



SCHOOL OF LAW

**Mercer Law
Student Honor Code**

&

**Mercer University
Student Code of Conduct**

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STUDENT HONOR CODE & CODE OF CONDUCT

1. MERCER LAW STUDENT HONOR CODE

APPROVED BY FACULTY JANUARY 25, 1995; APPROVED BY STUDENT BODY MARCH 7, 1995

[N.B.: This is distinct from the Mercer University Conduct Code, which also applies to Mercer Law Students. See below.]

PREAMBLE

The School of Law expects students to deal ethically and honestly with all members of the law school community, including students, faculty, staff, and administrators. This Code describes, among other things, the obligations of students, faculty, and administrators; the composition and jurisdiction of the Honor Council; the procedures to be followed in determining whether a student has violated the Code; and the sanctions that may be imposed.

Although the failure to report one's own act or the act of another Student that may constitute a violation of this Code is not itself a violation of this Code, it is the sense of the Law School community that a Student should report conduct that he or she reasonably suspects does constitute a violation.

Section I. Definitions

- A. Academic Year - a term beginning immediately after the Law School graduation date and ending on the Law School graduation date of the following year.
- B. Assistant Dean - the Assistant Dean for Student Affairs, or that person to whom the Dean has delegated the functions of that office.
- C. Chief Justice - the Student Justice serving as the Chair of the Honor Council. (See SECTION VI.A.3.)
- D. Code - the Walter F. George School of Law Student Honor Code.
- E. Complaint - the formal charging document submitted to the Council by the Investigating Committee when it finds probable cause to bring a reported violation to a hearing. (See SECTION VII.G.3.)
- F. Council - the Honor Council. (See SECTION VI.)
- G. Days - calendar days.
- H. Dean - the Dean of the School of Law.
- I. Defense Counsel - the individual who, by a Student's selection, shall represent the Student

during an investigation, hearing, or appeal. (See SECTION IV.A.2., SECTION VII.G.5.e., SECTION VIII.A., and SECTION X.D.)

- J. Investigating Committee - the committee consisting of one (1) Faculty Member (appointed by the Dean) and the Student Prosecutor who are charged with the duty to investigate possible violations of the Code. (See SECTION VII.E. and G.)
- K. Knowingly - A person acts knowingly, or with knowledge, with respect to the nature of his or her conduct or to the circumstances surrounding such conduct when he or she is aware of the nature of such conduct or that such circumstances exist. A person also acts knowingly, or with knowledge, with respect to a result of his or her conduct when that person is aware that the conduct is reasonably certain to cause that result.
- L. Law School – The Walter F. George School of Law.
- M. Magistrates – The Chief Justice of the Honor Council and the Designated Faculty Justice who, together, decide initially whether the Council shall exercise, decline, or postpone asserting jurisdiction. (See SECTION VII.B.-F.)
- N. Prosecutor – The Student member of the Investigating Committee chosen by the Student body to prosecute the Accused Student. (See SECTIONS VII.E. and G.7.)
- O. Purposefully – A person acts purposefully, or with purpose with respect to an act or to a result, when it is his or her intention, conscious object, or desire to engage in the act or to cause the result.
- P. Recklessly – A person acts recklessly, or is reckless, with respect to circumstances surrounding his or her conduct or the result of that conduct when he or she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur.
- Q. Report of an Alleged Violation-a report to the Assistant Dean for Student Affairs of a possible violation of the Honor Code. (See SECTION VII.)
- R. Student – any person who is, or has been, enrolled at the Walter F. George School of Law.
- S. University – Mercer University.

Section II. Standards of Conduct

- A. Prohibited Conduct in General
The following Student conduct shall constitute a violation of the Code:
 - 1. Any conduct pertaining to Law School or other University matters, including but not limited to academic matters, that evidences fraud, deceit, dishonesty, or an intent to obtain unfair advantage over other Students; and
 - 2. Failure to comply with duties imposed by this Code; and
 - 3. Any act that demonstrates dishonesty, lack of integrity, or lack of fitness to practice law.
- B. Before a Student may be found to have violated this Code, there must be clear and convincing

evidence that the Accused Student committed the act or acts constituting the violation and that the Accused Student did so purposefully, knowingly, or recklessly.

- C. Extenuating circumstances or good motives (such as, by way of example, pressure from school or outside work, family obligations, or to help a friend) are no defense to a violation of the Code but may be relevant to the determination of sanction. This section is not intended to disallow the defense that the required mental state was not present.
- D. It is not a defense to charges of violating this Code for a Student to claim he or she has not received, read, or understood this Code, or is otherwise ignorant of its provisions. A Student is held to have notice of this Code by enrolling in the Law School. (See the Law School Bulletin.) A copy of the Code will be distributed to each entering first-year Student, placed on file in the Law School Library, and made available from the Dean's Office.

Section III. Limitations

- A. Student's conduct is not subject to this Code unless it has occurred while the Student is enrolled at or was seeking admission to the Law School. The Council may not exercise jurisdiction over Student conduct unless a complaint is filed within one year of graduation, withdrawal, or dismissal of the Student from the Law School; however, this limitation shall not apply to conduct involving either serious academic misconduct, such as plagiarism or cheating, or serious misrepresentation with respect to the Student's application for enrollment in the Law School.

Section IV. Rights of an Alleged Violator or an Accused Student

- A. The following enumerated Rights of an Alleged Violator or an Accused Student consist of some of those rights which exist as a result of this Honor Code. Students may have additional rights, arising under other sections of this Honor Code or extrinsic authority, which this section of the Honor Code does not abridge.
 - 1. An Alleged Violator or Accused Student shall not be required to testify. (See SECTION VIII.F.)
 - 2. Before and during the investigation, hearing, and through any appeals, an Alleged Violator or Accused Student shall be entitled to representation by or assistance from a retained attorney or anyone else of the Student's choice who will represent or assist the Student as his or her lawyer. (See SECTION VII.G.5.e. SECTION VIII.A. and SECTION X.D.)
 - 3. A Justice of the Honor Council, the Prosecutor, and any Investigator may be voluntarily or involuntarily recused from a pending case due to failure or inability to satisfy the duties of his or her respective position in regard to an alleged violation. Recusal extends only to the Investigator's, Prosecutor's or Honor Council Justice's duties with respect to the pending case. A vote of four present and voting Justices is required for involuntary recusal. The Chief Justice shall at the same time notify the Accused Student and the President of the Student Bar Association or the Dean of the Law School. When a Student Honor Council Justice or the Prosecutor is removed, the President of the Student Bar Association shall, within three calendar days of receiving notice of such removal, appoint a replacement. When a Faculty Honor Council Justice

or Faculty Investigator is removed, the Dean of the Law School shall, within three calendar days of receiving notice of such removal, appoint a replacement.

