

# Student Conduct Code

## I. Student Conduct & Community Responsibility Mission Statement

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

Operating within the context of the University’s mission, the Office of Student Conduct & Community Responsibility (OSCCR) seeks to maintain the University’s academic environment by educating and upholding community standards. OSCCR supports the educational mission of the University by administering the Student Conduct Code (“the Code” or “Student Conduct Code”) in a manner that educates Students, holds them accountable for Student Conduct Code violations and helps them grow into more responsible and community-minded persons.

## II. General Guidelines

The Student Conduct Code clarifies the standards of behavior essential to the University’s educational mission and its community life. Excluding Loyola Law School students (“Law School Students”) who are subject to the Law School’s disciplinary code, the Student Conduct Code is applicable to all LMU Students—undergraduate, graduate and continuing education/Extension. In accordance with any and all declared public emergencies (e.g. COVID-19), Students are required to adhere to all applicable state and local public health and safety guidelines both on and off campus and conduct themselves in ways congruent with protecting the health and well-being of others in the LMU community.

### A. Interpretations of the Student Conduct Code

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

### B. Jurisdiction of the University

Jurisdiction extends to conduct that occurs on University Premises, in Study Abroad programs and/or at on and off campus University events, programs or activities. Jurisdiction

also extends to other off-campus misconduct that adversely affects the University, Students, the University’s reputation or goodwill and/or the pursuit of the University’s mission, goals and objectives.

### C. Inherent Authority

The University reserves the right to take necessary and appropriate action to protect the health, safety and well-being of the University, including its reputation and good will, and the University Community. This includes, but is not limited to, incidents off campus that may adversely affect the health, safety, well-being, reputation or good will of the University, University Community, University Community members and/or the pursuit of the University’s mission, goals or objectives.

### D. Code as Superseding Authority

The Code shall supersede any and all regulations and/or decisions made by Registered Student Organizations and their affiliates, including, but not limited to, the Associated Students of LMU (ASLMU), Graduate Students of LMU (GSLMU), United Greek Council (UGC), Collegiate Panhellenic Council (CPC), InterFraternity Council (IFC), Residence Hall Association (RHA) and Student Athletic Council.

### E. Student Participation

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

### F. Focus of the Proceedings

The primary focus of the inquiry in all Student Conduct Code proceedings shall be to determine if the subject Student is responsible for the alleged violation of the Student Conduct Code and, if the Student is found to be responsible for a violation, to provide the appropriate remedy. Proceedings shall be prompt, fair and impartial.

In keeping with the mission of OSCCR and the purpose of the Code, Student Conduct Code proceedings (including

those that provide for cross examination) are not intended to materially emulate judicial processes or proceedings in the criminal justice system. This is because Student Conduct Code proceedings are intended to be educational, less formal, less adversarial and less complex than criminal justice processes and procedures, while still seeking the truth in a fundamentally fair manner. Formal rules of evidence shall not be applicable nor shall deviations from prescribed procedures necessarily invalidate a Student Conduct Code decision or proceeding.

### **G. Violations of Law and the Student Conduct Code**

Students may be subject to criminal, civil and University proceedings for acts that constitute violations of federal, state or local law and of the Student Conduct Code. Because of the need to efficiently, effectively and promptly protect the academic environment, University life and operations, Student Conduct Code proceedings are independent and will normally proceed without regard to the pendency or potential pendency of criminal or civil proceedings.

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

### **H. Burden of Proof**

Depending upon the nature of the claim and proponent of the Student Conduct Code complaint, the burden of proof shall be upon the proponent of the complaint, as the case may be, the Complainant or the University, who must establish the responsibility of the Respondent for the alleged Student Conduct Code violation(s) by a Preponderance of the Evidence. In accordance with applicable Title IX regulations, in cases alleging Title IX Sexual Harassment, the burden of proof is on the University.

### **I. Limitations Period**

Claims should be brought in the period of time during which the putative Respondent is a Student and subject to the Student Conduct Code.

### **J. Communication**

Students should expect that OSCCR's primary and often

exclusive medium of communication will be through the Student's official University e-mail account. OSCCR may also, at its discretion, communicate to Students via any one or more of the following methods: electronic communication, U.S. Mail or parcel delivery (e.g. FedEx) to the Student's permanent address on file, and/or personal hand delivery. Students are held responsible and accountable for retrieving communications from their official University e-mail account on a daily basis. Failure to do so is not an acceptable excuse for avoiding or delaying the Student Conduct Code process.

### **K. Registered Student Organizations**

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

OSCCR may notify any and all necessary University officials who act in a liaison or advisory capacity for the subject Registered Student Organization(s) of alleged violations of the Code by the Registered Student Organization(s) and the outcome of proceedings regarding alleged violations by Registered Student Organizations. Registered Student Organizations with a national governing body may be permitted to substitute one Advisor outside of the LMU community if an on-campus Advisor is not reasonably available to assist, but that outside Advisor may not be a lawyer or law student.

### **L. Athletics Notifications**

All NCAA Student-athletes are requested to sign a Family Educational Rights & Privacy Act (FERPA) waiver permitting LMU's Athletics Department to be informed of any pending conduct violations of the Student Conduct Code, along with the results of Student Conduct Code proceedings and sanctions assigned (if applicable).

### **M. Scheduling Student Hearings**

In scheduling hearings, hearing preparation meetings and other proceedings, OSCCR will reasonably attempt to avoid conflicts with class and academic schedules for those involved but may not be able to do so. Individuals involved in the Student Conduct Code processes are required to attend scheduled hearings notwithstanding class or academic conflicts. Failure to attend a hearing preparation meeting will not prevent the scheduling of a hearing.

## **N. Reservation of Rights**

The University expressly reserves the right to revise, supplement or withdraw any Code section, University policy or portion of a University policy periodically as it deems necessary.

Upon the declaration of a campus emergency, all Student policies and procedures remain in effect. However, the Senior Vice President for Student Affairs, or designee, may temporarily suspend and/or revise existing policies, procedures or processes for the health and safety of the campus community and to assist and support the University's efforts during the emergency and subsequent recovery.

The Code remains in effect during limited campus operations or full campus closures in which academic instruction moves either partly or entirely online due to potential health-compromising events, natural disasters or any unforeseen emergencies.

## **O. Knowledge and Awareness of Policies and Code**

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

## **P. Student Guests**

Students are responsible, and may be held accountable, for the conduct of their Guests. For the definition of Guest, please see Section II(Q)(8) of this Code. For further information regarding the expectation of Student's responsibility for their Guests, see the Guest Policy.

