

## **SOCIAL CODE**

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### **1.0 Purpose of the Student Conduct System**

College students are in the midst of making the final transition from adolescence to adulthood. They are striving for independence, hoping to prove to themselves and to others that they are capable of making good decisions and directing their own lives. The College’s judicial processes emphasize education by focusing on the growth and development of the individual student, encouraging self-discipline, and fostering a sense of respect for the rights of others. However, the College also has the obligation under Title IX of the Higher Education Amendment of 1972 and other laws to maintain socially and educationally responsible behavior among its members. To this end, the judicial process is designed to redirect the

behavior of a student into acceptable patterns and to protect the College community while helping each student clarify and solidify individual values.

Most importantly, Muhlenberg College aims to develop independent critical thinkers who are intellectually agile, characterized by a zest for reasoned and civil debate, committed to understanding the diversity of the human experience, able to express ideas with clarity and grace, committed to life-long learning, equipped with ethical and civic values, and prepared for lives of leadership and service.

The policies and procedures specified in this *Social Code* ("Code") are designed to affirm, protect, and model these goals.

## **2.0 Muhlenberg College's Community of Responsibility**

To be *responsible* is to be morally and legally accountable. Muhlenberg College students are members of a *community of responsibility*. They have a duty to foster and preserve a collegiate environment that encourages the maximum development of themselves, their fellow students, and the larger society. They adhere to the highest standards of good citizenship. They conduct themselves with honesty, integrity, and due regard for the rights and property of others.

Violations of Muhlenberg's *community of responsibility* standards include, but are not limited to, the following:

### **2.1 Offenses Against Persons**

- a. Harassment, defined as any behavior that causes undue worry or torment, including, but not limited to, sexual harassment.
- b. Physical abuse, assault or any act of violence.
- c. Sex offenses as defined in the Sexual and Gender-Based Misconduct Policy.

### **2.2 Offenses Against Property**

The theft, damage, destruction or unauthorized use of another's identity or property and/or the facilities through which Muhlenberg conducts its educational enterprise, including, but not limited to, academic buildings, laboratories and equipment, the library and its contents, the bookstore and its contents, the computing facilities, the Student Union, the Food Service, the residence halls, athletic equipment and all other property of the College and its student organizations.

### **2.3 Offenses Against the Community**

- a. Any action that infringes on the rights guaranteed to individuals under federal or state constitutions and statutes, including, but not limited to, privacy, free speech, freedom of the press, freedom of religion, freedom of petition, freedom of assembly

and protection against discrimination on the basis of age, color, disability, medical condition, gender, gender identity or expression, national or ethnic origin, citizenship, race, religion, sexual orientation, veteran status, marital status, pregnancy or any other basis protected by applicable federal, state or local laws.

- b. Disorderly Conduct – Conduct which causes inconvenience, annoyance or alarm, or recklessly creates a risk by:
  - i. engaging in fighting or threatening, or in violent or tumultuous behavior;
  - ii. making unreasonable noise;
  - iii. using obscene language, or making an obscene gesture; or
  - iv. creating a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.
- c. Offenses Against the Commonwealth of Pennsylvania and its agencies, and the ordinances and regulations of local governments, including but not limited to, the Commonwealth of Pennsylvania's Controlled Substances Act.

#### **2.4 Offenses Against the Judicial System**

Offenses against the Student Conduct System include, but are not limited to:

- a. Refusing to comply with the procedures which the College has established to enforce academic and social regulations, including, but not limited to, Campus Safety investigation procedures and this *Code*.
- b. Providing false or willfully misleading testimony, or falsification or misrepresentation of evidence, to the Dean of Students' Office, the College's Title IX Coordinator, Campus Safety or authorized College investigators, the Director of Student Conduct/Director of Residential Services, a Disciplinary Conference Committee or a Hearing Board.
- c. Interference with the orderly conduct of disciplinary proceedings.
- d. Institution of proceedings under this *Code* knowingly without cause.
- e. Harassment and/or intimidation of, or retaliation against, any complainant, respondent or witness or member of a judicial body prior to, during, and/or after a proceeding conducted under this *Code*.

#### **2.5 Other Offenses**

Failure to comply with any other College policies, regulations or directives.

#### **3.0 Scope of Disciplinary Authority Under the Code**

Student conduct standards at the College should not be equated to state or federal criminal codes. Even in cases involving suspension or expulsion, the aims of the College include

education and student development as well as a just punishment. Consequently, College disciplinary policies and procedures--grounded in fundamental fairness--are focused on truth-seeking, and are not adversarial procedures. The College conducts investigatory proceedings and conferences, not trials. Disciplinary authority has been delegated by the Board of Trustees to College administrative managers, faculty members, committees, and organizations, as set forth in this *Code*, or in other policies, rules, or regulations adopted by the Board of Trustees.