4. Upon request, any Accused Student has the right to a copy of the recordation of the hearing. (See SECTION VIII.B.3.)

Section V. Adopted Policies of the Faculty and Administration

- A. Each Instructor shall identify with precision the materials (if any) Students may use during the Instructor's examination, and shall describe the condition (for example, annotated or unannotated) in which those materials may be used prior to the last regular meeting of the class; provided, however, that if an Instructor does not identify the materials usable during the final examination and their condition, Students must assume the examination in that course is "closed book," that is, that no materials will be permitted to be used by Students during the final examination. In order to eliminate ambiguity or uncertainty, the Instructor shall answer any Student question concerning those materials and shall communicate that same information to all Students in the course.
- B. Each Instructor shall include the instructions described in Paragraph A, above, in the written instructions accompanying the examination.
- C. Each Instructor shall exercise caution in preparing, administering, and discussing an examination to ensure that no Student receives an unfair advantage.
- D. Each Instructor and member of the Law School staff shall report to the Assistant Dean for Student Affairs any Student conduct that is reasonably believed to constitute a violation of this Code.
- E. It is the responsibility of the Dean, or his or her delegate, to supervise the imposition of any sanction directed by the Council or modified by any appeal.
- F. Failure on the part of an Administrator or an Instructor to comply with the adopted policies of the Faculty and Administration as outlined in this section shall not operate as a procedural defense. Such non-compliance, however, may operate as a substantive defense.

Section VI. The Honor Council

- A. The Honor Council shall consist of six Justices.

Three of the Justices shall be Students. Under procedural rules promulgated by the Student Bar Association, the Student body shall elect three Student Justices, one from each class. Student Justices shall serve a term of one academic year.

Three of the Justices shall be Law School Faculty Members appointed by the Dean of the Law School with the advice of the Faculty Policy Committee. The Dean shall designate one of the appointed Faculty Justices to serve as a Magistrate. The Dean shall not appoint an associate or assistant dean or him/herself to the Council. Faculty Members shall be appointed to a one academic year term.

The third-year Student Justice shall be the Chief Justice. If, at any time, the Chief Justice is unavailable to perform Chair duties, the elected second-year Justice shall

serve as the Chief Justice.

- B. The Council shall have jurisdiction over any conduct by a Student which is prohibited by this Code. At any time, for good cause, the Council may decline or postpone asserting jurisdiction over the conduct of a Student. For example, any of the following may constitute good cause for declining or postponing jurisdiction: (1) the fact that such conduct is being, or has been handled by federal, state, or local authorities; (2) assuming the allegation to be true, the conduct does not evidence a lack of honesty, integrity, or trustworthiness on the part of the Student; or (3) the alleged conduct is insufficiently connected with the affairs of the Law School or its Students.

Section VII. Report and Investigation of an Alleged Violation

- A. If a person wishes to initiate a disciplinary proceeding against a Student for violating this Code, the person must report the matter to the Assistant Dean for Student Affairs. The report of the suspected Code violation may be either written or oral. Such report may not be made anonymously; however, confidentiality relating to the identity of the reporter of an alleged violation shall be maintained, subject to the provisions of SECTION VII.B., E., F., and SECTION VIII.L. and M.
- B. Upon receipt of a report of a suspected Code violation, the Assistant Dean for Student Affairs shall promptly notify the Chief Justice of the Honor Council of the bare allegations contained in the report, omitting the names of the Alleged Violator and the person(s) making the allegation. Upon receiving this summary, the Chief Justice shall promptly inform the Faculty Magistrate of the substance of the report.
- C. A meeting to determine whether to decline or postpone asserting jurisdiction shall be held by the Chief Justice of the Honor Court and the designated Faculty Member, who serve as the Magistrates. For good cause, jurisdiction may be declined or postponed at this stage if both Magistrates vote to do so. For example, any of the following may constitute good cause for declining or postponing jurisdiction: (1) the fact that such conduct is being, or has been handled by federal, state, or local authorities; (2) assuming the allegation to be true, the conduct does not evidence a lack of honesty, integrity, or trustworthiness on the part of the Student; or (3) the alleged conduct is insufficiently connected with the affairs of the Law School or its Students. None but the Magistrates are permitted to attend this meeting.
- D. The Chief Justice shall promptly notify the Assistant Dean for Student Affairs of the decision of the Magistrates. Upon receipt of notice that the Magistrates have not declined or postponed asserting jurisdiction, the Assistant Dean for Student Affairs shall promptly notify the Alleged Violator of the allegation and that an investigation will begin. The Assistant Dean shall furnish the Student with an additional copy of this Code. The Assistant Dean shall notify the Prosecutor of the action of the Magistrates and furnish him or her with all documentary evidence collected to date.
- E. Upon receiving notification from the Chief Justice of the Council that the Magistrates have not declined or postponed jurisdiction, the Assistant Dean shall notify the Dean that an investigation is to be initiated. The Dean shall promptly appoint one Faculty Member to assist the Prosecutor. The Prosecutor and the appointed Faculty Member comprise the Investigating Committee. Unless recused, the appointed Faculty Member shall serve on the Investigating Committee for the duration of the investigation and probable cause

determination of the allegation(s) for which appointed. The Dean, Associate and Assistant Deans and Justices of the Council shall not be appointed to the Investigating Committee.

F. Upon receiving notice that the Magistrates either postpone or decline asserting jurisdiction, the Assistant Dean shall inform the reporter of an alleged violation. The Assistant Dean shall not notify the Alleged Violator of the Magistrate's action if jurisdiction is postponed or declined.