## **Q. Definitions**

As used in the Code, the following terms shall have the following meanings (all terms defined below shall be capitalized throughout the Code):

1. **"Advisor"** means any current LMU Student, faculty, staff or religious community member, but specifically excludes Law School Students, Law School faculty and Law School staff, selected by a Student to appear with the Student at scheduled conduct proceedings. Off-campus individuals, parents, family members, attorneys, alumni/ae and those persons who have no affiliation with the University are expressly excluded from the definition of "Advisor" and cannot serve as Advisors. Current faculty or staff cannot act as an Advisor to their own family members.

2. **"Aggravated Assault"** means an unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a Weapon or by means likely to produce death or great bodily harm.

3. **"Bullying"** means an intentional course of conduct, individual act or series of acts that is intended to inappropriately impose one's will or desire and cause harm to others. Bullying may include verbal or non-verbal threats, assault, Stalking and/or other methods of attempted coercion such as manipulation, blackmail or extortion (including, but not limited to, conduct that is undertaken or effected in whole or in part through the use of written communication, in person or physical contact, by telephone, mail, electronic communications, social media or other technological means or through third parties). Bullying also includes, but is not limited to, unwanted or uninvited aggressive behavior that intends to harm, threaten, frighten or intimidate another person and may involve a pattern of behavior that is repeated over time where an imbalance of power exists between the Respondent and the Complainant.

4. **"Complainant"** means the individual(s) who file(s) a Student Conduct Code complaint with the University. In those instances where the University is the proponent of the asserted Code violation it will serve as a Complainant.

5. **"Day"** means a University business day. It shall not include Saturdays, Sundays or administrative holidays.

6. **"Disruptive Behavior"** means behavior that unreasonably interferes with the health and safety of the University Community, stability or continuance of University life, operations or University-approved Activities. Disruptive Behavior includes, but is not limited to, behavior that impedes or materially interferes with University life, operations or Community members engaging in permissible educational, personal or job related activities, behavior that improperly threatens or endangers the physical health and/or psychological well-being and/or safety of members of the University

Community, including failing to follow applicable state and local public health guidelines or failing to adhere to University expectations of health and safety protocols.

7. **“Distribution”** means the actual or intended sale, exchange and/or dispensation of prohibited substances or materials irrespective of personal profit.

8. **“Guest”** means person(s), Student or non-student, to whom a Student is extending or has extended hospitality, an invitation or permission to be present or remain in, on or at the campus, University facilities (including Student Housing facilities) or to attend University events on or off campus.

9. **“Harassment”** means unwelcome verbal, non-verbal, physical or visual conduct including, without limitation, physical aggression, Bullying, intimidation or hostility (including, but not limited to, conduct that is undertaken or effected in whole or in part through the use of written communication, in person or physical contact, by telephone, mail, electronic messaging services, mobile services, electronic communications, social media or other technological means or through third parties), which may or may not be based on any category of protected characteristics under the law, that is sufficiently severe, persistent or pervasive so as to unreasonably limit or interfere with an LMU community member’s ability to participate in or benefit from any LMU program or activity on or off campus, and thereby creates an intimidating, hostile or offensive living, academic or work environment.

10. **“Institution”** and **“University”** mean Loyola Marymount University but not including Loyola Law School.

11. **“Preponderance of the Evidence”** means such evidence as when weighed with that opposed to it has more convincing force and the greater probability of truth.

12. **“Reckless Behavior or Endangerment”** means conduct that one should reasonably be expected to know would create a substantial risk of harm to persons or property or that would otherwise be likely to result in interference with University life, operations or University approved Activities.

13. **“Registered Student Organization”** means any number of persons who have complied with University requirements for registration as a Registered Student Organization.

14. **“Respondent”** means the individual(s) against whom a Student Conduct Code complaint is made.

15. **“Retaliation”** means adverse, non-permitted action taken by an individual or a third party against a person in response to protected activity including, but not limited to, reporting a violation of policy, assisting someone with a report of a violation of a policy or participating in any manner in an investigation or resolution of a report of a policy violation. Retaliation may, among other non-permitted conduct or behaviors, include threats, intimidation, coercion, Harassment, spreading defamatory information about an individual, exclusions from academic and non-academic programs and/or adverse actions related to employment (including conduct that is undertaken in whole or in part through the use of electronic messaging services, commercial mobile services, electronic communications, social media and/or other technology).

16. **“Simple Assault”** means an unlawful physical attack by one person upon another where neither the offender displays a Weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration or loss of consciousness.

17. **“Stalking”** means engaging in a course of conduct directed at a specific person(s) that would cause a reasonable person under similar circumstances and with similar identities to the Complainant to fear for their own safety or the safety of others; or suffer substantial emotional distress. For the purposes of this definition, “course of conduct” is defined as two or more acts, including, but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens or communicates to or about a person, or interferes with a person’s property. For the purposes of this definition “substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

18. **“Student”** means a person currently enrolled or eligible and matriculating in any University program or class during the fall or spring semesters, recess period between semesters or summer period, on or off University campus, and includes all persons taking courses at the University, full-time or part-time, pursuing undergraduate, graduate or professional studies or are non-degree seeking. However, the term “Student” does not include Law School Students. Student includes one who has been enrolled at the University for the immediately preceding fall, spring or summer term and/or is eligible for continuing enrollment or graduation.

19. **“University Community”** means Students, staff, faculty, administration and religious community members of the University, but not their counterparts at the Law School.

20. **“University Housing Facilities”** means any on or off campus buildings, residence halls, apartments, suites, units, pods, houses or other temporary or permanent facilities that are owned, leased, rented or controlled by the University for the purpose of allowing Students to reside therein full or part time.

21. **“University Premises”** means buildings or grounds owned, leased, operated or controlled by the University.

22. **“University-approved Activity”** means any activity on or off campus that is initiated, authorized or supervised by the University or a Registered Student Organization.

23. **“Weapon”** means any object or substance designed or utilized to inflict a wound, cause injury or a nuisance or incapacitate including, but not limited to, all firearms, ammunition, chukka sticks, explosives, laser pointers, pellet guns, knives, projectile launchers and chemicals, such as mace or tear gas. This definition also includes decorative, replica and look-alike Weapons that are not functional, but reasonably appear to others to be real Weapons.

24. **“Witness”** means any person, excluding experts (except in cases involving Title IX Sexual Harassment), called upon to furnish relevant knowledge or information relating to an incident who is not a Complainant or Respondent.

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

### III. Prohibited Conduct

The following is a non-exhaustive list of conduct that is considered to be in violation of the Code. Participation in any of the below mentioned conduct may result in the initiation of Student Conduct Code proceedings. Many policies listed can be found on the [LMU website](#).