- 3.1** Students are accountable for any violation of Muhlenberg's *community of responsibility* standards as set forth in Section 2.0 of this *Code*. This *Code* applies to conduct occurring on College owned or managed property, at College sponsored activities on or off-campus, including off-campus study programs. The College also reserves the right to hold students accountable for any violation(s) of this *Code* or of local, state, or federal law that occurs off-campus and could reasonably have an adverse effect on the College, any member of the Muhlenberg College community or the stability and continuance of College functions.
- 3.2** This *Code* applies to students from the time they are notified of their acceptance to Muhlenberg and submit their initial deposit until they have completed the required units, applied for candidacy, and received their diplomas, unless their enrollment at the College is terminated for other reasons; provided that the College reserves the right to revoke a student's degree as set forth in Section 23.0 below.
- 3.3** This *Code* applies to individuals and student groups, organizations and athletic teams. In the event that an incident occurs which clearly implicates a group of students, a student organization or an athletic team, the group, organization or athletic team may be charged with violations of this *Code* and the matter may be considered corporate and each member of the group, organization or athletic team and/or the group, organization or athletic team itself may be held responsible.
  - a. A student group, organization or athletic team and its officers/captains may be held collectively and individually responsible when violations of this *Code* by those associated with the group, organization or athletic team (i) have received the consent or encouragement of the group, organization or athletic team or of the group's, organization's or athletic team's leaders or officers; or (ii) have occurred with the knowledge of the group, organization or athletic team or of the group's, organization's or athletic teams leaders or officers.
  - b. The officers or leaders of a student group, organization or athletic team may be directed by the Dean of Students to take appropriate action designed to prevent or end violations of this *Code* by the group, organization or athletic team. Failure to make reasonable efforts to comply with the Dean's directions shall be considered a violation of this *Code*, both by the officers or leaders of the group,

organization or athletic team and by the group, organization or athletic team itself.

- c. Matters involving student groups, organizations and athletic teams affect the entire College community. Accordingly, notwithstanding anything to the contrary in this *Code*, at the discretion of the Dean of Students and in compliance with the Family Educational Rights and Privacy Act, if a student group, organization or athletic team is alleged to have violated this *Code*, the College will communicate to the College community the allegations, findings of fact, violations and/or sanctions imposed in connection with such violations, if any.

#### **4.0 Disciplinary Action while Criminal Charges are Pending**

Activities of students may, upon occasion, result in violation of law, and in such cases students are responsible for their actions and any consequences incurred with authorities outside the College. When student behavior is in violation of law and of this *Code*, the College reserves the right to administer disciplinary action independent of any action by civil or governmental agencies. Disciplinary action at the College will normally proceed while criminal charges are pending and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced. However, the College may elect, considering the circumstances of the case, to delay on-campus disciplinary action pending the resolution of criminal charges.

#### **5.0 Freedoms and Protections**

Students and student groups and organizations subject to disciplinary charges under this *Code* are entitled to the following freedoms and protections:

- 5.1** The right to be informed of any accusation and the alleged misconduct upon which the accusation is based.
- 5.2** The right to be considered innocent of any accusation until proven responsible by a preponderance of the evidence.
- 5.3** An opportunity to offer a relevant response. Testimony (written or oral) from character witnesses will not be accepted.
- 5.4** Confidentiality, as defined by and in accordance with the terms of the federal Family Educational Rights and Privacy Act.
- 5.5** The right to request that any person serving as a Hearing Board or Appeals Board member be disqualified on the ground of personal bias.
- 5.6** The right to an Advisor as described in Section 26.0 of this *Code*.

**5.7** The right to remain silent. However, any statement made by the student may be considered by a Hearing Board or by a Disciplinary Conference Committee. In addition, Hearings and Disciplinary Conferences will be held notwithstanding the fact that a student subject to disciplinary charges has elected to remain silent.

#### **6.0 Interim Suspensions, Other Interim Measures and No Contact Letters**

Whenever the Dean of Students, or the Dean's designee, determines that the continued presence of a student or student group/organization/athletic team at the College poses a substantial and immediate threat to the student or to others, or to the stability and continuance of College functions, the Dean of Students, or the Dean of Students' designee, may, without prior notice, immediately suspend a student or student group/organization/athletic team from the College; restrict a student's access to College property; remove a student from College housing; or impose such other interim measures as deemed appropriate. Students that are subject to an interim suspension and removed from campus may contact faculty to attempt to make arrangements regarding coursework but such arrangements are subject to the approval of such faculty in their sole discretion.

The Dean of Students, or the Dean of Students' designee, may issue No-Contact Letters to any individuals involved in a matter that could constitute a violation of this *Code*. Any violation of a No-Contact Letter may be deemed a violation of this *Code*.

#### **7.0 Standards of Classroom Behavior**

The primary authority for managing the classroom environment rests with the faculty. Students who engage in any prohibited or unlawful acts that result in disruption of a class may be directed by the faculty member or other representative of the College to leave the class for the remainder of the class period. Longer suspensions from a class, or dismissal on disciplinary grounds, must be preceded by a Disciplinary Conference or Hearing, as set forth in this *Code*.

#### **8.0 Sanctions**

Sanctions that may be imposed in accordance with this *Code* include one or more of the following:

##### **8.1 Primary Sanctions**

- a. Disciplinary Warning:** This warning is a written notice given to a student to draw attention to the fact that the student's behavior was not in accordance with College policy and that should a breach of College policy occur again or if the student is found responsible for any future offenses, the student may expect to receive more severe disciplinary action.
- b. Disciplinary Probation:** Exclusion from participation in privileged or extra-curricular institutional activities including on-campus housing, for a specified period of time. Additional restrictions or conditions may also be imposed

including the privilege of participating in College programs, activities, and organizations (i.e. study abroad, off-campus living, officer of club or organization, etc.). Violations of the terms of disciplinary probation, or any other violation of this *Code* during the period of disciplinary probation, may result in suspension or expulsion from the College.