G. Duties of the Investigating Committee.

1. Except for good cause shown, the Investigating Committee shall complete its investigation of the alleged violation within fourteen (14) days of its formation.

2. The Committee shall have the power to question persons having pertinent information, examine any pertinent material, and question an Alleged Violator if he or she is willing to speak. If the Committee questions a Student whom the Committee reasonably believes has committed a Code violation, it shall advise the Student: (a) of the Student's right not to speak, (b) that what the Student says can be used against the Student, (c) that the Student has the right to consult an attorney or other representative before answering any questions, (d) that the Student has the right to have that representative present during the questioning, and (e) of the consequences for lying to the Committee or the Honor Council. At the request of the Investigating Committee, the Chief Justice of the Honor Council shall have the authority to subpoena Students to appear as witnesses before the Investigating Committee or the Council. Students who have been subpoenaed as witnesses have an obligation to appear and testify.

3. Upon completion of its investigation, the Investigating Committee shall meet in camera and determine whether probable cause exists to believe that a Student has violated this Code. No other person is permitted to attend this meeting. A finding of probable cause must be supported by both members of the Committee. The Prosecutor shall promptly report the determination of the Investigating Committee, whether affirmative or negative, to the Chief Justice of the Honor Council, to the Assistant Dean for Student Affairs, to the Alleged Violator, and to the person(s) who reported the alleged violation of the Code. Upon a finding that sufficient probable cause exists, a complaint issued by the Committee shall be sent to the Chief Justice of the Honor Council.

4. If the Investigating Committee determines that sufficient probable cause does not exist, the matter shall be dismissed immediately, without prejudice, and the Alleged Violator will not have been considered accused of a violation or the subject of any Honor Court proceeding. If the Investigating Committee issues a complaint, the Alleged Violator is formally accused of violating the Honor Code and is the subject of an Honor Court proceeding.

5. If the Investigating Committee determines that a complaint shall be issued, the Prosecutor shall also give to the Accused Student the following information in writing:

a. A copy of the complaint, which shall be a plain, concise, and definite written statement of the essential facts of the violation(s) charged, citing the specific

- provision(s) of this Code that the Accused Student is alleged to have violated;
- b. The identity of known witnesses, a general description of what each is expected to testify about, their written statements, if any, and either copies or a description of any physical evidence that may be used at the hearing;
- c. All written reports concerning the alleged violation, if any, submitted to any Administrator, Instructor, or member of the staff;
- d. The names of the Honor Council Justices;
- e. A statement that the Student may be assisted by an attorney or other advisor of the Student's choice (See SECTION VIII.A.);
- f. A statement that the Student has a right to review any information gathered by the Investigating Committee during the investigation, other than the work product of the Investigating Committee.

6. The Investigating Committee shall not enter into any agreement with the Accused Student whereby the Committee agrees not to bring before the Honor Council any violations for which probable cause has been found, or which commits the Honor Council to any finding or sanction. The Committee must present all such violations to the Council for a hearing by filing a complaint as provided by this Code. The Accused Student may make an admission of a violation by testifying on the record before the Council that he or she committed the alleged act(s), and by waiving a hearing before the Council on the question of a violation. Upon receiving such an admission of a violation, the Council shall proceed by hearing to determine the appropriate sanction(s).

7. The Prosecutor shall present the evidence against the Accused Student during the hearing and any appeal.

8. Notwithstanding that the Investigating Committee has issued a complaint, it shall be the duty of the Prosecutor to continue to gather other evidence relevant to the determination of the commission of a violation or innocence of the Accused Student and to present it to the Council at the hearing on the complaint. Any such evidence shall be disclosed to the Accused Student as soon as possible after it has been obtained.

Section VIII. Hearing

- A. Upon receiving a complaint from the Investigating Committee, the Chief Justice of the Council shall convene a hearing before the Honor Council. Before and during the investigation, hearing, and through any appeals, the Accused Student shall be entitled to representation by or assistance from a retained attorney or anyone else of the Student's choice who will represent or assist the Student as his or her lawyer.
- B. The hearing shall be open to all participants and members of the law school community. Witnesses may also attend unless exclusion is requested by any party. This section is subject to the following provisions:
 - 1. The Council may proceed with no fewer than two faculty and two Student Justices present.
 - 2. No later than one day before the hearing, the Accused Student may request that the Council close the meeting generally or for a limited duration. The Council, upon 2/3 vote of those present and voting, may elect to limit attendance at the

hearing to participants.

3. The Council shall record the hearing and may do so by stenographic means, or audio or video tape. Upon request, any Accused Student has the right to a copy of the recordation of the hearing.
- C. The Chief Justice shall rule on all motions and objections and may be overruled only by a majority of the Council present and voting.
 - D. The Council may consider only evidence made part of the record at the hearing. It shall not be bound by rules of evidence. The only objections to the proposed admission of evidence which will be entertained by the Honor Council shall be those made on the grounds of repetitiveness or irrelevance as defined in the Federal Rules of Evidence. Hearsay evidence may be admissible, but it shall be accorded only such weight as it is entitled under the circumstances. Proof of conviction of a crime shall be prima facie evidence that the person committed the offense of which he or she was convicted and of any facts necessary for that finding of guilt. At the request of the Prosecutor or the Accused Student, the Chief Justice shall subpoena any Student to appear as a witness before the Council. A Student who has been subpoenaed as a witness has an obligation to appear and testify.
 - E. Normally, the Council shall hear evidence regarding the question of the commission of a violation before hearing evidence regarding sanctions. The Prosecutor shall initiate the presentation of evidence. The Accused Student (or his or her Defense Counsel) may then offer evidence relevant to the charge(s).
 - F. The Council, the Prosecutor, and the Accused Student (or his or her Defense Counsel) may question any witness. However, the Accused Student shall not be required to testify, and no adverse inferences shall be drawn from the Accused Student's decision not to testify.
 - G. The Prosecutor and the Accused Student (or Defense Counsel) may make opening and concluding statements. However, an Accused Student who has chosen not to testify may not make a statement to the Council unless the Student allows questions from Council Justices and the Prosecutor.
 - H. After the presentation of evidence regarding the commission of a violation, the Council shall meet in camera to decide the question of whether a violation has occurred. Upon reaching a decision, it shall reconvene before the parties and announce its decision. If it finds the behavior of the Accused Student is in violation of this code, the Council shall set a date to give the parties the opportunity to present evidence, if any, relevant to sanctions. At that time, the Student shall have the option either to proceed first or to follow the Prosecutor. The Prosecutor shall have the obligation to present all aggravating and mitigating evidence in his or her possession and may recommend particular sanctions. After hearing this evidence, the Council shall again meet in camera to decide what, if any, sanction(s) shall be imposed. Upon reaching a decision, the Council shall reconvene before the parties and impose sanctions, if any.
 - I. The Council may not find the Accused Student to be in violation of any Code provision not charged in the complaint. After the hearing begins, the complaint may be amended over the Accused Student's objection, provided the Accused Student is not thereby prejudiced in his or her defense. A continuance of the hearing may be granted to avoid such prejudice. The Prosecutor shall bear the burden of proving the alleged violation(s) by clear and convincing