**A.** Violating or attempting to violate federal, state or local laws including, but not limited to, the California Penal Code and Vehicle Code; published University regulations and/or policies including, but not limited to, the Alcohol and Drug Policy (e.g. underage possession or consumption of alcohol and knowingly being in the presence of alcohol while underage on campus), Anti-Hazing Policy, Community Relations Policy, Discriminatory Harassment Policy, Guest Policy, Student Housing Policies, Study Abroad Policies and

Technology and Social Media Policy.

**B.** Intentional or negligent conduct causing psychological or physical harm to any person, causing reasonable apprehension of such harm, endangering others, holding someone against their will or harassing any University Community member on or off campus, University Premises or at University-approved Activities. This includes, without limitation, harm related to Aggravated and Simple Assault, Bias-related conduct (conduct in violation of the Student Conduct Code that is motivated by bias based on a person’s perceived sex, gender, gender identity and expression, race, color, religion, national origin, ancestry, disability, age, sexual orientation, marital status, military status, veteran status, pregnancy, genetic information or any other protected classification), Bullying, damage to reputation, Harassment, hazing and Stalking.

**C.** Conduct or behavior that violates applicable state and local public health guidelines, University requirements or otherwise inappropriately puts the health or safety of the University Community at increased risk of adverse consequences.

**D.** Retaliation against any Community or non-community member.

**E.** Behavior or conduct that unreasonably interferes with University life, operations, activities, processes or University-approved Activities including, but not limited to, studying, teaching, research, classroom instruction, campus or residential life, University administration, conduct proceedings, Study Abroad or other University-approved travel or fire, police or emergency services, or behavior or conduct that impedes University community members from engaging in permissible personal or job-related activities.

**F.** Failure to comply with the directions of a University official including, but not limited to, University administrators, faculty and staff, Department of Public Safety (DPS) Officers and contracted officers, Resident Directors and Student staff and employees (i.e. Student Managers, Resident Advisors, Lion Express Shuttle Drivers) acting in performance of their University duties. Prohibited conduct includes, without limitation, verbally threatening, abusing or harassing of any of the above in the performance of their duties.

**G.** Vandalism, tampering with or disabling University-owned or operated security or other technologies or intentionally or recklessly destroying or damaging University property or the property of others on University Premises or at University-approved Activities.

**H.** Unpermitted interference with the lawful exercise of

freedom of expression or movement of others on University Premises or at University-approved Activities including, but not limited to, blocking entrances, exits or passageways from or to any University building or roadway, interfering with daily University business, instruction or scheduled event (including virtual engagements) through congregating, assembling or any other means, creating a volume of noise that prevents normal University activity or events.

**I.** Possessing, distributing or attempting to distribute a fake governmental identification card or LMU OneCard or intentionally furnishing false information and/or identification, on or off campus, to any University officer, administrator or official, or to the University, or failure to provide upon the request of a University administrator, faculty or staff, on or off campus, valid official picture identification, including, without limitation, the LMU OneCard and a government-issued identification card. This includes providing false information or impersonating another student to gain access to an area or building on campus that is providing alcohol to those of legal drinking age.

**J.** Intentionally initiating or causing to be initiated any false report, warning or threat to the University, the University Community or members thereof, University property, University facilities or University-approved Activities. Knowingly providing false information to an LMU staff member during the investigation or adjudication of a potential violation of the Student Conduct Code.

**K.** Theft of property, University funds or services on University Premises, University facilities or at University-approved Activities or knowingly possessing stolen property on University Premises, University facilities or at University-approved Activities.

**L.** Use, possession, storage, being under the influence or knowingly being in the presence of any controlled substance or illegal drug, misuse of prescription drug(s), possession or use of Salvia divinorum, possession or use of drug-related material(s), including, but not limited to, drug pipes, bongs, grinders, scales or other drug paraphernalia or possessing or using any substance or material that contains toluene or has toxic qualities similar to toluene (i.e. spray paints, glue, paint thinner) for the purpose of breathing, inhaling or ingesting to induce a state of intoxication or euphoria.

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

**N.** Use, possession or storage of any Weapon on campus, University Premises, University facilities or at University-approved Activities or reasonably adjacent or proximate

to campus, University Premises, University facilities or University-approved Activities.

**O.** Intentionally or recklessly misusing, disabling, tampering with, covering or damaging University-related fire safety equipment, doors and signs.

**P.** Use, possession or storage of fireworks, blowtorches and/or other incendiary materials on campus, University Premises, University facilities, at University-approved Activities or reasonably adjacent or proximate to campus, University Premises, University facilities or University-approved Activities. Starting a fire or causing a fire to be started on campus without prior authorization from DPS.

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

**R.** Unauthorized presence in or use of University Premises, facilities or property including, but not limited to, classrooms, labs, study rooms, University-assigned housing, roofs, balconies, ledges and trellises, for any unsanctioned activities (including, but not limited to, holding events, unofficial organizational meetings, sleeping, use as a domicile, etc.). Scaling perimeter fencing on or surrounding campus.

**S.** Engaging in disorderly conduct or lewd, indecent or obscene behavior.

**T.** Any behavior that disrupts, causes disruption or adversely affects University-related technology or information technology services; damages, alters or destroys University or related data or records; adversely affects University or related computer software, programs, systems or networks; the use of data, computer systems or networks to devise or execute any scheme to defraud, deceive, extort or wrongfully obtain money, property or data; the intentional introduction of any contaminant into any University or related network or computers. Unlawful downloading or use of patented, copyrighted or trademarked works, or violating the [Information Technology Services' \(ITS\) Acceptable Use Policy](#).

**U.** Violating the terms of any disciplinary sanction imposed in accordance with the Code.

#### **IV. Sanctions**

Violations of the provisions of Section III (Prohibited Conduct) of the Code will result in the imposition of sanctions in service of the mission of this Code to both educate and repair potential harm to the community. Factors to be considered in the determination of sanctions include,

but are not limited to, the nature and severity of the violation, the present demeanor, contrition and past disciplinary record of the Respondent, including the willingness to accept responsibility for their behavior, the nature of the offense and the severity of any damage, injury or harm resulting from it, as well as the ability to potentially repair that harm and any and all health and safety considerations of the University Community.

As specified in Section VII(A) cases are heard through the severe sanctioning hearing process when suspension or dismissal from the University are potential sanctions. All other cases are brought through the general conduct process as specified in Section VI(A).