- c. **Suspension:** A student is removed from the College community for a specified period of time. Suspension may be for the remainder of a semester and/or for the following semester(s). A student who is suspended from the College may not be present on any College property or participate in any College or student organization sponsored programs or services during suspension. In order to be eligible for return, the student must be in compliance with all aspects of the student's suspension and must have fulfilled any other sanctions imposed for violations of this *Code*.
- d. **Expulsion:** A student is permanently separated from the College community without an opportunity for readmission. Expulsion may be noted on a student's transcript (See Section 19.0 below). A student who is expelled from the College may never be present on any College property or participate in any College or student organization sponsored programs or services.
- e. **Revocation:** Revocation of a student's degree or admission to the College.

## 8.2 Secondary Sanctions

- a. **Loss of Housing Lottery:** Student will not be provided a number to participate with the student's class during the housing lottery processes and such student may not be pulled into a space with another student's number.
- b. **Restitution:** Restitution may be billed by the College for damages incurred by the College and resulting from a student's behavior in violation of this *Code*. Restitution is not available for damages incurred by an individual or a student group/organization/athletic team.
- c. **Fines:** Fines will be billed to a student's College account as appropriate.
- d. **Educational Session:** Students may be required to participate in educational experiences such as a program, workshop, online tutorial, or individual meeting.
- e. **Loss of Privileges:** Students may be denied access to privileges afforded to them as a member of the College community as appropriate. Privileges include but are not limited to internet access, parking privileges, cross-visitation, and involvement in College programs or activities.

- f. **Parent(s) and/or Guardian(s) Conference:** The parent(s) and/or guardian(s) will be asked to have a conference (in person or over the phone) with the respondent and an appropriate College administrative manager to discuss the incident.
- g. **Parent(s) and/or Guardian(s) Notification:** If permitted under the federal Family Educational Rights and Privacy Act, a copy of the outcome letter will be sent to the address on file for the respondent's parent(s) and/or guardian(s).
- h. **Substance Use Assessment:** Individuals may be required to complete a substance use assessment with an agency identified or approved by the College. The student will be required to furnish proof of completion of any required assessment.
- i. **Other Sanctions:** Other sanctions may be imposed as appropriate to achieve the goals of sanctioning mentioned above and to respect the individuality of each case and each respondent. These may include, but are not limited to, reflection papers, research papers, service projects, work service hours, fire safety fines, program attendance, meetings, and program creation.

### **8.3 Sanctions for Student Groups/Organizations/Athletic Teams**

- a. **Disciplinary Warning:** This warning is a written notice given to a student group/organization/athletic team to draw attention to the fact that the student group/organization/athletic team's behavior was not in accordance with College policy and that should a breach of College policy occur again or if the student group/organization/athletic team is found responsible for any future offenses, the student group/organization/athletic team may expect to receive more severe disciplinary action.
- b. **Disciplinary Probation:** Exclusion from participation in privileged or extra-curricular institutional activities or programs for a specified period of time. Violations of the terms of disciplinary probation, or any other violation of this *Code* during the period of disciplinary probation, may result in the suspension or loss of recognition of the student group/organization/athletic team.
- c. **Social Probation:** Social Probation is assigned to a student groups/organizations/athletic team that is found responsible for violating College policy. Although this is not an exhaustive list, Social Probation may include any or all of the following:
  - The group/organization/athletic team may not hold any social events on or off-campus.
  - Alcohol may not be served by the group/organization/athletic team under any circumstances.



- The group/organization/athletic team may not collaborate with other groups or organizations to hold a social event.
  - Other groups and organizations may not invite a substantial number of members of a group/organization/athletic team on Social Probation to its social events.
  - Alcohol may be banned from a student group/organization/athletic team's house, if applicable.
- d. **Suspension:** A student group/organization/athletic team is removed from the College community for a specified period of time. Suspension may be for the remainder of a semester and/or for the following semester(s). A student group/organization/athletic team that is suspended from the College may not be present on any College property or participate in any College or student organization sponsored programs or services during suspension. In order to be eligible for return, the student group/organization/athletic team must be in compliance with all aspects of its suspension and must have fulfilled any other sanctions imposed for violations of this *Code*.
- e. **Loss of Recognition:** The denial or revocation of the registration and/or recognition of a student group/organization/athletic team.
- f. **Restitution:** Restitution may be billed by the College for damages incurred by the College and resulting from a student group/organization/athletic team's behavior in violation of this *Code*. Restitution is not available for damages incurred by an individual or a student group/organization/athletic team.
- g. **Fines:** Fines may be assessed to a student group/organization/athletic team as appropriate.
- h. **Educational Session:** Student groups/organizations/athletic teams may be required to participate in educational experiences such as a program, workshop, online tutorial, or individual meeting.
- i. **Loss of Privileges:** Student groups/organizations/athletic teams may be denied access to privileges afforded to them as a member of the College community as appropriate. Privileges include but are not limited to involvement in College programs or activities.
- j. **Other Sanctions:** Other sanctions may be imposed as appropriate to achieve the goals of sanctioning mentioned above and to respect the individuality of each case and each respondent. These may include, but are not limited to, service projects, work service hours, fire safety fines, program attendance, meetings, and program creation.

The imposition of any of the above sanctions shall be subject to mitigating factors such as the present demeanor and past disciplinary record of the respondent, as well as the nature of the offense and the severity of any damage, injury, or harm resulting from the offense. In addition, repeated or aggravated violations of any Section of this *Code* may result in an increase in the severity of sanction as may be appropriate. Note that if a student or student group/organization/athletic team fails to fulfill or comply with any sanctions imposed under this *Code*, the Dean of Students may immediately take whatever action, including but not limited to the imposition of additional sanctions, as the Dean deems appropriate.

