description of all tangible or electronic information that the Conduct Educator is likely to present to the SCB, such as an investigative report, police report, incident report, witness statements, video or audio recordings, photographs, text messages, or phone records;
 7. notice of the right to request a copy of OSA's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended;

8. notice of the right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the University has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment; and
9. notice of the composition of the Student Conduct Board and the process to request the removal of a member of the SCB on the grounds that the person cannot be fair and impartial in deciding the case.

(6) More than One Respondent. In cases involving more than one (1) Respondent, SCB Hearings concerning each Respondent's conduct may be conducted separately upon written request of a Respondent submitted at the time of the Respondent's request for a Formal Hearing. OSA has the discretion to make the final determination of whether to grant such a request and will notify the Respondents of the decision.

(7) Consequences of Failing to Attend a SCB Hearing. If the Respondent fails to attend a SCB Hearing, then the Respondent waives all rights to a SCB Hearing. The SCB may: proceed with the SCB Hearing without the Respondent's participation; hold the Respondent accountable for all decisions made in the Respondent's absence, including, without limitation, decisions concerning responsibility for alleged violations of the Behavioral Expectations and Responsibilities; and may determine that the Respondent's failure to attend the hearing constitutes a separate violation of the Behavioral Expectations and Responsibilities. If the SCB determines, in the Respondent's absence, that it is more likely than not that the Respondent violated the Behavioral Expectations and Responsibilities, then OSA may implement the sanctions imposed by the SCB and conclude the student conduct process.

(8) Composition of the Student Conduct Board.

a. Appointment of the SCB.

1. General. The SCB is appointed ad hoc for each hearing by the Director of OSA. OSA shall appoint a SCB consisting of one (1) voting Chairperson and two (2) voting members. OSA shall not appoint persons on the basis of how OSA anticipates that they will vote. The Chairperson shall be a University faculty member, staff employee, or contractor who has received training from

OSA on how to conduct a SCB Hearing. Two (2) voting members and one (1) voting Chairperson constitute a quorum of the SCB that was appointed by OSA in seating any SCB, except as provided in Section .09(8)(a)(2). All classifications of the University community (students, faculty, and staff) must be represented by at least one (1) voting member, except as provided in Section .09(8)(a)(2).

2. Exception for Cases requiring Cross-examination. In cases which require cross examination, the Director of OSA in his/her sole discretion may appoint a non-voting chairperson to preside over the SCB, make determinations of relevance and document the findings of the SCB. Notwithstanding anything to the contrary in Section .09(8)(a)(1) or Section .09(8)(a)(2), all classifications of the University community (students, faculty, and staff) must be represented by at least one (1) voting member.

b. Fairness and Impartiality of SCB Members. Any member of the SCB who determines that they cannot decide a case fairly and impartially for any reason (including, but not limited to, having a conflict of interest, or personal prejudice or bias) shall excuse themselves from serving on the SCB, in which case OSA shall appoint a substitute member of the panel in accordance with the rules in Section .09(8)(a).

(9) General Provisions Governing SCB Hearings.

- a. Required Pre-Hearing Information and Copies. At least five (5) business days prior to the SCB Hearing, the Complainant and the Respondent must provide the following to OSA in writing:
1. The name of their Advisor, if any, who will attend the SCB Hearing;
 2. The names of all witnesses through whom they plan to present information to the SCB and a brief summary of the information that they reasonably anticipate that each witness will provide to the SCB;
 3. A copy of all tangible or electronic information that they plan to present to the SCB (including, but not limited to, witness statements, video or audio recordings, photographs, text messages, phone records, medical bills, diagrams). However,

they are not required to provide copies of information that is not in a form that allows copying (e.g., weapon; piece of clothing), in which case they should describe the information in writing; and