#### **A. Community Service/Education Project**

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

#### **B. Conduct Probation**

The Student is no longer in “good conduct standing” with the University for duration of probation. The Student is given written notice that further infractions of the Code or University policies may result in further, increased sanctions. The Student may also be restricted from eligibility for or participation in present and future Student and University activities, including, but not limited to, co-curricular and organizational activities, ASLMU positions and activities, Resident Advisor positions, Study Abroad programs, orientation leadership positions and other Student leadership positions.

#### **C. Dismissal from the University**

Permanent separation of the Student from the University. Permanent notification may appear on the Student’s University transcript. The Student will also be banned from campus and University Premises. The sanction of dismissal requires the review and approval by the Senior Vice President for Student Affairs, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions. Notification of dismissal may be sent to the appropriate University offices and officials.

#### **D. Educational Programs**

The Student is assigned to attend educational programming either in person or online to increase awareness of the effects and issues related to alcohol, drugs and other behaviors. When possible, a Student-run Alcoholics Anonymous, as well as Al-Anon, is offered on campus either in person or virtually

through video-conference.

#### **E. Fines**

A monetary fine may be imposed or assessed to a Student’s account.

#### **F. Housing Probation**

The Student is given written notice that any further infractions of the Code, University policies or Housing policies may result in removal from University housing and/or determination that the Student be ineligible for or restricted from present and future housing opportunities. The Student is required to meet with their Resident Director or Housing designee within two weeks of being placed on housing probation.

#### **G. Ineligibility for Graduation and/or Participation in Ceremonies**

Prohibition from participation in graduation ceremonies.

#### **H. Meetings**

Meetings with a University staff or faculty member may be assigned as an educational sanction to provide the Student with an opportunity to discuss strategies for success so as to prevent future Student Conduct Code violations. Students may be asked to meet with an individual more than once.

#### **I. No Contact Orders**

The Student is given written notice not to have verbal, written or electronic contact with another LMU community member for a specified period of time, which may include their remaining tenure at the University. This order includes all interpersonal communication, including, but not limited to, social interaction, telephone correspondence, email, text message and/or social networking website.

#### **J. Parental/Guardian Notification**

Students in violation of alcohol or drug policies may be required to write a letter to their parents (or legal guardian) describing the incident and what outcomes resulted from the conduct process.

#### **K. Removal from or Relocation within University Housing**

Students may be removed from University Housing facilities or a particular University Housing facility, be relocated to another University Housing facility or have their University Housing license agreement terminated. If removed, a Student

may be prohibited from entering University Housing facilities and ineligible for future University Housing.

#### **L. Restitution**

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

#### **M. Restriction from Campus, University Premises, Facilities or Events**

Excluding a Student from campus, University Premises, University facilities or events means that the Student is not allowed to be on the campus, University Premises, at University facilities or in attendance of an event for or during specific time periods. Restrictions may include authorizing access to limited University Premises or facilities for specific purposes (e.g. to attend class) or being required to fulfill academic requirements via online educational tools.

#### **N. Suspension from the University**

Separation of the Student from the University for a stated period with an opportunity for reinstatement consideration. Permanent notification of the suspension may appear on the Student's University transcript. While suspended, the Student is ineligible for and shall not participate in any University-approved Activities and may be excluded from campus and University Premises. Suspended time will not count against any time limits of graduate schools or programs for completion of a graduate degree. The sanction of suspension requires the review and approval of the Senior Vice President for Student Affairs, who may alter, defer or suspend this recommended sanction. Any alteration, deferral or suspension of this sanction may be subject to specified conditions. Notification of suspension may be sent to the appropriate University offices and officials.

#### **O. Warning**

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

#### **P. Other Sanctions**

The University and its Conduct Administrators and Hearing Boards retain the right to impose additional and/or different sanctions according to the specific circumstances and needs of a situation including, but not limited to, loss of on-campus

driving/parking privileges, loss of network privileges, other conditions and restrictions.

### **V. Roles and Responsibilities**

Within the Student conduct process several members of the University Community play critical roles and have varying responsibilities.

#### **A. The Roles and Responsibilities of the Conduct Administrators and Hearing Boards.**

1. Hearings or other proceedings as provided in the Code may be held before a Conduct Administrator, Hearing Panel or an applicable Hearing Board, and may utilize videoconferencing.
2. The Senior Vice President for Student Affairs, or designee, shall appoint Conduct Administrators and Hearing Boards.
3. The Conduct Administrators and Hearing Board members shall adhere to procedures consistent with provisions in this Code. All procedures are approved by the Senior Vice President for Student Affairs, or designee.
4. In the event of a vacancy or disqualification of a Conduct Administrator or Hearing Board member, the conduct matter shall be assigned to another Conduct Administrator or Hearing Board by the Senior Vice President for Student Affairs, or designee.
5. Conduct Administrators shall complete annual training provided by OSCCR.
6. Conduct Administrators may be called upon to participate in the annual review of the Student Conduct Code.

#### **B. The Roles and Responsibilities of the Student Conduct Appeal Committee.**

1. Appeals, as provided in this Code, are held before the Student Conduct Appeal Committee.
2. The Student Conduct Appeal Committee shall adhere to procedures consistent with provisions in this Code. Procedures are approved by the Senior Vice President for Student Affairs, or designee.
3. The Student Conduct Appeal Committee members shall be selected as follows:
  - a. The ASLMU President shall recommend members from the undergraduate Student body;

b. The GSLMU President shall recommend members from the graduate Student body;

c. The RHA President shall recommend members from RHA;

d. The Student Housing Office shall recommend Resident Ministers as members;

e. The Senior Vice President for Student Affairs, or designee, shall appoint a minimum of two faculty/staff members;

f. Each meeting, the Senior Vice President for Student Affairs, or designee, shall designate a Presiding Chair over the appellate process from the members of the Student Conduct Appeal Committee;

g. The Senior Vice President for Student Affairs, or designee, shall serve as an ex officio member.

4. The Senior Vice President for Student Affairs, or designee, shall appoint all members of the Student Conduct Appeal Committee.

5. The term for the Student or faculty/staff committee members shall be one year. Members may be re-appointed for additional terms.

6. Prior to participating in Student Conduct Appeal Committee deliberations, new members of the Student Conduct Appeal Committee will participate in an orientation session offered at least once each academic year by the Senior Vice President for Student Affairs, or designee.

7. Student members of the Student Conduct Appeal Committee who are charged with any violation of the Code, the Student Sexual and Interpersonal Misconduct Policy, the Student Title IX Policy or with a criminal offense may be suspended from their committee positions by the Senior Vice President for Student Affairs, or designee, while charges are pending against them. Students found responsible for any such violation or offense may be disqualified from any further participation in the University conduct system by the Senior Vice President for Student Affairs, or designee.