evidence. A two-thirds (2/3) vote of the Council Justices present and voting shall be necessary for a finding of a violation and the imposition of any sanction, except that expulsion or a recommendation that an awarded degree be withdrawn shall each require unanimity.

- J. After the hearing is concluded and within seven (7) days, the Chief Justice or the Council shall prepare a written report detailing the evidence considered, the reasons for its decision, and any sanction(s) imposed. Concurring and dissenting Justices may prepare opinions explaining their positions. Copies of the report and opinions shall be given to the Accused Student, the Prosecutor, and the Dean.
- K. At the conclusion of a case, including an appeal, if any, the Council shall publish the results of its decision (as amended by any appeal). Beginning with the effective date of this Code, all published decisions shall be maintained on reserve in the library.
- L. Regardless of the decision on the merits, the Council shall keep a permanent record of the evidence presented at the hearing, the report(s) and the opinion(s) of the Council, if any, and any other information it decides should be retained. Such record may be referred to later by the Council for whatever purpose it considers relevant. Subject to paragraph K above, neither the contents nor the existence of any record referred to in this paragraph may be disclosed except (1) when required by law or order of court, (2) when required by the Dean, or (3) when the concerned Student has signed a written waiver of confidentiality.
- M. At the end of his or her tenure, the Chief Justice shall transfer all case files to the Dean's Office, and the Dean shall transfer them to the next Chief Justice. Such transfers shall be made without breach of the confidentiality of the files.

Section IX. Sanctions

- A. Sanctions for violations of this Code may include but are not limited to one or more of the following:
 - 1. Public or private admonition, warning, reprimand, or censure;
 - 2. Counseling;
 - 3. Additional academic work;
 - 4. A requirement that a Student take extra credit hours;
 - 5. Public or University service;
 - 6. Suspension or loss of specific Law School benefits, privileges, memberships, and/or honors including Law School scholarships;
 - 7. Fines;
 - 8. Compensation for or replacement of any damaged or destroyed property;
 - 9. Recordation of findings and sanction(s) in the Student's Law School file for any length of time;
 - 10. Probation, with or without conditions;
 - 11. Removal from elective or appointed office;
 - 12. Suspension for a period not longer than two years;
 - 13. Expulsion; or
 - 14. Recommendation to the Board of Trustees that an awarded degree be withdrawn.
- B. The Honor Council has no authority to determine or change a Student's grade. Nothing in this Code modifies a faculty member's discretion to base a grading decision upon student conduct that might violate the standards established by this Code, regardless of the pendency or outcome of any Honor Proceeding.

- C. Notwithstanding the provisions of this Section regarding the sanctioning ability of the Honor Council, any official Student organization may suspend, expel (with or without retroactive effect), or terminate any membership or honors accorded a member of such organization if found to have violated this Code.

Section X. Appeal of Adjudications

- A. A Student who is adjudged by the Honor Council to be in violation of this Code may appeal such finding or any sanction imposed to the Dean or the Dean's designee. Where the decision maker (the Dean or the Dean's designee) determines that he is unable to be impartial, or where the Student adjudged to be in violation of the Code demonstrates to the Honor Council that the decision maker was the victim of the violation, that the decision maker reported the violation, or that other specific facts exist that suggest a substantial likelihood that the decision maker will not be impartial, then the Dean must appoint a designee to decide the appeal. A Student who admits the truth of the complaint may challenge the Council's jurisdiction and the sanction on appeal. Normally, the filing of a notice of appeal shall automatically stay the execution of all sanctions imposed by the Council on the Student filing the notice; however, the decision maker shall have authority to order that some or all of the sanction(s) be executed during the pendency of the appeal. All unexecuted sanctions upheld by the decision maker shall be executed following the decision maker's determination of the appeal.
- B. Notice of intent to appeal must be given to the Dean and the Chief Justice of the Council. The notice of appeal shall be in writing and shall contain the reasons for the appeal. Upon receipt of the notice of appeal, the Chief Justice shall transmit the Council's report(s) and the record of the hearing to the Dean.
- C. If, following the Council's decision, the Student discovers new information relevant to the merits or the sanction, the Student may ask the Council to reconsider its decision or may ask the Dean to consider such new information along with the record of the hearing. The Dean may remand to the Council for consideration of the new information. If the Student discovers new information after the Dean has decided the appeal, the Student may ask the Dean to reconsider his or her decision. If the Dean decides not to change that decision, he or she shall give the reason(s) for not doing so to the Student in writing.
- D. Normally, the Dean's appellate review will be based on the record of the hearing and any written submissions. However, the Dean may choose to hear oral argument by the Student or by the Defense Counsel, and by the Prosecutor.
- E. The Dean may affirm, reverse, remand, or modify the decision of the Council, or the Dean may dismiss the complaint. If the Dean concludes that the decision of the Council is factually correct and that its sanctions are appropriate, the Dean shall affirm. The Dean may dismiss the complaint only if he or she concludes that the Council lacked jurisdiction or that its determination was not supported by clear and convincing evidence. The Dean may reduce the sanction if he or she believes the sanction is inappropriate but may not increase the sanction. If the matter is remanded, the Council shall reconvene to reconsider the case.
- F. The Dean shall prepare an opinion explaining the reasons for the decision. A copy of that opinion shall be given to the Student, the Prosecutor, and the Council. The Council shall keep a copy as part of its permanent record in accordance with SECTION VIII.L. and M. of this

Honor Code.