#### **9.0 Director of Student Conduct/Director of Residential Services**

The Director of Student Conduct and the Director of Residential Services each serves as a facilitator for the process of handling alleged violations of this *Code*. The Director of Student Conduct/Director of Residential Services does not participate in any determinations as to culpability or sanctions. The Director of Student Conduct's/Director of Residential Services' duties include:

- The receipt and review of alleged violations of this *Code* with the assistance of Campus Safety to determine whether actions sufficient to allege a violation of this *Code* have occurred.
- The determination of the proper forum to consider the alleged violation.
- The issuance of a written Notice of Charge as set forth in Section 11.0 of this *Code*.
- The presentation of a matter in the selected forum.
- The calling of witnesses.
- The performance of other duties as set forth in this *Code*.

#### **10.0 Forum Determination**

Based on the nature of the alleged violation, the Director of Student Conduct/Director of Residential Services will make a determination as to the proper forum for consideration of the alleged violations of the *Code*. Alleged violations which, if established, would most likely result in the imposition of sanctions described in Sections 8.1.c, 8.1.d, 8.1.e, 8.3.d or 8.3.e above will be referred directly to a Hearing Board for adjudication as set forth in Sections 15.0 and 16.0 of this *Code*. All other alleged violations will normally be referred to an administrative meeting as set forth in Section 13.0 of this *Code*. The Director of Student Conduct/Director of Residential Services may, in the Director's discretion, defer proceedings for alleged minor violations of this *Code* for a period not to exceed ninety days. In addition, the Director of Student Conduct/Director of Residential Services may, in the Director's discretion, direct that the appropriate individuals involved in the matter

participate in Restorative Practices set forth in Section 12 of this *Code*. Pending charges may thereafter be withdrawn at the discretion of the Director of Student Conduct/Director of Residential Services.

### **11.0 Notice of Charges**

Within a reasonably prompt time after receiving a complaint, the Director of Student Conduct/Director of Residential Services shall inform the accused student or student group/organization/athletic team in writing of the alleged violation(s) and the potential range of sanctions. (Hereinafter, any reference to the "accused" shall refer to a student or a student group/organization/athletic team). The Notice of Charges shall include:

- the specific rule, regulation or policy that the accused is alleged to have violated, indicating the date and place of occurrence and the alleged acts which constitute the violation;
- notice regarding whether the matter has been assigned for an administrative meeting or directly to a Hearing Board; and
- if applicable, a statement that the accused must meet for an administrative meeting with the Director of Student Conduct/Director of Residential Services or a Residence Coordinator, Residential Services at the date and time indicated in the Notice of Charge. Failure to attend this administrative meeting will not keep the process from proceeding and may result in the student being found responsible for violating the policies listed based only on input from the complainant.

The College reserves the right to initiate a complaint, to serve as complainant, and to initiate proceedings without a formal complaint by an alleged victim.

### **12.0 Restorative Practices**

In some cases, the Student Conduct Officer/Director of Residential Services may suggest the use of one of three different Restorative Practices techniques to help resolve an issue. This can be utilized in place of a formal conduct process in some cases, but more often is designated as an assigned sanction or as a voluntary opportunity to repair harm after a formal conduct process has concluded. In cases in which restorative techniques are used in place of a formal conduct process, it will occur before a student is assigned formal conduct charges. The Student Conduct Officer/Director of Residential Services always reserves the option to refer the matter back to a formal process if deemed necessary at any time. In all cases, these techniques will only be used when both the complainant and respondent voluntarily agree. In addition, these Restorative Practices will be led by staff at the College who are formally trained in Restorative Practices work. The three types of Restorative Practices used will be:

**Restorative Dialogues:** Used to discuss an incident or harm that occurred between two individual people and that does not involve any people who were secondarily affected.

**Restorative Circles:** Used in situations in which multiple people may have been harmed by the actions of one or more people or a group of people. This process involves both parties having a designated support person in the room. It also includes members of any group of people who may have been harmed by the incident. In these scenarios, all members of the group participate in the conversation and have the opportunity to express how they may have been impacted by the situation. Participants will also share suggestions for what actions would assist in repairing any harm done and enable those harmed to move forward from the experience positively.

**Restorative Conferences:** This technique is an extension of either a Restorative Dialogue or Circle. However, at the end of a Restorative Conference, agreed upon outcomes will be drafted by the facilitator into a formal agreement between the parties involved. The parties will sign the agreement and that agreement will be considered a binding contract to which the parties shall adhere in order to avoid further judicial action.

### **13.0 Procedures for Administrative Meeting**

During the administrative meeting, the accused will be invited to review and discuss information in the accused's disciplinary case file and will be encouraged to ask questions about the complaint and the options available within the College's Student Conduct System. The disciplinary case file consists of materials which may be considered "educational records" pursuant to the Family Educational Rights and Privacy Act. Personal notes of College staff members or complainants are not included in the disciplinary case file. The accused will then be presented with the following options:

**13.1** To accept responsibility for violating this *Code* and accept the sanction(s) presented in the administrative meeting. If the accused accepts responsibility and accepts the proposed sanction(s), the right to a Disciplinary Conference is waived.

**13.2** To accept responsibility for violating this *Code* but reject the sanction(s) presented in the administrative meeting as inappropriate or unreasonable. In such a case, the accused will receive notice that the accused has accepted responsibility for violating this *Code* as well as a complete list of the sanction(s) that the accused rejected. In addition, the matter will be referred for a Disciplinary Conference which will be limited solely to the issue of determining the sanction(s) for the accused's violation of this *Code*.