4. A copy of a statement, if any, that they want the SCB to consider in determining the appropriate sanction to impose on the Respondent if the SCB finds that the Respondent violated a Behavioral Expectation or Responsibility. The Complainant's statement may include a description of the impact of the Respondent's alleged conduct on the Complainant. The Respondent's statement may include a description of any factors the Respondent believes mitigates the alleged misconduct.
- b. During the SCB Hearing, the Complainant and the Respondent may present witnesses who were not identified in the Notice of Formal Hearing only if they comply with this Section .09(9)(a) (i.e., other witnesses not identified to OSA in writing at least five (5) business days prior to the SCB Hearing will not be allowed). The Complainant and the Respondent are responsible for contacting witnesses who were not identified in the Notice of Hearing, informing them about the date, time, and location of the SCB Hearing, and securing their attendance at the SCB Hearing.
 - c. Pre-Hearing Review of Information. Individuals involved with the hearing are responsible for contacting OSA to arrange a time to review the information prior to the hearing if such review is desired and the information has not been made available electronically. No less than three (3) business days prior to the hearing, OSA will make copies of information submitted by the Complainant, the Respondent, and the Conduct Educator available for review by the Complainant, Respondent, their respective Advisors, and members of the SCB. Those individuals will be notified by OSA when materials are available for review. OSA may make the information available electronically. In their sole discretion, OSA may redact irrelevant information prior to making information available.
 - d. Recording of the SCB Hearing. The University shall be responsible for making a record (e.g., digital recording) of a SCB Hearing. Deliberations of the SCB shall not be recorded. The Complainant and the Respondent may take notes during a SCB Hearing, which shall be their own property, but neither the Complainant nor the

Respondent may record the hearing using any other method of recording. The University will provide a copy of the record to the Complainant and the Respondent upon request.

- e. Attendance and Participation. Attendance during a SCB Hearing generally is limited to members of the SCB, the Conduct Educator, the Complainant and the Complainant's Advisor, the Respondent and the Respondent's Advisor, and witnesses. The Conduct Educator, the Complainant, the Respondent, Advisors, and witnesses may not be present during the deliberations of the SCB. Witnesses may attend the SCB Hearing only while they are presenting information to the SCB, unless the witness is the Complainant or the Respondent. The Chairperson and OSA have the discretion to allow other persons to attend the SCB Hearing, in accordance with state and federal law. The Complainant and the Complainant's Advisor may attend any part of the SCB Hearing (excluding the deliberations of the SCB), but the Complainant and the Complainant's Advisor shall be excused from the hearing room when the Respondent's Education Records or information obtained from the Respondent's Education Records are disclosed unless the information is also part of the Complainant's Education Records. The Chairperson may accommodate concerns for the personal safety, well-being, and/or fears of confrontations of the Complainant, the Respondent, and/or witnesses by permitting attendance or participation by closed circuit television, video conferencing, or other appropriate means, as determined in the discretion of the Chairperson. However, the identity of all persons who present information to the SCB must be made known to the Respondent and the Complainant. The Respondent and the Complainant must be allowed to view and hear a person who is attending or participating by closed circuit television, video conferencing, or other similar means.

(10) Procedural Rules for SCB Hearings.

- a. Right to Challenge the Selection of a SCB Member. Prior to convening the SCB Hearing, the Chairperson shall allow the Complainant and the Respondent to request the removal of a member of the SCB on the grounds that the person cannot be fair and impartial in deciding the case. If the Chairperson determines that the person cannot be fair and impartial, then OSA may appoint a substitute member of the SCB in accordance with Section .09(8)