8. In the event of a vacancy, suspension or disqualification of a Student Conduct Appeal Committee member, the Senior Vice President for Student Affairs shall fill the vacancy.

9. Student members of the Student Conduct Appeal Committee may be called upon to participate in the annual

review of the Student Conduct Code.

## **VI. Student Conduct Process**

### **A. Referrals**

Suspected violations of the Code, including those discovered during the adjudication and/or investigation of Student Conduct Code proceedings, shall be submitted to OSCCR. Persons making such referrals are required to provide information pertinent to the case and may be asked to appear before a Conduct Administrator/Hearing Board. Anonymous reports will be referred to DPS, who will investigate. If enough independent information is corroborated, then Student Conduct Code proceedings may be initiated.

### **B. Student Conduct Code Hearings**

OSCCR shall review referrals to determine whether or not there is sufficient evidence to charge a Student with a violation of the Code and whether to hold a Student Conduct Code hearing. In accordance with applicable Title IX regulations, in cases involving allegations of Title IX Sexual Harassment, a Formal Complaint will need to be filed, and the Title IX Coordinator, or designee, shall make the determination of whether the Formal Complaint will move to the Title IX conduct process. For more information relating to the process, procedures and adjudication of allegations of Title IX Sexual Harassment please review the Student Title IX Policy or the Faculty/Staff Title IX Policy.

### **C. Procedural Protections**

*Students charged with Code violations of misconduct that do not present the potential for severe sanctioning (suspension or dismissal from the University) are accorded the following procedural protections:*

1. Complaints will be promptly investigated and adjudicated following the procedures set out in the Code;

2. A written or electronic notice (generally, via the official University e-mail account) of alleged facts underlying the misconduct charge(s), the location of the Student Conduct Code, a scheduled hearing with a Conduct Administrator or applicable Hearing Board (or instructions on how to schedule the hearing) and timely notice of that hearing. If a Student fails to appear after receiving timely notice, a determination of the charged misconduct will be made based upon the facts and evidence submitted in support of the alleged misconduct. Failure to check one's University e-mail account is not sufficient justification for not

attending a scheduled hearing;

3. Reasonable access to the evidence supporting the charge will be made available to Students prior to a hearing;

4. Students who wish to have an Advisor must inform the presiding Conduct Administrator in writing or via e-mail at least two Days prior to the scheduled date of the hearing. The Advisor's role is to support Students during the conduct process, however, they may not address the Conduct Administrator/Hearing Board or play any other role during hearings (including appear as a Witness). All communication involving Advisors (unless otherwise provided for in this Code) must be between the Advisor and Student. An Advisor may not appear in lieu of the Student.

5. Students may have the assistance of fact (non-expert) Witnesses. Expert Witnesses are not allowed and character Witnesses are disfavored. The Conduct Administrator/Hearing Board must be notified in writing at least two Days prior to the scheduled date of the hearing that the Student plans to provide Witnesses. These Witnesses must have relevant knowledge and information pertaining to the case;

6. A hearing during which the Conduct Administrator/Hearing Board shall again specify the facts underlying the alleged misconduct and provide the Student the opportunity to review the information gathered by the University, including time, date and place where the behavior is alleged to have occurred, that makes up the basis for the charge(s). Students shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the information gathered by the University in support of the charge(s), including the right to offer counter or explanatory information. Students may utilize the assistance of an Advisor during the hearing (see Section II(Q)(1) for specifics of who is eligible to serve as an Advisor in these proceedings);

7. During the hearing, the Conduct Administrator/Hearing Board shall explain the University's conduct system and Student rights and make available the Student Conduct Code. The Conduct Administrator/Hearing Board shall also explain the private nature of the conduct process (Students' statements remain private except in the event of multiple involved parties and/or Witnesses, in which case newly presented information may be mutually shared) and the fact that the hearing may become a part of the file relating to the case;

8. If a further hearing or Witness meeting is necessary, a supplemental proceeding will be scheduled;

9. A Student's conduct history will be considered when assigning sanctions for subsequent violations. Increased sanctions may therefore be assigned based on previous violations of all types, not just those of a similar type.

10. Unless required by law, privacy laws prevent notification or disclosure to Student Complainants about the prior conduct history, if any, of the Respondent;

11. For compliance with Clery Act record retention requirements, all official conduct-related correspondence will be retained for a minimum of seven years;

#### **D. Hearing Process**

1. The Conduct Administrator/Hearing Board has the right to request the presence of and interview fact (non-expert) Witnesses;

2. Hearings will generally be private except for Conduct Administrators/Hearing Boards, Students and Advisors. Recording devices (audio and/or video) of any kind are not permitted for use by the Students, Witnesses or Advisors;

3. Prior to the hearing, Students may challenge a Conduct Administrator/Hearing Board member on the grounds of personal bias or conflict of interest. Any such challenge must be made in writing to the Dean of Students, or designee, not less than two Days prior to the hearing. The disqualification challenge of a Conduct Administrator/Hearing Board member shall be determined by the Dean of Students, or designee. If a challenge is sustained, a new Conduct Administrator/Hearing Board member will be assigned;

4. The Conduct Administrator/Hearing Board shall exercise control over the procedures to avoid needless consumption of time. Any person, including the Advisor, who is disruptive during the hearing, refuses to follow the rules or procedures and/or who fails to adhere to the admonitions and rulings of the Conduct Administrator/Hearing Board may be excluded from the proceedings;

5. All participants in a conduct hearing shall be asked to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section III(J) of the Student Conduct Code;

6. The decision of the Conduct Administrator/Hearing Board shall include a summary of the testimony, findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review pursuant to the appeal procedures (Section IX);

7. The burden of proof shall be upon the Complainant who must establish the responsibility of the Respondent by a Preponderance of the Evidence;

8. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to the Code. The Conduct Administrator/ Hearing Board shall give effect to recognized rules of privacy (including FERPA) and privilege, but may otherwise admit matters into evidence that a reasonable person would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded, may not be considered in the decision making process or may be afforded less weight than other evidence presented;

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

10. Sanctions shall be levied if it is determined that the Student is responsible for the alleged violation(s) by a Preponderance of the Evidence. If not, the charge(s) will be dismissed;

11. In accordance with privacy laws, Student Complainants will not be notified of the decision rendered by the Conduct Administrator/Hearing Board, and have no appeal rights.