Section XI. Notification

Whenever this Code requires notification and does not otherwise specify the manner by which such notification shall be accomplished, the following methods are proper:

- A. Verbal notification, either in person or by telephone, followed by written notification; or
- B. Written notification sent by registered or certified mail to the last local address provided to the Law School by the recipient, or if the Law School is not in session, to the last home address provided to the Law School by the recipient.

Section XII. Timeliness of Proceedings

- A. All actions taken pursuant to duties imposed by this Code shall be accomplished in a timely manner. The specific time guidelines are the following:
 - 1. The Assistant Dean for Student Affairs shall bring a report of a suspected Code violation to the attention of the Chief Justice of the Council within two days of receiving it. (See SECTION VII.B.)
 - 2. The Chief Justice of the Council shall bring the substance of a report of a suspected violation to the attention of the Faculty Magistrate within two days of receiving notice from the Assistant Dean. (See SECTION VII.B.)
 - 3. The Magistrates shall determine whether to assert, decline, or postpone taking jurisdiction of a reported matter within three (3) days of the receipt by the Faculty Magistrate of the summary. See (SECTION VII.C.)
 - 4. The Magistrates' determination to assert, decline or postpone asserting jurisdiction shall be reported to the Assistant Dean for Student Affairs in writing within one day of the determination. (See SECTION VII.D.)
 - 5. If jurisdiction is asserted, the Assistant Dean for Student Affairs shall notify the Alleged Violator as soon as possible. (See SECTION VII.D.)
 - 6. The Dean of the Law School shall appoint one Faculty Member to serve on the Investigating Committee within two days of the receipt by the Assistant Dean for Student Affairs of a report from the Chief Justice that jurisdiction of the Council has not been declined or postponed. (See SECTION VII.E.)
 - 7. The Investigating Committee shall complete its investigation regarding the reported Code violation within 14 days of its appointment. (See SECTION VII.G.1.)
 - 8. The Investigating Committee shall report its determination of whether to file a complaint to the Chief Justice of the Honor Council, the Assistant Dean for Student Affairs, to the Alleged Violator, and to the person or persons initiating the report of the suspected violation within one day of reaching its determination. (See SECTION VII.G.3.)
 - 9. The Prosecutor shall give to the Accused Student the information specified in SECTION VII.G.5.a.-f. within one day of the notification to the Student that a complaint will issue.
 - 10. The Honor Council shall convene to hear a complaint within seven days of receipt of the complaint by the Chief Justice. (See SECTION VIII.A.)
 - 11. The Chief Justice's written report of the Council's determination(s) and its summary of the evidence shall be submitted to the Dean, the Prosecutor, and the Accused Student within seven days of the termination of the hearing. (See

SECTION VIII.J.)

12. A Student's written notice of intent to appeal an Honor Council determination must be received by the Dean's office within seven days of receipt by the Student of the written report of the Council's determination(s) and the Council's summary of the evidence. (See SECTION VIII.J. and SECTION X.B.)
 13. Except for the notice of intent to appeal, deadlines for written submissions to the Dean from any party relating to a matter on appeal will be set by the Dean. (See SECTION X.D.)
 14. The Dean shall decide the appeal within 30 days of the date the Dean's office receives the notification of an intent to appeal. (See SECTION X.E.)
- B. In computing any period of time prescribed or allowed by this Code, the day of the act or event from which the designated period of time begins to run shall not be included. Days are computed as calendar days.
- C. The Accused Student may waive time periods imposed by this Code on others. The Honor Council, by majority vote of the Justices present and voting, and the Dean shall have the authority to extend time limits. The Dean shall have such authority regarding appeals.
- D. Failure by Law School personnel to abide by the time requirements of this Code without the Accused Student's consent may be grounds for dismissal of the complaint or mitigation of sanctions only if a substantial delay has been caused and the Accused Student has suffered prejudice thereby.

Section XIII. Exclusive Jurisdiction

All Student conduct subject to this Code shall not be subject to any other honor code of the University.

Section XIV. Interpreting the Code

The Honor Council shall interpret this Code and may exercise its powers of interpretation as to the intent or meaning of any provision in the Code.

Section XV. Amending the Honor Code

- A. Any Student, Instructor, Staff Member, or Administrator may propose an amendment to the Honor Code.
- B. All proposals for amending the Honor Code must be submitted to the Honor Council in writing for preliminary review. The Honor Council will decide by majority vote whether to endorse and present the proposed amendment.
- C. If the Council endorses the proposal, the Chair and the Faculty Magistrate will present the proposal along with any written comments of the proponent and the Justices of the Honor Council to the appropriate Faculty committee and to the Students in a manner appropriate to provide sufficient notice of the contents and purpose of the proposal. If the Faculty approves the proposed amendment, the Chief Justice shall inform the Student Bar Association President of the need to include the proposed amendment on the next election ballot. To be adopted, the proposed amendment must be ratified by a majority of the Students voting in the election.
- D. If the Honor Council does not endorse the proposal, a proposed amendment shall be adopted

as an amendment upon successful petition of the Faculty by any proponent and the vote of 2/3's of those present and voting at a duly constituted meeting of the Legislative Assembly. See The Student Bar Association Constitution "ARTICLE VII. LEGISLATIVE ASSEMBLY" and corresponding SBA by laws.

Section XVI. Effective Date and Repeal

- A. This Honor Code shall be effective on the day following ratification by the Faculty and the Student Body.
- B. Upon being effective, this Honor Code repeals the former Student Honor Code and the Procedures Governing Faculty Consideration of Alleged Honor Code Violations, except that any conduct occurring before the effective date of this Code shall be governed by the former Student Honor Code and the Procedures Governing Faculty Consideration of Alleged Honor Code Violations. With the consent of the Prosecutor and the Faculty Magistrate, an Alleged Violator or Accused Student may elect to proceed as if the conduct had occurred after the effective date of this Honor Code.