- (a) or, if a quorum of the SCB still exists, remove the SCB member and allow the SCB Hearing to continue without appointing a substitute member.
- b. Authority of the Chairperson. The Chairperson has the authority to maintain order and make all decisions necessary for the fair, orderly, and expeditious conduct of the SCB Hearing. The Chairperson shall be the final decision maker concerning what, how, and in what order information and witnesses are presented to the SCB.
- c. Exclusion of Information. Upon the Chairperson's initiation or upon request by the Conduct Educator, the Complainant, the Respondent, or a member of the SCB, the Chairperson may exclude the following information from the SCB's consideration: (1) irrelevant information; (2) information that unreasonably repeats information already provided to the SCB; (3) information that was not provided in advance of the hearing in accordance with Section .09(9)(a), or information from witnesses who were not disclosed in advance of the hearing in accordance with Section .09(9)(a); (4) information that is protected from disclosure under federal or Tennessee law; and/or (5) information about a person's character or character trait, if the information is being presented to show that on a particular occasion the person acted in accordance with the character or character trait.
- d. Persons Who May Present Information. The only persons who may present information and/or witnesses during a SCB Hearing are the Conduct Educator, the Complainant, and the Respondent. The Complainant and the Respondent are responsible for presenting their own information and/or witnesses, if any, to the SCB (an Advisor shall not present information and/or witnesses to the SCB).
- e. Formal Rules. Formal rules of process, procedure, and/or technical rules of evidence, such as those applied in criminal or civil court, are not used in SCB Hearings. The Chairperson shall decide all procedural questions that arise during a SCB Hearing. The Chairperson may consult with OSA for assistance in resolving procedural questions fairly and in accordance with the Code.
- f. Questioning of Witnesses. Witnesses will provide information to the SCB and answer questions from the Chairperson or an agent of the party, as required by applicable law. The Chairperson may ask questions and/or submit a request for additional information to the

Respondent, the Complainant, the Conduct Educator, and/or witnesses. The Conduct Educator, the Respondent and/or the Complainant shall not directly ask questions to each other or other witnesses. The Conduct Educator, the Respondent, the Complainant, and/or members of the SCB may propose questions for the Chairperson to ask witnesses by submitting the proposed questions to the Chairperson in writing during the hearing. The Chairperson has the discretion whether to ask a witness a question proposed by the Conduct Educator, the Respondent, the Complainant, and/or members of the SCB. In cases where the Conduct Educator has proposed suspension or expulsion, the Complainant and the Respondent may have the right to cross-examine any witnesses who participate in the hearing by an advisor of their choice. The method of questioning witnesses outlined in this Section .09(10)(f) is used to preserve the educational tone of the SCB Hearing.

- g. Closing Statements. At the close of the SCB Hearing, the Chairperson may allow the Conduct Educator, the Complainant, and the Respondent equal opportunities to make statements to the SCB summarizing the information presented to the SCB and/or advocating the decision that the SCB should reach. The Conduct Educator and the Complainant may advocate that the SCB impose a specific sanction(s), and the Respondent may respond; however, the Respondent's record of student conduct maintained by OSA shall not be disclosed to the SCB by the Conduct Educator or the Complainant during the hearing except in accordance with Section .09(11)(c).
- h. Burden of Presenting Information Demonstrating Misconduct. The Conduct Educator bears the burden of presenting information demonstrating that it is more likely than not that the Respondent violated a Behavioral Expectation or Responsibility, as alleged in the Notice of Allegations. Neither the Complainant nor the Respondent is required to present information or witnesses concerning the Respondent's alleged misconduct. The SCB shall not draw an inference adverse to the Conduct Educator, the Complainant, or the Respondent if the Complainant or the Respondent chooses not to present information or witnesses to the SCB.

(11) Decision of the Student Conduct Board.