## **VII. Severe Sanctioning Conduct Process**

### **A. Procedural Protections**

*Students charged with violations which may result in severe sanctioning (suspension or dismissal from the University), are accorded the following procedural protections:*

1. Complaints will be promptly investigated and adjudicated following the procedures herein outlined;

2. A written or electronic notice of misconduct charges, including the location of the Student Conduct Code;

3. The Respondent (and separately the Complainant if applicable) who wish to have an Advisor should inform OSCCR in writing at least two Days prior to the scheduled date of the hearing preparation meeting. The Advisor's role is to support Students during the conduct process, which may include the hearing preparation meeting as well as the hearing with cross examination. Advisors may not address the Hearing Panelists or play any other role during hearings. All communication involving Advisors during hearings must be between the Advisor and Student. An Advisor may not appear in lieu of the Student

to either the hearing preparation meeting or the cross examination hearing;

4. A scheduled hearing preparation meeting with an OSCCR administrator at which:

a. The Respondent (and separately the Complainant if applicable) may review all the information gathered by the University, including time, date and place where the alleged behavior/misconduct is alleged to have occurred, that makes up the basis for the charge(s);

b. The Respondent (and separately the Complainant if applicable) may ask the OSCCR administrator questions regarding the conduct process;

c. In the event a Respondent (or separately a Complainant if applicable) provides Witnesses during the hearing preparation meeting, then the names of those Witnesses will be provided to DPS for formal interview, and the investigation report will be supplemented with their statements. Once the investigation report is updated with any additional Witness interviews and information, the Respondent (and separately the Complainant if applicable) will be permitted another opportunity to review the updated report, evidence and information;

d. The OSCCR administrator shall explain the hearing processes to the Respondent (and separately the Complainant if applicable) including cross examination processes and procedures and Student rights and make available the Student Conduct Code. The OSCCR administrator shall also explain the private nature of the conduct process (Student statements during the hearing shall remain private except in the event of multiple involved parties, in which case newly presented information related to another Respondent may be mutually shared) and the fact that the hearing may become part of the file relating to the case;

e. The Complainant (if applicable) is informed that no conduct record will be generated in regards to the Complainant, however the Complainant may be permitted future access to the conduct case file;

5. A hearing with cross examination (conducted via videoconferencing) during which the Hearing Panel shall specify the nature of the alleged misconduct and provide the Respondent (and Complainant if applicable) the opportunity to again review the information and evidence gathered by the University that make up the basis for the charge(s). Students shall have the opportunity to present evidence relevant to the alleged misconduct and to

respond to the information gathered by the University, including the right to offer counter information. The University reserves the right to postpone the hearing if new information is presented that had not been made previously available to all parties, and a supplemental hearing will be scheduled.

The Hearing Process will proceed where a Respondent fails to appear after timely notice and a determination of the charged misconduct made based upon the facts and evidence submitted in support of the alleged misconduct at that hearing (failure to check one's e-mail is not sufficient justification for not attending a scheduled hearing). A Student Complainant who fails to appear after timely notice will be deemed to have abandoned their complaint and the charges will be dismissed unless the case and the facts and evidence presented in support of the charged misconduct independent of the Complainant warrants the continuation of the conduct process;

6. The Respondent will be permitted the opportunity to provide questions to be asked of a Complainant (if applicable), and any Witnesses that appear either at the request of the Respondent, the Complainant (if applicable) or the University, in order to assess the credibility of the information offered. The Respondent will be asked to provide their questions in advance of the hearing, and the Conduct Administrators on the Hearing Panel will be permitted to disallow a question asked by the Respondent if the Respondent is unable to provide sufficient rationale for the relevance of the question. Respondents will be granted the opportunity to submit additional questions in response to statements made during the hearing, which the Conduct Administrators will review for relevance when proffered and ask if appropriate;

The Complainant (if applicable) will be permitted the opportunity to provide questions to be asked of the Respondent, and any Witnesses that appear either at the request of the Complainant, the Respondent or the University, in order to assess the credibility of the information offered. The Complainant will be asked to provide their questions in advance of the hearing, and the Conduct Administrators on the Hearing Panel will be permitted to disallow a question asked by the Complainant if the Complainant is unable to provide sufficient rationale for the relevance of the question. Complainants will be granted the opportunity to submit additional questions in response to statements made during the hearing, which the Conduct Administrators will review for relevance when proffered and ask if appropriate;

7. Both the Respondent (and the Complainant if

applicable) will be permitted the opportunity to make a closing statement at the conclusion of the evidentiary portion of the hearing;

8. If a further hearing is necessary, a supplemental proceeding will be scheduled;

9. A Student's conduct history will be considered when assigning sanctions for subsequent violations. Increased sanctions may therefore be assigned based on previous violations of all types, not just those of a similar type.

10. Unless required by law, privacy laws prevent notification or disclosure to Student Complainants about the prior conduct history, if any, of the Respondent;

11. For compliance with Clery Act record retention requirements, all official conduct-related correspondence will be retained for a minimum of seven years.

## **B. Hearing Process**

The following procedural guidelines shall be applicable in conduct proceedings with potential severe sanctioning (suspension or dismissal from the University):

1. The Conduct Administrators on the Hearing Panel may request Public Safety interview fact (non-expert) Witnesses;

2. LMU reserves the right to copy the Respondent's (or separately the Complainant's) Advisors on communication regarding scheduling of hearing preparation meetings, review of reports and scheduling of the hearing (See Section II(Q)(1) for specifics of who is eligible to serve as an Advisor in these proceedings);

3. A hearing with cross examination (conducted via videoconferencing) during which the Hearing Panel shall specify the nature of the alleged misconduct and provide the Respondent (and Complainant if applicable) the opportunity to again review the information and evidence gathered by the University that make up the basis for the charge(s). Respondents (and Complainants if applicable) shall have the opportunity to present evidence relevant to the alleged misconduct and to respond to the information gathered by the University, including the right to offer counter information.