**13.3** To deny responsibility for violating this *Code* and request a Disciplinary Conference.

**13.4** Failure to attend an administrative meeting is considered an admission of guilt to the violation(s) listed and the referral will be handled administratively. A decision of

responsibility will be rendered in a student's absence and sanctions will be applied without their input.

#### **14.0 Disciplinary Conferences**

**14.1** Each Disciplinary Conference Committee shall consist of three members: two students and one College administrative manager. Students referred for a Disciplinary Conference are entitled to the following procedural protections in addition to those set forth in Section 5.0 of this *Code*:

- a. Reasonable access to the disciplinary case file (which shall be retained in the Office of the Director of Student Conduct/Director of Residential Services) during the Disciplinary Conference.
- b. An opportunity to respond to all evidence.
- c. Failure to attend a Disciplinary Conference meeting is considered an admission of guilt to the violation(s) listed and the referral will be handled administratively. A decision of responsibility will be rendered in a student's absence and sanction(s) will be applied without their input.

**14.2** The following procedural guidelines shall be applicable in Disciplinary Conferences:

- a. The Director of Student Conduct/Director of Residential Services or a designee shall (i) deliver the Notice of Charge to the accused, and (ii) advise the accused of the time and date of the scheduled Disciplinary Conference (considering the accused's academic schedule).
- b. The Disciplinary Conference shall be conducted by the Disciplinary Conference Committee which shall hear all statements and review all documents they believe are relevant to the matter. The Disciplinary Conference shall be confidential and no minutes of the proceeding shall be kept by anyone.
- c. Promptly after the conclusion of the Disciplinary Conference, the Disciplinary Conference Committee will inform the Director of Student Conduct/Director of Residential Services of the Committee's findings, determination and sanction(s), if applicable. The Director of Student Conduct/Director of Residential Services shall thereafter provide the accused with prompt notice of the findings, determinations and sanction(s), if applicable, by personal delivery, electronic mail or by certified mail to the last address provided by the accused to the College.
- d. Matters resolved at a Disciplinary Conference are final and conclusive and are not subject to appeal.

## **15.0 College Hearing Board**

Each Hearing Board shall consist of five members: three students, one faculty member (who shall serve as the Hearing Board Chair) and one administrative manager. A quorum shall consist of four members provided one is a faculty member and one is an administrative manager. For cases where the Notice of Charges include alleged violations of the Sexual and Gender-Based Misconduct Policy, please see the Sexual and Gender-Based Misconduct Policy for the makeup of the Hearing Board. Students referred to a Hearing Board are entitled to procedural protections set forth in Sections 5.0 and 16.0 of this *Code*.

**15.1** An ad hoc Hearing Board may be established by the Dean of Students whenever a regular Hearing Board is not constituted, is unable to obtain a quorum, or is otherwise unable to hear a case. An ad hoc Hearing Board shall be composed of three members, including at least one faculty member.

**15.2** The Hearing Board shall be responsible for making findings of fact and rendering decisions regarding alleged violations of the Social Code. In the event that violations of the Social Code are found, the Hearing Board shall also make recommendations to the Dean of Students regarding appropriate sanctions. The Dean of Students shall then be responsible for rendering decisions regarding appropriate sanctions.

## **16.0 Hearing Board Procedures**

The following procedural guidelines shall be applicable in Hearings conducted by a College Hearing Board:

**16.1** The Dean of Students will appoint a Hearing Officer. The Hearing Officer, who may be the Director of Student Conduct/Director of Residential Services or chosen from outside the College, shall conduct the Hearing.

**16.2** The Director of Student Conduct/Director of Residential Services or a designee shall give each accused student or student group/organization/athletic team (also called the “accused”) written notice of the Hearing date and the specific charges against the accused at least five days in advance of the Hearing date. Notice to the accused shall be by personal delivery, electronic mail or by certified mail to the last address provided by the accused to the College.

**16.3** The accused shall be accorded reasonable access to the disciplinary case file (including transcripts, if any), which will be retained in the Office of the Director of Student Conduct/Director of Residential Services.

**16.4** The Director of Student Conduct/Director of Residential Services or a designee may request relevant witnesses to appear at a Hearing. Such requests must be in writing and shall be personally delivered or sent to the witness by certified mail or, in the

case of a College student or employee, by personal delivery or by electronic mail. College students and employees shall comply with all such requests unless compliance would result in significant and unavoidable personal hardship, or substantial interference with normal College activities, as determined by the Dean of Students or the Dean's designee.

- 16.5** An accused who fails to appear after proper notice will be deemed to have pled "not in violation" to the charges pending against the accused and the Hearing Board may, at its discretion, elect to conduct the Hearing in the accused's absence.
- 16.6** Hearings not involving student groups/organizations/athletic teams will be closed to the public, except for up to two immediate family members and one non-related support person, as requested by the accused student (and in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim) and approved by the Hearing Officer. For Hearings involving student groups/organizations/athletic teams, the student group/organization/athletic team may designate one member of the student group/organization/athletic team to represent it at the hearing and the hearing will be closed to the public, except the student group/organization/athletic team may designate up to two additional members and one non-member as support persons, as may be approved by the Hearing Officer. In addition, the Dean of Students reserves the right in exceptional circumstances to permit up to two immediate family members of any witness to attend the hearing while such witness is testifying. Support persons and family members may not address the Hearing Board, confer with the accused, witness or, in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim during the Hearing or otherwise take part in the Hearing. An open Hearing may be held, in the discretion of the Dean of Students, if requested by the accused in writing at least 48 hours in advance.
- 16.7** The Hearing Board Chair shall exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the Hearing. Any person, including the accused, who disrupts a Hearing, may be excluded by the Hearing Board Chair.
- 16.8** The Hearing Board shall make tape recordings, written transcripts and/or video tapes of all Hearings, unless the accused requests in writing a more technical procedure such as a professional videotaping, and deposits with the Director of Student Conduct/Director of Residential Services an amount sufficient to pay all costs for same. All such tape recordings, written transcripts and/or video tapes shall remain the property of the College.
- 16.9** The accused or the complainant may challenge a Hearing Board member on the ground of personal bias. Hearing Board members who do not elect to voluntarily