- a. Deliberation of the SCB. After the Chairperson determines that all relevant information has been received by the SCB, the SCB will deliberate in private and decide, for each Behavioral Expectation or Responsibility alleged in the Notice of Allegations to have been violated, whether it is more likely than not that the Respondent violated the Behavioral Expectation or Responsibility. The SCB will decide by majority vote whether by preponderance of the evidence the Respondent violated the Behavioral Expectations and Responsibilities.
- b. Basis of Decision. The SCB shall not base its decision on information not presented during the SCB Hearing. However, if the SCB requests that additional information be provided after the SCB Hearing, the SCB may consider and base its decision on the additional information, as long as the Conduct Educator, the Respondent, and the Complainant have had a chance to review and respond to the additional information either via a reconvened SCB Hearing or in writing.
- c. Determination of Sanction(s). If the SCB decides that the Respondent violated the Behavioral Expectations and Responsibilities, then the SCB will decide the appropriate sanction(s) by majority vote. In deciding the appropriate sanctions for a Respondent's misconduct, the SCB may consider: (1) statements submitted by the Complainant and/or the Respondent to the SCB concerning the appropriate sanctions; and (2) a statement about the Respondent's conduct history, which shall be provided to the Chairperson by OSA in a sealed envelope prior to the SCB Hearing.
- d. Issuance of Notice of Decision. Issuance of Notice of Decision. Within fifteen (15) business days of the conclusion of the SCB Hearing, the Chairperson shall issue a Notice of Decision and transmit a copy of the Notice of Decision to OSA. OSA shall notify the Respondent about the Notice of Decision and provide a copy of the Notice of Decision. If permitted or required under law, OSA shall notify the Complainant about the Notice of Decision (simultaneously with the notification to the Respondent) and provide a copy of the Notice of Decision to the Complainant.
- e. Information in Notice of Decision. The following information shall be included in the Notice of Decision:

1. For each Behavioral Expectation or Responsibility identified in the Notice of Allegations, the SCB's decision concerning whether it is more likely than not that the Respondent violated the Behavioral Expectation or Responsibility and the SCB's rationale for the decision concerning the alleged violation of the Behavioral Expectation or Responsibility, including, without limitation, a brief summary of the information upon which the SCB relied in making its decision;
2. The sanction(s), if any, that the SCB has imposed on the Respondent; and Information about the Respondent's options, if any, to appeal the decision of the SCB.

10. Appeals

(1) Types of appeals. The Respondent may appeal an SCB decision by either electing:

- a. An internal appeal to an Appeal Reader which shall be governed by the following rules; or
- b. In the case of the following sanctions: (1) suspension; (2) expulsion; (3) revocation of degree; or (4) revocation or suspension of the student organization's University registration, a respondent has the right to a contested case hearing under the Uniform Administrative Procedures Act ("UAPA Hearing"), Tennessee Code Annotated § 4-5-301 et seq. which is conducted in accordance with state law and the University's procedures for conducting contested case proceedings.

(2) Appealable Decisions. The Respondent may appeal the decisions of the SCB that are contained in the Notice of Decision, but the grounds for appeal are limited to those described in Section .10(4).

(3) Notice of Appeal. An appeal is valid only if all of the following requirements are met:

- a. An appeal shall be submitted in writing by fully completing a form approved by OSA called a "Notice of Appeal;"
- b. The Notice of Appeal shall be received by OSA within ten (10) business days of the date that OSA transmitted the Notice of Decision; and

- c. The Notice of Appeal shall not include information that is not included in the record of the SCB Hearing, unless there is new information as described in Section .10(4)(b).

(4) Grounds for Appeal. The Notice of Appeal shall explain the grounds for the appeal, which shall be limited to one (1) or more of the following grounds:

- a. Material Procedural Error. A procedural error occurred prior to or during the SCB Hearing, and the procedural error reasonably could have had a material impact on the SCB in reaching its decision. Neither the failure of the Respondent or the Complainant to secure the attendance of an Advisor or witness nor the failure of an Advisor or witness to attend or otherwise participate in any phase of the student conduct process constitutes a material procedural error. The failure of the Respondent or the Complainant to attend the SCB Hearing does not constitute a material procedural error.
- b. New Information. New information has been discovered, the information reasonably could have had a substantial impact on the SCB in reaching its decision, and the person submitting the Notice of Appeal did not know and reasonably could not have known about the information at the time of the SCB Hearing.
- c. Conflict of Interest, Personal Prejudice or Bias of a SCB Member. A SCB member had a personal prejudice or bias that precluded them from fairly and impartially hearing the case. The fact that a SCB member voted to find a Respondent responsible or not responsible for violating a Behavioral Expectation or Responsibility does not, by itself, demonstrate that the SCB member had a personal prejudice or bias for or against the Respondent, the Complainant, or the University.