Hearings will generally be private except for the Hearing Panel, parties and Advisors. Hearings will be recorded via videoconferencing software utilized by the Hearing Panel only. Recording devices (audio and/or video) of any kind are not permitted for use by the Students, Witnesses or

Advisors. Respondents (and Complainants if applicable) are expected to be visible to the Conduct Administrators throughout the hearing (with the exception of requested breaks). The recording of the hearing will be part of the conduct file and may be accessible to the Respondent (and Complainant if applicable) by contacting OSCCR. Transcriptions of hearings will not be made available;

4. Prior to the hearing, Students may challenge a Hearing Panel member on the grounds of a conflict of interest. Any such challenge must be made in writing to the Dean of Students, or designee, not less than two Days prior to the hearing. The disqualification challenge of a Hearing Panel member shall be determined by the Dean of Students, or designee. If a challenge is sustained, a new Conduct Administrator will be assigned;

5. The Conduct Administrators on the Hearing Panel shall exercise control over the procedures to avoid needless consumption of time. Any person, including an Advisor, who is disruptive during the hearing, refuses to follow the rules or procedures and/or fails to adhere to the admonitions and rulings of the Hearing Panel may be excluded from the proceedings;

6. The decision of the Conduct Administrators on the Hearing Panel shall include a summary of the testimony and evidence in support of the findings, the findings, decision and applicable sanction(s). The decision shall be sufficiently detailed to permit review pursuant to the appeal procedures (Section IX) and will be sent to the Respondent (and the Complainant if applicable). The decision will not be sent to the Respondent's Advisor (or Complainant's Advisor if applicable);

7. All participants in a conduct hearing shall be required to affirm that their testimony is truthful and may be subject to charges of providing false information pursuant to Section III(J) of the Code;

8. The burden of proof shall be upon the Complainant who must establish the responsibility of the Respondent by a Preponderance of the Evidence;

9. Except as provided herein, formal rules of evidence and discovery shall not be applicable in proceedings conducted pursuant to the Code. The Hearing Panel shall give effect to recognized rules of privacy (including FERPA) and privilege, but may otherwise admit matters into evidence that a reasonable person would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded, may not be considered in the decision making process or may be afforded less weight than other evidence

presented;

10. Statements (written or provided to DPS verbally) will not be admitted for any purpose unless the Witness appears at the hearing and is subject to cross examination;

11. Sanctions shall be levied if it is determined that the Student is responsible for the violation(s) by a Preponderance of the Evidence. If not, the charge(s) will be dismissed. Final decisions may be reviewed by the Senior Vice President for Student Affairs, or designee. The reviewing administrator may reduce, defer or suspend the decision and sanction, or impose conditions with any change, deferral or suspension.

### **VIII. Restorative Justice Process**

OSCCR may opt to postpone initiation or subsequent continuation of the conduct process in matters deemed potentially appropriate for a Restorative Justice Process.

The Restorative Justice Process is voluntary for all participants, and the appropriateness of such process must be concurred in by the University, and allows a Respondent to accept responsibility for the harm caused. As part of the successful completion of a Restorative Justice Process, the Respondent will not be charged with a violation of the Student Conduct Code . The Restorative Justice Process is designed to redress the harm caused by the underlying conduct and prevent its recurrence in a manner that meets the needs of the Complainant and affected parties while still maintaining the safety of the overall campus community.

If a Restorative Justice opportunity is not accepted or fully completed by all parties, then the matter may be referred back to OSCCR and the the conduct process may be initiated at that time.. Determination of eligibility for the Restorative Justice Process will be left to the Associate Dean of Students, or designee, and the Associate Dean, or designee, reserves the right to terminate the process at any time.

### **IX. Appeal Procedures**

**A.** Any decision by a Conduct Administrator, Hearing Panel or Hearing Board or disciplinary sanction assigned may be appealed by the Respondent to the Student Conduct Appeal Committee. In proceedings involving potential severe sanctioning (suspension or dismissal from the University) Student Complainants (if applicable) may also appeal the decision. Appeals to the Student Conduct Appeal Committee are limited to one or more of the following grounds:

1. The sanction is substantially disproportionate to the offense;

2. The procedures provided for in the Code were not materially followed resulting in significant prejudice to the Appellant that effectively denied Appellant a fair hearing;
3. New relevant evidence is available, which in the exercise of reasonable diligence could not have been produced at the time of the hearing; or
4. The decision is not supported by substantial evidence.

**B.** All petitions for appeals shall be submitted to:

The Student Conduct Appeal Committee  
 c/o The Office of Student Conduct & Community  
 Responsibility  
 Malone Student Center 355  
[OSCCR@lmu.edu](mailto:OSCCR@lmu.edu)

**C.** Appeal petitions must be submitted by the involved Student party (Respondent or Complainant, if applicable) via written statement and received by the Student Conduct Appeal Committee c/o OSCCR within five Days from the date of the imposition of the original decision. Appeal petitions may not be submitted by Advisors or third parties (including, without limitation, lawyers or Law School Students) on behalf of the involved Student party. Failure to file the appeal petition within the limitations period results in the decision becoming final and conclusive.

Failure to comply with these procedures may result in the rejection of an appeal petition.

**D.** The appeal petition must be accompanied by a written statement in support of the appeal. Upon notification of the receipt of a proper and timely appeal petition, the Student Conduct Appeal Committee shall be convened. If an appeal is made in a conduct case involving the potential for severe sanctioning (suspension or dismissal from the University), the non-appealing party (either Complainant or Respondent) will receive access to the submitted appeal petition, and be afforded the opportunity to submit a timely written statement in opposition to the appeal.

**E.** In appeals of decisions in conduct cases without the potential for severe sanctioning (suspension or dismissal from the University), the Student Conduct Appeal Committee will review the DPS investigation report or documentation of alleged behavior, the Conduct Administrator's/Hearing Board's summary of the testimony, findings and decision and the recommended sanction, the Student's disciplinary history and the written statement of the Student filed with the appeal petition.

**F.** In appeals of decisions in conduct cases involving the

potential for severe sanctioning (suspension or dismissal from the University), the Student Conduct Appeal Committee will review the DPS investigation report, the video and audio recording of the hearing, the findings, decision and recommended sanctions (if applicable), the Respondent's disciplinary history and the written statement of the Respondent and of the Complainant (if applicable) filed with the appeal petition or in response to the appeal petition.

**G.** In appeals of conduct cases involving the potential for severe sanctioning (suspension or dismissal from the University) in which the Complainant is a student, both parties shall have the opportunity to submit an appeal. Absent an appeal by both parties, the non-appealing party shall have the opportunity to submit a written statement in either support or opposition to the extant appeal petition. Both parties will be notified of the results of the appeal.

**H.** Concurrent with the filing of an appeal petition, Respondents (or Complainants if applicable) may challenge a member of the Student Conduct Appeal Committee on the grounds of personal bias. All disqualification challenges of Student Conduct Appeal Committee members shall be determined by the Senior Vice President for Student Affairs, or designee. If a challenge is sustained, the proceedings will continue without the participation of the disqualified member in the event that a quorum exists with the remaining members. If disqualification results in the lack of a quorum a new Committee will be assembled without the previously challenged member.