recuse themselves from hearing a particular matter may be disqualified upon majority vote of the other members of the Hearing Board, conducted by secret ballot.

- 16.10** Witnesses shall be asked to affirm that their testimony is truthful, and may be subject to charges of violating this *Code* by providing false or willfully misleading testimony, or falsification or misrepresentation of evidence, to the Hearing Board.
- 16.11** Witnesses and the complainant (other than the alleged victim in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy) shall be excluded from the Hearing during the testimony of other witnesses and the accused unless expressly permitted to remain by the Hearing Board Chair. The complainant, accused, witnesses and the public shall be excluded during Hearing Board deliberations, which shall not be recorded or transcribed.
- 16.12** The charges against the accused must be established by a preponderance of the evidence.
- 16.13** Hearings are not subject to formal rules of evidence and the Hearing Board Chair shall admit all matters into evidence which the Hearing Board Chair reasonably determines to have probative value. Unduly repetitious or irrelevant evidence may be excluded. The existence or results of any polygraph test conducted in connection with any matter shall be excluded. Some evidence (such as medical records) may require that the party seeking to admit such evidence provide an appropriate release.
- 16.14** The accused (but not the accused's advisor) will be accorded an opportunity to ask relevant questions of the complainant and those witnesses who testify at the Hearing.
- 16.15** Hearing Board members may ask questions of the complainant, the accused and all witnesses. The Hearing Board may also take judicial notice of matters which would be within the general experience of College students, staff and faculty members.
- 16.16** The past disciplinary record of the accused will only be supplied to the Hearing Board if and after the Hearing Board has made a determination of responsibility during deliberations.
- 16.17** The Hearing Board's findings of fact, determination of responsibility and recommendations regarding sanctions, if any, shall be provided to the Dean of Students promptly after the conclusion of the Hearing.



- 16.18** The Director of Student Conduct/Director of Residential Services or a designee may schedule two matters to be heard by one Hearing Board when such matters arise from or relate to the same incident or circumstances.
- 16.19** If the Hearing Board determines that a supplemental Hearing is required to obtain additional evidence, such supplemental Hearing shall be held by the Hearing Board within a reasonably prompt period of time.
- 16.20** In the event that a Hearing or a supplemental Hearing is not concluded prior to the last examination before a vacation period, the Director of Student Conduct/Director of Residential Services or a designee shall schedule such Hearing or supplemental Hearing in a manner determined by the Director of Student Conduct/Director of Residential Services to be fundamentally fair to the parties.

### **17.0 Decision of the Hearing Board and Dean of Students**

The Hearing Board shall be responsible for rendering findings of fact and decisions regarding alleged violations of the Social Code. If violations of the Social Code are found, the Hearing Board shall also make recommendations to the Dean of Students regarding appropriate sanctions. The Dean of Students shall then be responsible for rendering decisions regarding appropriate sanctions. Promptly after the Dean of Students' receipt of the Hearing Board's findings of fact and decision regarding alleged violations of the Social Code and recommendations regarding sanctions, if any, the accused will be provided a copy of the Hearing Board's and the Dean of Students' decisions by personal delivery, or by electronic mail.

### **18.0 Appeals**

- 18.1** Except in matters involving alleged violations of the Sexual and Gender-Based Misconduct Policy, the Hearing Board's decisions shall be final and non-appealable unless a sanction of suspension, expulsion, revocation of degree or loss of recognition is imposed by the Dean of Students. In matters involving alleged violations of the Sexual and Gender-Based Misconduct Policy, both the complainant and a student found to have violated the Sexual and Gender-Based Misconduct Policy have the right to appeal the decisions of the Hearing Board and the Dean of Students regardless of the severity of the sanction imposed by the Dean of Students. In addition, in all cases the only permissible grounds for appeal are (i) that a material procedural error occurred that had the potential of affecting the decisions; (ii) that material new evidence exists that was not available prior to or at the time of the Hearing and had the potential of affecting the decisions; and/or (iii) that the sanction(s) imposed are disproportionate to the violation.
- 18.2** The appeal must be submitted to the office of the Dean of Students in writing within five days after the student or student group/organization/athletic team receives

written notification of the Hearing Board's and the Dean of Students' decisions. The written appeal must contain only the specific ground(s) upon which the appeal is based and set forth the reasons why the appeal should be granted. The Dean of Students reserves the right to redact or direct the Appeals Board to disregard any portion of an appeal that is beyond the permissible grounds for appeal. In addition, it is expected that all appeals will be the work product of the student or student group/organization/athletic team rather than the student's or student group/organization/athletic team's counsel (although consultation with counsel is permitted). The Dean of Students, in the Dean's sole discretion, reserves the right to grant additional time to file an appeal for good cause.