(5) Effective Date of Sanction. The sanction(s) imposed by the SCB shall not be effective during the period in which a Notice of Appeal may be submitted, or, if a procedurally valid Notice of Appeal has been submitted (as determined by Section .10(3), until a Notice of Appeal Decision is issued by the Appeal Reader or Appellate Board, whichever is later.

(6) Determination of Procedural Validity of Notice of Appeal. Within five (5) business days after the receipt of a Notice of Appeal, OSA will determine whether the Notice of Appeal is procedurally valid. A Notice of

Appeal is procedurally valid only if it has been fully completed, timely submitted to OSA, does not contain information outside of the record of the SCB Hearing, and does not contain a ground for appeal not listed in Section .10(4). If a Notice of Appeal is procedurally invalid and the time for submitting a Notice of Appeal under this Section .10(3)(b) has expired, then OSA shall send the Conduct Educator, the Respondent, and the Complainant (if permitted or required by law) a notice that the decision of the SCB has become final and any sanction(s) imposed will become effective immediately. However, in a case in which the Notice of Appeal contains information outside of the record of the SCB Hearing or a ground for appeal not listed in Section .10(4), OSA may proceed with appointing an Appeal Reader after removing from the Notice of Appeal information that was not included in the record of the SCB Hearing and/or the impermissible ground for appeal.

(7) Appointment of Appeal Reader. The Appeal Reader is the University officer that considers appeals of decisions of the SCB, after a procedurally valid Notice of Appeal has been submitted to OSA. OSA will appoint a pool of persons trained by OSA who are eligible to serve as an Appeal Reader. OSA may appoint University faculty members or University staff employees to be members of that pool. OSA shall not appoint persons on the basis of how OSA anticipates that they will decide. The Director of OSA shall not appoint a person to serve as an Appeal Reader if the person served as a Chairperson or a voting member of the SCB whose decision is being appealed. In addition, an employee who works in OSA or whose direct supervisor is the Conduct Educator who participated in the SCB Hearing shall be ineligible to serve as an Appeal Reader.

- a. Recusal. If the Appeal Reader determines that they cannot decide the appeal fairly and impartially for any reason they shall recuse themselves from serving as the Appeal Reader, in which case OSA shall appoint a substitute Appeal Reader in accordance with this Section .10(7).

(8) Transmittal of Notice of Appeal. After the appointment of the Appeal Reader, OSA shall transmit a copy of the Notice of Appeal to persons who have a need to know about the Notice of Appeal, including, without limitation, the Appeal Reader and all non-appealing parties (e.g., if the Respondent appeals, the Conduct Educator and the Complainant would be the non-appealing parties). A non-appealing party may submit a

written response to the Notice of Appeal to the Appeal Reader within three (3) business days of OSA's transmittal of the Notice of Appeal. The written response shall be limited to: (1) responding to issues raised in the Notice of Appeal and shall not contain information that is not included in the record of the SCB Hearing; and (2) request the removal of an Appeal Reader on the grounds that the person cannot be fair and impartial in deciding the case or conflict of interest. If OSA determines that the person cannot be fair and impartial, then OSA may appoint a substitute Appeal Reader in accordance with this Section .10(7).

(9) Review of the Record. The Appeal Reader's final decision shall be based on his/her review of the record of the hearing before the SCB, which shall be limited to: (1) the Notice of Allegations; (2) the Notice of Formal Hearing; (3) the Notice of Decision; (4) the recording and the transcript, if any, of the hearing, and all other information submitted to the SCB during the hearing; and (5) the Notice of Appeal and any written responses, in accordance with this Section .10.

(10) Potential Decisions of the Appeal Reader. The Appeal Reader shall reach one (1) of the following decisions:

- a. Affirm both the SCB's finding that the Respondent violated the Behavioral Expectations and Responsibilities and the sanctions imposed by the SCB;
- b. Remand the case for a new hearing to be conducted by a new SCB.