2. MERCER UNIVERSITY STUDENT CODE OF CONDUCT

THIS POLICY WAS UNDER REVISION AT THE TIME OF PUBLICATION

Changes may be made to the Student Code of Conduct during the school year. This Student Code of Conduct was excerpted from the Mercer University Student Handbook, which supersedes all other handbooks, including this one. The most up-to-date and complete version can be found in the University Student Handbook at www.mercer.edu/provost/handbooks.

Community Of Respect

Mercer University strives to be a *Community of Respect* where everyone is held in mutual high regard. Because every human being is created in the image of God, each person deserves to be treated with respect and civility. Standards of conduct are based on the values of mutual respect:

Respect for Academic Integrity

We value a community that encourages an academic atmosphere. We believe that honesty is important to learning.

Respect for Other Persons

We value the worth of every individual in the community and we respect the dignity of each member in the community. We take responsibility for the consideration of the rights of others.

Respect for the University Community

We value showing respect for the rights and property of others. We take responsibility to act to maintain University property.

Respect for Community Authority

We acknowledge and value our privileges and rights as members of the University community. We take responsibility for acting to uphold community standards.

These values are codified into the following Student Code of Conduct, which includes a general overview of the process, a listing of unacceptable student conduct, possible sanctions, and other key information. This Student Code of Conduct applies to all students on all campuses, including online programs, and supersedes any student conduct policies and procedures previously used by colleges or programs. Program-specific regulations and policies (including professional standards) may apply to students beyond those outlined here and may be found in supplemental handbooks. Nothing in this policy prohibits these academic programs from pursuing additional review and action of professional standards as appropriate to their professions. Students are expected to be aware of and conduct themselves in a manner that is in compliance with all applicable policies found in the University Student Handbook and related campus supplements. Academic violations are handled through a separate process found in the academic Honor Code.

General Policy

Mercer University is dedicated to the advancement of knowledge and learning and to the development of ethically responsible persons. University students are expected to uphold appropriate standards of behavior and to respect the rights and privileges of others. The University invites students to participate in the formulation of behavioral policies and to share in the responsibility for judicial decisions. These standards and procedures have been established to protect the University's educational purpose, to foster a sense of responsibility to the community, to provide for orderly conduct of its activities, to protect the members of the University from disrespect, and to safeguard the interest of the University community. Student conduct is expected to be lawful and in accordance with all federal, state, and local laws, and University regulations.

In keeping with Mercer University's values, sanctions imposed on students found to be in violation of the Student Code of Conduct are designed to promote the University's educational mission, maintain community standards, and promote individual civility and positive growth.

Sanctions are also intended to maintain the safety of the University environment and the integrity of the University community. The processes for adjudicating violations of federal, state and local laws and violations of the Student Code of Conduct are separate and may be pursued independently of one another. The University distinguishes its responsibilities for student conduct from the control functions of the wider community. The conduct of students both on campus and in the wider community is ordinarily of University concern when (a) the conduct interferes with the University's responsibility for ensuring members of the University full and equal opportunity to obtain their educational objectives, (b) the conduct interferes with the University's responsibility to protect the health, safety and general welfare of persons in the University community, or (c) the conduct negatively impacts the University's image and/or academic integrity. The University is not required to postpone disciplinary proceedings pending the outcome of any criminal proceeding.

The Student Code of Conduct applies to all University students in settings, which includes, but is not limited to, study abroad, international travel, online, and off-campus educational opportunities. The Vice President for Student Affairs (or designee) may modify non-substantive procedures in the effort to adjudicate violations.

Student organizations will be held responsible for the behavior of their members, alumni, or guests, when their actions evolve from or are in any way related to their association with activities of the

organization on or off campus. Student organizations may be adjudicated in addition to any charges levied against the individual members. Student organizations that condone or encourage behavior that violates University or state regulations may be held responsible for such violations. See Student Organization Policy.

Authority for student discipline ultimately rests with the University President. For cases involving non-academic conduct violations, the President delegates this authority to the Vice President for Student Affairs (or designee), who in turn delegates it to the following designees to oversee, review, and pursue violations of the Student Code of Conduct.

Location

Macon Campus (including Law, Medicine (Columbus and Savannah), and the Macon Center)

Primary Designee(s)

Associate Dean of Students, Macon
Office of Judicial Education, Macon
Residence Life, Macon

Atlanta Campus (including all Atlanta graduate Programs and Douglas, Henry, and Newnan Centers):

Dean of Students, Atlanta
Assistant Dean of Students, Atlanta
Residence Life, Atlanta

Students enrolled in online courses will be adjudicated in Macon or Atlanta as determined by the educational program in which they are enrolled. Should conflicts arise, that location will be determined by the Vice President for Students Affairs. Modifications to procedures to adapt to the physical location of the student may be implemented as long as the student is notified of the charges against them and provided with an opportunity to respond to the charges.

The Vice President for Student Affairs (or designee) has the authority to notify the person listed as the student's emergency contact (or other appropriate person) in cases of emergency or life-threatening incidents.

The Vice President for Student Affairs (or designee) may order any student or organization to cease and desist from any activity adjudged to be disruptive to the University. If the student or organization fails to cease and desist from such activity, the Vice President for Student Affairs (or designee) may immediately suspend the student pending a judicial hearing. Student organizations should refer to the "Non-Academic Misconduct Process for Student Organizations".

Responsible Action Guidelines

The health and safety of students under the influence of alcohol and /or drugs should always supersede concerns related to conduct violations and/or subsequent University action. The University urges all students to recognize that violations of the law and University policy have consequences, but that these possible consequences should never outweigh or override the decision for providing proper care for the health and wellbeing of a fellow student in crisis.

In a health crisis situation involving alcohol and/or drugs, students are expected to notify appropriate staff to evaluate the situation immediately. Amnesty for minor violations of the student code of conduct will be considered in cases where a student is acting in good faith to rectify a situation, or when the situation involves a more egregious infraction that warrants reporting (for example, sexual misconduct and relationship violence). Amnesty may mean waiving formal judicial action, or imposing less harsh sanctions, and is at the discretion of the Vice President for Student Affairs, Dean of Students or designee.