- 18.3** The imposition of sanctions will be deferred during the pendency of any appeal, unless, in the discretion of the Dean of Students, the continued presence of the accused at the College poses a substantial and immediate threat to the accused or to others, or to the stability and continuance of College functions.
- 18.4** All appeals permitted under this Section 18.0 shall be submitted to a College Appeals Board(s). Each Appeals Board shall consist of four members: two students, one faculty member (who shall serve as the Appeals Board Chair) and one administrative manager. A quorum shall consist of three members provided one is a faculty member, one is a student and one is an administrative manager. For cases where the Notice of Charges include alleged violations of the Sexual and Gender-Based Misconduct Policy, please see the Sexual and Gender-Based Misconduct Policy for the makeup of the Appeals Board.
- 18.5** Promptly after receipt of the appeal, the Appeals Board will meet to review the appeal. Such review will be limited to the grounds for appeal properly asserted by the student or student group/organization/athletic team. The Appeals Board may review the evidence and testimony presented at the hearing, the written appeal (and in the case of an alleged violation of the Sexual and Gender-Based Misconduct Policy, the non-appealing student's written response thereto), the Hearing Board's findings of fact, decision regarding alleged violations of the Social Code and recommendation(s) regarding sanctions, the Dean of Students' decision regarding sanctions, the student's or student group/organization/athletic team's judicial history, a summary of prior matters involving similar charges and the sanctions imposed in connection therewith, and relevant correspondence from the Dean of Students to the student or student group/organization/athletic team. The Appeals Board shall deliberate the merits of the appeal and shall be responsible for rendering final decisions regarding appeals. In this regard, the Appeals Board may (i) confirm, modify or reverse the decisions of the Hearing Board and/or Dean of Students, in whole or in part, regarding findings of fact, determination of responsibility and/or sanctions; or (ii) remand the matter back to the original or a new Hearing Board for further action including, but not limited to, the taking of additional testimony,

reviewing evidence previously excluded and correcting procedural errors; or (iii) take such additional action as may be determined appropriate by the Appeals Board. The decision of the Appeals Board shall be determined by a majority vote of the Appeals Board and shall be communicated to the Dean of Students. The appealing student or student group/organization/athletic team (and in the case of an alleged violation of the Sexual and Gender-Based Misconduct Policy, the non-appealing student) will then be provided a copy of the Appeals Board's decision by personal delivery or by electronic mail.

- 18.6** If the decision of the Appeals Board results in a reversal of the decision of the Hearing Board applicable to a student or an increase of the sanctions imposed on a student to expulsion, then the affected student may submit an appeal to the President in writing within five days after receipt of written notification of the Appeals Board's decision. In matters involving an alleged violation of the Sexual and Gender-Based Misconduct Policy, if the decision of the Appeals Board results in a reversal of the decision of the Hearing Board applicable to a student or an increase or decrease in the type of sanction imposed by the Dean of Students on a student (for example, a sanction of expulsion is decreased to suspension or a sanction of probation is increased to suspension), then the affected student or the non-appealing student may submit an appeal to the President in writing within five days after receipt of written notification of the Appeals Board's decision. Student groups, organizations and athletic teams do not have the ability to submit an appeal to the President. After receipt of an appeal, the President may, in the President's discretion, review the evidence and testimony presented at the hearing, the written appeal (and in the case of an alleged violation of the Sexual and Gender-Based Misconduct Policy, the non-appealing student's written response thereto), the Hearing Board's findings of fact, decision regarding alleged violations of the Social Code and recommendation(s) regarding sanctions, the Dean of Students' decision regarding sanctions, the student's judicial history, a summary of similar matters and the sanctions imposed in connection therewith, the Appeals Board's decision and relevant correspondence from the Dean of Students to the student. In addition, the President may, in the President's discretion, consult with the Director of Student Conduct/Director of Residential Services, the Dean of Students, the Hearing Board Chair, the Appeals Board Chair and the students involved in the appeal regarding the matter. The President shall then render a decision regarding the appeal. In this regard, the President may (i) confirm, modify or reverse the decision of the Appeals Board, in whole or in part, regarding findings of fact, determination of responsibility and/or sanctions; or (ii) remand the matter back to the original or a new Hearing Board for further action including, but not limited to, the taking of additional testimony, reviewing evidence previously excluded and correcting procedural errors; or (iii) take such additional action as may be determined appropriate by the President. Thereafter, the appealing student (and in the case of an alleged violation of the Sexual and Gender-Based Misconduct Policy, the non-appealing student) will be

provided a copy of the President's decision by personal delivery or by electronic mail. The President's decision shall be final and non-appealable.

### **19.0 Transcript Notations and Encumbrances**

The College shall place a temporary judicial hold on student transcripts in pending disciplinary cases which shall have the effect of preventing any student who is the subject of a disciplinary proceeding from obtaining or authorizing the release of the student's transcript, withdrawing from the College, being granted a leave of absence or graduating and receiving a diploma. Students found to have violated this *Code* and who are expelled from the College in connection with a crime of violence or non-forcible sex offense shall have the notice of "Expulsion" and the effective date of the expulsion placed upon their academic transcript. In addition, to the extent permitted by the Family Educational Rights and Privacy Act and other applicable law, the College reserves the right to have the notice of "Expulsion" and the effective date of the expulsion placed upon a student's academic transcript in connection with other disciplinary matters that result in a student being expelled from the College.