(11) Notice of Decision. The Appeal Reader shall communicate their decision through a written notice called a Notice of Appeal Decision. The Notice of Appeal Decision should be issued within ten (10) business days of the submission of the Notice of Appeal. The Notice of Appeal Decision shall be sent to OSA, who will notify the Conduct Educator, the Respondent, the Chairperson of the SCB, and, if permitted or required by law, the Complainant about the Notice of Appeal Decision and provide them with a copy of the Notice of Appeal Decision.

11. Process: Resolution

(1) Resolution by Agreement. At any time during the student conduct process, a Respondent may resolve allegations of misconduct by signing a Resolution Agreement proposed by OSA. A Resolution Agreement is

not valid until it is signed by both the Respondent and OSA. By signing a Resolution Agreement, the Respondent:

- a. accepts responsibility for violating the Behavioral Expectations and Responsibilities;
- b. agrees to the imposition of the sanction(s); and
- c. waives all rights the Respondent may have to resolve the allegations through a hearing.

(2) Revocation or Appeal of a Resolution Agreement. The Respondent may not revoke or appeal a Resolution Agreement once it has been signed.

(3) Resolution Agreement for Academic Misconduct. In order to resolve an allegation that the Respondent violated Section .04(2) (Academic Misconduct) through a Resolution Agreement, the Respondent shall agree to the imposition of the instructor's academic sanction described in Section .05(5) in addition to agreeing to the other disciplinary outcomes proposed by OSA contained in Section .05(3) and Section .05(4).

12. Rights of Involved Parties

(1) Parties shall have the right to equitable provision of disciplinary procedures and the University will follow its disciplinary process before the imposition of any disciplinary sanctions or other actions that are not supportive measures.

(2) The University will ensure that the burden of proof and the gathering of evidence sufficient to reach a determination regarding responsibility rests on the University and not a complainant or respondent.

(3) The University will require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and prohibit credibility determinations based on a person's status as a complainant, respondent, or witness.

(4) The University will provide the complainant and respondent with the same opportunities to have others present during any disciplinary proceeding, including the opportunity to be accompanied to any related

meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney.

- a. The University will not limit the choice or presence of advisor for either the Complainant or Respondent in any disciplinary proceeding; however, an advisor may have no other role in the disciplinary process, including, but not limited to being a witness, a respondent, or a complainant.
- b. The University may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties and are allowed by applicable law.

(5) The University will ensure that staff involved in disciplinary matters are appropriately trained as required by state and federal law.

(6) The University will not presume that the respondent is responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the disciplinary process.

(7) During proceedings, neither the complainant nor the respondent will be required to subject to questioning or disclose evidence or information that is protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

(8) The parties have a right to a disciplinary process that is free from conflicts of interest or bias.

- a. A University employee shall not act on behalf of the University in the student conduct process in any case in which the employee is a Complainant or a witness, the employee serves in an advisory or supervisory capacity to the Complainant and/or Respondent or student organization, or where the employee determines, for any other reason (including, but not limited to, personal prejudice or bias), that he/she cannot be fair or impartial.

13. Disciplinary Holds and Records

(1) Disciplinary Holds. The Respondent's academic record (including, without limitation, the release of the Respondent's official or unofficial transcript), degree, ability to register for classes, and/or ability to re-

enroll may be placed on disciplinary hold by OSA or by another appropriate University office at the request of OSA for the following reasons:

- a. to require the Respondent to participate in the student conduct process (OSA will release the hold after the Respondent attends the Educational Conference, but may reinstate the hold in order to require the Respondent to participate in other parts of the student conduct process);
- b. to require the Respondent to satisfy the terms and conditions of disciplinary sanctions received (the hold shall be released after the terms and conditions have been satisfied); or
- c. to require the Respondent to notify OSA or another appropriate University office of their desire to re-enroll at the University.