Definitions

University. Mercer University includes the main campus, all branch campuses, centers, and University international programs.

Student. Includes all persons either registered or taking courses at Mercer University, both full-time and part-time, pursuing undergraduate, graduate, or professional studies and those who attend post-secondary educational institutions other than Mercer University or who may reside in Mercer University residence halls. This includes non-degree seeking students. Persons who are not officially enrolled for a particular term but who have a continuing relationship with Mercer University are considered students (i.e. students enrolled in another college for a term, between semesters, internships, etc.)

Charged Student. Any student who has been formally charged with an alleged violation of the Student Code of Conduct.

Complainant. Individual reporting an alleged violation.

Respondent. Individual alleged/ suspected of violating a university policy.

Faculty Member. Any person hired by Mercer University to conduct classroom activities.

Staff Member. Any person hired by Mercer University in a professional position to conduct University activities.

Member of the Mercer University Community. Any person who is a student, faculty member, or employed by Mercer University.

Mercer University Premises. Includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by Mercer University (including adjacent streets and sidewalks).

Organization. Any group who has been formally recognized by Mercer University as an organization.

Hearing Body. Any Mercer University official or panel authorized to review and evaluate student conduct charges and to impose sanctions upon students found to have violated the Student Code of Conduct.

Appeals. Appeals can be heard by any person or persons authorized by the Vice President for Student Affairs to consider an appeal from a hearing body's determination that the student has violated the Student Code of Conduct.

Student Justice. Student members trained in the procedures of the adjudication process, and in the mechanics of preparing for a case.

Faculty/Staff Justice. Faculty/Staff members trained in the procedures of the adjudication process, and in the mechanics of preparing for a case.

Shall. Is used in the imperative sense.

May. Is used in the permissive sense.

Preponderance of the Evidence. The weight of evidence used to adjudicate student conduct violations. This standard means that the evidence, taken as a whole, supports that it is more likely than not that the violation occurred or did not occur.

Investigator(s). The person assigned by the University to gather the facts and details related to an alleged violation of the Student Code of Conduct. Investigators may serve as witnesses to any case for which they investigated.

Non-Academic Misconduct Process For Student Organizations

Student organizations are expected to operate in accordance with the law, student organizational guidelines (as outlined by the Office of Campus Life), and with all University policies including the Student Code of Conduct. Student organizational recognition is not a right, and can be evaluated and rescinded by the University at any time for any reason.

When the University becomes aware of any allegation of misconduct by a student organization, the Associate Dean of Students in Macon or the Assistant Dean of Students in Atlanta (depending on the primary location in which the organization exists) will assign a staff member to investigate and review the allegation(s) by meeting with any individual the staff member determines is warranted. In cases involving sensitive or confidential reporting (e.g., cases involving hazing, sexual misconduct, hospitalizations, etc.), the staff member investigating the case may use appropriate discretion in releasing information placed in the report to protect the identity and confidentiality of the reporting or involved student or witness. That staff member will then meet with the organization to review the allegations related to the organization before making a recommendation back to the Associate Dean or Assistant Dean on his or her evaluation of policy infraction(s) and proposed sanctions, if any (including suspension or expulsion of an organization). The prior disciplinary history of the organization, the forthrightness and cooperation of the organization and its members, during the proceedings, and the severity of the allegations may all be evaluated as part of this recommendation.

The Associate Dean or Assistant Dean will then choose to accept that recommendation, modify it, or conduct further inquiry on his or her own before finalizing the decision. This decision will then be communicated to the organization in writing. This decision is final; however, in cases in which a group can clearly substantiate that an egregious and obvious error occurred at some point in the determination, it may request the Vice President and Dean of Students to review the decision. This request must be made in writing within three days of receiving the decision and clearly outline and substantiate the error that was made. The Vice President and Dean of Students may then choose, but is not obligated, to review the case and make any modifications as deemed appropriate.

Nothing in this section prohibits the University from implementing an “interim suspension” as outlined in the Student Code of Conduct while the case is being investigated. Nothing in this policy prohibits the Associate Dean in Macon, the Assistant Dean in Atlanta, or Vice President for Student Affairs from reviewing a case directly at any point.

Non-Academic Misconduct Process For Students

Procedure for Reporting Violations

All students and student organizations are expected to adhere to the standards of the Community of Respect. In affirmation to these standards, every student subscribes to the following pledge:

"Having been accepted as a member of the Community of Respect of Mercer University, I pledge myself: to hold each person in high mutual regard; to uphold, respect, and defend the rights of every individual in the community; and to respect the community as a whole. I further pledge that I will not allow to go unreported any violation of the standards of our community."

Each student is responsible for reporting any and all infractions of the standards valued by the Community of Respect. All students accept this responsibility when they enroll. If a student sees, knows, or hears of a violation, he/she is responsible for reporting the suspected violation to Mercer Police, the Vice President of Student Affairs, or an appropriate faculty/staff member of Mercer University.

Organizations are expected to investigate and self-report any violations of the Student Code of Conduct. Please refer to the Campus Life web page at:

<http://studentaffairs.mercer.edu/campuslife/studentorgs.cfm>.

Procedures for Filing Charges

This process for review is initiated by either (1) the filing of a police report with Mercer University Police Department (or other law enforcement agency), (2) providing a signed written statement directly to the Vice President of Student Affairs (or designee), or (3) by filing an incident report or written statement with the Office of Housing and Residence Life. This information will then be reviewed by the designated authority (listed above) to determine the most appropriate action to be taken. This may result in conducting further investigation into the incident, resolving the conflict in an informal manner, referring the case to Housing, or initiating charges in accordance with the procedures contained in this code. Charges should be filed within ten (10) working days after receipt of all available information regarding the complaint. Charges cannot be filed that exceed one (1) year after the discovery of the incident.

In compliance with Title IX and other related federal mandates, cases involving Sexual Misconduct and Relationship Violence may require and involve additional investigatory, procedural, and adjudication standards that supersede any listed here. Please refer to the procedures outlined in the [Sexual Misconduct and Relationship Violence Policy](#) for complete information on these procedures. Should any policy or procedural guidelines conflict between these two policies, the Vice President for Student Affairs in consultation with the Title IX Coordinator is the final arbiter of procedural decisions.