**I.** The Student Conduct Appeal Committee may, but is not required to, request either the Conduct Administrator/Hearing Board or the involved Student parties to submit additional information in writing. If the Conduct Administrator/Hearing Board or any Student parties is/are requested to submit additional information, the Student parties (if applicable) not so requested shall be entitled to reply in writing to the additional written information supplied to the Student Conduct Appeal Committee.

**J.** So long as supported by the evidentiary record, the Student Conduct Appeal Committee shall give deference to the determinations of the Conduct Administrator, Hearing Panel or Hearing Board. The Student Conduct Appeal Committee shall not alter the underlying decision of the Conduct Administrator, Hearing Panel or Hearing Board if supported by substantial evidence and reasonable inferences arising therefrom. If the appeal submitted by the Respondent or Complainant is granted, the Committee may make one of the following recommendations to the Senior Vice President of Student Affairs, or designee:

1. Recommended sanctions may be reduced or adjusted, if

found to be substantially disproportionate to the offense or affirmed;

2. The case may be referred back to the Conduct Administrator, Hearing Panel or Hearing Board who made the original decision to consider new, significant relevant evidence, which in the exercise of reasonable diligence could not have been produced at the time of the hearing;

3. The case may be referred back to the Senior Vice President for Student Affairs, or designee, for reassignment to a new Conduct Administrator or Hearing Panel if specified procedural errors in interpretation of the Policy resulted in significant prejudice to the Appellant that effectively denied the Appellant a fair hearing;

4. The determination may be reversed, if the decision is not supported by substantial evidence.

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

**L.** The Student Conduct Appeal Committee may take presumptive notice of matters that would be of general knowledge to other University Students.

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

**N.** Unless otherwise determined by the Senior Vice President for Student Affairs, or designee, the imposition of sanctions will be deferred during the appeal process.

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

**P.** Procedural, evidentiary and final recommendations of the Student Conduct Appeal Committee shall be by majority vote of the members present and voting. A tie vote in an appeal proceeding will result in affirmation of the original decision. Procedural or evidentiary issues in Student Conduct Appeal Committee proceedings shall be determined by the Committee's presiding chair in accordance with the Code.

## **X. Exceptional Procedures**

**A.** Violations of the Code that in ordinary circumstances may not result in a sanction of suspension or dismissal may nonetheless result in a sanction of suspension or dismissal if, in the view of the Senior Vice President for Student Affairs, or designee, suspension or dismissal is appropriate under all the facts and circumstances (e.g. intentional, malicious or aggravated violation, history of repeated Code violations, etc.). Such incidents will be adjudicated following the processes and procedures outlined in Section VII.

**B.** Final decisions of the Conduct Administrator, Hearing Panel or Hearing Board recommending a suspension or dismissal from the University shall be reviewed and approved by the Senior Vice President for Student Affairs, or designee.

**C.** The Senior Vice President for Student Affairs, or designee, may suspend a Student for an interim period pending Student Conduct Code proceedings or medical evaluation. Such interim suspension becomes immediately effective without prior notice whenever there is reasonable suspicion that the continued presence of the Student on the University campus poses a substantial threat to the health, safety or well-being of members of the University Community or to unreasonably interfere with the stability and continuance of normal University functions.

**D.** A Student suspended on an interim basis shall be given an opportunity to appear personally for an interim suspension hearing before the Senior Vice President for Student Affairs, or designee, within three Days from the effective date of the interim suspension to present their case to discontinue the interim suspension in accordance with Section X(E) below.

**E.** An interim suspension hearing shall determine whether the interim suspension should continue through the hearing and determination on the merits of the Student Conduct Code charge(s) because the alleged misconduct and surrounding circumstances reasonably indicate that the continued presence of the Student on campus pending the hearing and determination of the Student Conduct Code charge(s) poses a substantial threat to the health, safety or well-being of members of the University Community or unreasonably interferes with the stability and continuance of normal University functions.

**F.** If, at the interim suspension hearing referenced in Section X(E) above, the Student's continued presence is determined to pose a substantial threat to the health, safety or well-being of members of the University Community or to unreasonably interfere with the stability and continuance of normal University functions, the Senior Vice President for Student Affairs, or designee, may continue the interim suspension through the conclusion of the proceedings on the alleged

Student Conduct Code violation.

**G.** Unless otherwise determined by the Senior Vice President for Student Affairs, or designee, the imposition of sanctions will be deferred during the appeal process.

**H.** A conduct hold may be placed on a Student's file/account and a notation may be entered on the Student's University transcript when the Student has been dismissed or suspended from the University or has officially or unofficially withdrawn, taken a leave of absence or has been academically disqualified while Student Conduct Code proceedings are pending. In addition, when the Student has incomplete sanctions or open conduct cases and leaves the University for any reason, including, but not limited to, leave of absence, withdrawal or academic disqualification, a conduct hold will be placed on the Student's file/account and the Student may also be prohibited from entering campus during the period of the conduct hold. This conduct hold must be cleared before a Student will be allowed to return to the University.

**I.** In cases regarding allegations of sexual or interpersonal misconduct (including Dating Violence, Domestic Violence and Stalking) a notation may be entered on the Respondent's University transcript at the discretion of the University if the Student is found responsible for a specific Title IX Sexual Harassment and/or sexual or interpersonal misconduct charge.

**J.** Prior to graduation, Students charged with an alleged Code violation in which the charges have not yet been adjudicated, may in the University's discretion be prohibited from graduating or participating in graduation ceremonies until the Student Conduct Code proceedings have been adjudicated and, if found responsible, sanctions completed.

## **XI. Conduct Files and Records**

**A.** Case referrals may result in the development of a conduct file in the name of the Respondent that may be voided if the Respondent is found not responsible for the charges.

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

**C.** Conduct records may be voided and any records or notations related thereto purged by the Dean of Students for good cause following consideration of a written petition of Respondent. Among the factors considered by the Dean of Students in review of such petitions shall be:

1. The nature of the charge;

2. The period of time that has elapsed since the violation;

3. The present demonstrated demeanor and contrition of the Respondent;

4. The demonstrated conduct of the Respondent subsequent to the violation; and/or

5. The nature of the violation and the severity of any damage, injury or harm resulting from it.

Decisions on petitions under this subsection are at the discretion of the Dean of Students.

**D.** When Students sign a release offered by internal (Study Abroad, University offices, etc.) or external (graduate schools, prospective employers, etc.) entities, this release allows the University to release Student disciplinary information to these parties. Upon receipt of a request from an internal or external entity, and with appropriate signed release by the subject student, the University reserves the right to report only those records in which violations resulted in a sanction of probation, suspension or dismissal from the University.