(2) No diploma shall be given and no grades, academic credit, or degree shall be awarded to a student who has been placed on disciplinary hold. A letter from OSA will accompany the transcript of a student who is requesting their transcripts be sent to another academic institution while having a disciplinary hold detailing that the student has a disciplinary hold.

(3) Maintenance of Student Disciplinary Records. The University maintains student disciplinary records separately from student academic records.

- a. Disclosure of Student Disciplinary Records while a Student is enrolled.
 1. While a student is enrolled in the University, OSA may disclose disciplinary records to University officials who have a legitimate educational interest in the disciplinary records, or to students who request to inspect their disciplinary records. OSA may disclose disciplinary records to other persons only in accordance with state or federal law and in some circumstances will be required by state or federal law to disclose disciplinary records (e.g., subpoena, judicial order).
 2. While a student is still enrolled in the University but applying for post-graduation employment, transfer, or graduate school, OSA will disclose a student's disciplinary records to persons outside of OSA if the student requests that the information be shared. Notwithstanding the previous sentence, OSA will disclose

disciplinary records as required by state or federal law (e.g., subpoena, judicial order).

- b. Disclosure of Student Disciplinary Records after a student is no longer enrolled. After a student is no longer enrolled in the University, OSA will disclose a student's disciplinary records to persons outside of OSA only if the student requests that the information be shared (including, but not limited to, for the purpose of transferring schools, attending graduate or professional school, to seek admission into a State Bar, completing pre-employment background screenings, etc.). Notwithstanding the previous sentence, OSA will disclose disciplinary records as required by state or federal law (e.g., subpoena, judicial order).
- c. Expungement of Student Disciplinary Records. OSA permanently maintains student disciplinary records for students who have received the following sanctions (or their equivalents under previous versions of the Student Code): suspension; expulsion; withholding of degree; or revocation of degree. OSA expunges student disciplinary records for other students who have completed the disciplinary process seven (7) years after graduation, or the last date of enrollment, or after the date the decision becomes final, whichever is later, except as prohibited by law or a University litigation hold.

14. Amnesty for Good Samaritans and those seeking emergency aid

(1) For Complainants. The University provides amnesty to complainants who may be hesitant to report to University/College officials because they fear that they themselves may be accused of minor violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result.

(2) For Those Who Offer Assistance. To encourage students to offer help and assistance to others, the University pursues a practice of amnesty for minor violations when students offer help to others in need. At the discretion of the Dean of Students, amnesty may also be extended on a case-by-case basis to the person receiving assistance.

Educational options will be explored, but no conduct proceedings or conduct record will result.

(3) For Those Who Report Serious Violations. Students who are engaged in minor violations, but who choose to bring related serious violations by others to the attention of the University are offered amnesty for their minor violations. Educational options will be explored, but no conduct proceedings or record will result. Abuse of amnesty requests can result in a decision by the Dean of Students not to extend amnesty to the same person repeatedly.

(4) Safe Harbor. The University has a Safe Harbor rule for students. The University believes that students who have a drug and/or addiction problem deserve help. If any University student brings their own use, addiction, or dependency to the attention of University officials outside the threat of drug tests or disciplinary sanctions and seeks assistance, a conduct complaint will not be pursued. A written action plan may be used to track cooperation with the Safe Harbor program by the student. Failure to follow the action plan will nullify the Safe Harbor protection and the conduct processes will be initiated.

15. Emergency Powers

(1) When in the opinion of the President, conditions are such that there exists a clear and immediate danger to the physical safety or well-being of the members of the University community or safety of University property, he or she may direct that the accused student or organization be suspended pending initiation (and completion) of normal disciplinary proceedings provided those procedures are offered as soon as can reasonably be accomplished. The President may delegate this authority to the Dean of Students.

(2) The President of the University is authorized, at his or her discretion, to intervene in any disciplinary proceeding or to apply and/or modify any sanction imposed or to rescind any previous sanction.



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