### **20.0 Disciplinary Files and Records**

- 20.1** Sanctions imposed for all violations of this *Code* shall be noted in a student's Personnel File. Personnel Files are maintained in the Dean of Students Office. These records are destroyed seven years after graduation, provided that cases involving suspension, expulsion or significant legal implications may be kept on file indefinitely.
- 20.2** If a student officially withdraws or is granted a leave of absence, disciplinary notations are not removed from the Personnel File. Personnel files of suspended students who officially withdraw from the College are retained for seven years after the date of withdrawal.
- 20.3** In specific instances, sanction notations may be released to College personnel in accordance with the Student Records Policy.
- 20.4** All recorded transcripts, tapes, and other evidence relating to matters heard in accordance with these rules and procedures shall be the property of the College and shall be maintained in the Dean of Students office for two years after all internal appeal procedures have been exhausted and the decision is final, after which period they may be destroyed by the College.
- 20.5** Disciplinary records (but not transcript notations of expulsion) may be voided by the Dean of Students for good cause, upon written petition. Factors to be considered in review of such petitions shall include: (i) the present demeanor of the student; (ii) the conduct of the student subsequent to the violation; and (iii) the nature of the violation and the severity of any damage, injury, or harm resulting from it.

## **21.0 Parental and Victim Notification**

**21.1** At the discretion of the Dean of Students and in compliance with the Family Educational Rights and Privacy Act, parent(s) may be notified when a student has gone through a Hearing Board or Disciplinary Conference proceeding and is found in violation of this *Code*, the College's Alcohol Policy or any other regulations or policies of the College. In addition, according to Pennsylvania State Law, the parents of an individual who is under the age of 18 will be notified immediately in the event a student breaks any State law. A student is expected to notify the student's parent(s) if the student receives a sanction of suspension or expulsion. If the student chooses not to make this notification, the College, at the discretion of the Dean of Students and in compliance with the Family Educational Rights and Privacy Act, may do so.

**21.2** At the discretion of the Dean of Students and in compliance with the Family Educational Rights and Privacy Act, the alleged victim(s) of any violation of this *Code* that is the subject of a disciplinary proceeding may be notified of the results of those proceedings and any subsequent appeal. Recipients of such notifications shall be advised of their obligation to keep the information confidential.

## **22.0 Days and Vacation Periods**

A "day," as defined in this *Code*, shall refer to academic days, Monday through Friday, when the College is in session provided that when matters are unresolved as of the last day of finals, for the purpose of concluding such matters expeditiously, "days" shall mean calendar days immediately following the last day of finals.

## **23.0 Revocation of Degrees**

The College reserves the right to revoke an awarded degree for fraud in receipt of the degree, or for serious disciplinary violations committed by a student prior to the student's graduation.

## **24.0 Financial Aid Implications**

A student who has a negative impact on the campus community through the student's behavior may jeopardize the student's institutional grant awards. Renewal of all institutional grant aid (need-based or merit) is based upon, among other things, a student's positive contributions to the College and the surrounding community, and the student's compliance with this *Code*.

## **25.0 Additional Procedures**

The Dean of Students, with the concurrence of the President, shall have the authority to promulgate, from time to time, such additional or revised procedures as may be necessary for the efficient functioning of this *Code* and all disciplinary proceedings hereunder.

## **26.0 Advisors**

- 26.1** Upon being referred to a Hearing Board, the accused student shall be assigned as an Advisor an approved member of the College faculty or management staff to assist the accused student in matters involving alleged violations of this *Code*. The accused student may elect to reject the assigned Advisor and select a different (non-trained) member of the College community to serve as an Advisor. Accused students (and in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim) will be asked to acknowledge that they received the name of a trained Advisor and the importance of utilizing a trained Advisor. However, no accused student (and in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim) will be required to select or consult such advisors. In addition, in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the accused student and alleged victim shall each have the right to select an Advisor of choice as set forth in the Sexual and Gender-Based Misconduct Policy.
- 26.2** The following list of College professionals are excluded from acting as an Advisor: President's Staff, Provost, and Deans and Vice Presidents of the College. In addition, individuals serving on Disciplinary Conference Committees, Hearing Boards or Appeals Boards may not serve as Advisors.
- 26.3** The accused student (and in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim), may be accompanied by an attorney; however, the attorney may not address the Hearing Board or take part in the hearing process. The student must provide written notification to the Director of Student Conduct/Director of Residential Services of the intent to have an attorney present at least 24 hours prior to the Hearing. Except when criminal charges are pending against the accused student, the College reserves the right to refuse to grant permission for the appearance of an attorney on behalf of the accused student (or in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim) at the hearing.
- 26.4** An Advisor may accompany and consult with the accused student (and in the case of alleged violations of the Sexual and Gender-Based Misconduct Policy, the alleged victim); however, the Advisor may not address the Disciplinary Conference Committee or Hearing Board, or take part in the hearing process.

## **27.0 Supplemental Procedures for Sexual and Gender-Based Misconduct Policy**

The procedures set forth in this *Code* are, under certain circumstances, amended or supplemented by procedures set forth in the College's Sexual and Gender-Based Misconduct Policy. In the event of any conflict between the procedures set forth in the

Sexual and Gender-Based Misconduct Policy and the procedures set forth in this *Code*, the procedures contained in the Sexual and Gender-Based Misconduct Policy shall control.

**28.0 Amendments to the Social Code**

The College may amend the provisions of this Code from time to time and students shall be bound by any such amended provisions upon adoption by the College.

**Contact: Ms. Jane Schubert, Associate Dean of Students/Director of Student Conduct, 484-664-3182**

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