Charges

When a determination to charge is made, the designated office (primary designee) shall notify the student in writing of the charge(s) and the allegation(s) on which the charge(s) are based. This notice shall inform the student that he or she has five (5) regular business days in which to contact the designated office outlined in their charge letter to schedule an informational session, and to select the type of hearing forum in which to adjudicate the violation (unless pre-selected by the University). The informational session is a courtesy to students. If a student does not contact the University during this time, the University shall make a determination regarding the choice of hearing and will proceed with adjudication.

Hearing Board Options

The charged student may have charges heard by a University Hearing Board or by a designated University Administrator selected and trained by the Associate/Assistant Dean of Students in Macon or Atlanta. The Hearing Board or Administrator will review the case and make a recommendation to the Associate/Assistant Dean of Students on the Macon and/or Atlanta (depending on primary location of the academic program related to the charged student) with regard to responsibility and sanctioning. (The Associate/Assistant Dean of Students may hear cases directly if they choose to and do not have any clear conflicts of interest.) In electing one hearing forum, the student waives the right to the other. The University retains the right to pre-select the hearing forum at any point in the process. University Hearing Boards consist of two faculty/staff and one student trained in university judicial proceedings. However, in cases involving especially serious charges that potentially could result in expulsion or suspension, the University may in its discretion require the charges to be heard at a specific campus location, and by a University panel that includes two faculty/staff, one student, and at least one representative from outside the University, to be selected by the University, with experience in contested adversarial hearings.

When two or more individual cases stem from the same incident, the same hearing body shall hear all cases, when possible. Procedural modifications are permitted when incidents involve more than one individual charge or corresponding organizational charges. In such cases, the University may either pre-select the hearing body or consult with the students involved before making the

determination. This hearing body will hear individual cases separately. In cases involving multiple students charged from the same incident, information obtained at one hearing may be used at another hearing provided that the charged student involved has the opportunity to review and to respond to any information that will be used against them, when possible.

For cases handled by the University's Office of Judicial Education in Macon, a board consisting of all students is an additional option for adjudicating minor student cases. This Student Hearing Board primarily adjudicates organizational violations and minor student violations as determined by the Associate Dean of Students.

Decisions of all hearing bodies (University Hearing Boards and University Administrator) are recommendations to the Associate/Assistant Dean of Students on the corresponding Macon and Atlanta campus, who in the interest of fairness, clarity, or consistency may choose to accept or modify the recommendations as necessary or refer a case back to the hearing body for further review. The Associate/Assistant Dean of Students may consult with appropriate staff or the academic dean of a particular academic program before accepting or modifying the recommendation of a student in that program.

Rights Of The Charged Students

1. **Notice.** Students charged with violations of the Student Code of Conduct will be provided notice via their official university e-mail address of the charge(s) against them and the allegations upon which the charge is based.
2. **Hearing.** Students shall be entitled to a prompt hearing. Students will be given an opportunity to present information, including witnesses during a fair and impartial hearing.
 - The student may inspect documentary evidence presented at the hearing, may hear and question available adverse witnesses testifying at the hearing, and may present evidence and call witnesses.
 - If a called witness does not appear, the hearing body may consider their written or taped statements. However, the statement shall be weighted accordingly by the hearing body as the charged student has no opportunity to question the witness making the written or recorded statement.
 - Student questioning of witnesses may be modified in cases involving violations of the Sexual Misconduct and Relationship Violence Policy (see next section).
 - Witnesses for the hearing will be required to wait outside of the hearing until their point of participation.
 - The University may require any student or employee with information relevant to the charges to participate in the investigative process, provide any such information to the University investigators, attend the hearing and present that information to the hearing panel for consideration.
 - For cases in which information provided to the University requires confidentiality and/or sensitivity toward a witness (example includes but is not limited to Title IX allegations), an investigative summary may suffice in place of direct witness testimony. In such cases, the investigator may present the information obtained during the investigation at the hearing and answer questions.

In compliance with Title IX and related federal mandates, additional procedural rights for student complainants and respondents involving violations of the Sexual Misconduct and Relationship Violence Policy apply and are outlined below.

(Supplemental) Rights For Cases Involving Sexual Misconduct And Relationship Violence

When complaints are resolved through the University student judicial process related to sexual harassment, sexual assault, sexual exploitation, stalking, dating violation and domestic, the following rights will apply to *both* the complainant and to the respondent:

1. To be accompanied by an advisor or person of support of their choice. (See additional advisement information in the "Conduct Hearing Guidelines" in the Student Code of Conduct).
2. To have an equal opportunity to present witnesses and evidence, as well as to speak on one's behalf.
3. To be made aware that responsibility for charges is determined using the "preponderance of the evidence" standard.
4. To have similar and timely access to information. All information is subject to FERPA protection and stipulations.
5. To submit questions to the hearing body to consider posing to the complainant, respondent, and/or witnesses.
6. For the complainant to be able to request alternative methods of inquiry (e.g. written questions or video conferencing) if needed when presenting testimony.
7. To have any non-relevant sexual history exempt from review. Decisions regarding relevancy issues will be determined by the hearing body.
8. To be notified in writing regarding the outcome of the complaint at every step of the process (i.e. Initial hearing and any appeals). The University will not impose any "non-disclosure requirement" on either party as a condition for sharing this information.
9. To have the right to appeal the outcome as outlined in the appeal process. Both the complainant and respondent are permitted one appeal.
10. To be free from harassment and/or retaliation during the process. This includes harassment and retaliation through third parties.
11. To submit an impact statement to be considered by the hearing body before the sanctioning phase to be used if the Respondent is found responsible.

Conduct Hearing Guidelines

All hearings are governed by the following guidelines. Procedures may be modified to expedite the proceeding as long as they do not jeopardize the charged student's fundamental rights or the fairness of the hearing.

1. Burden of Proof. The burden of proof rests with the University. The standard of proof shall be the "preponderance of the evidence." This standard means that the evidence, taken as a whole, supports that it is more likely than not that the violation occurred.
2. Pre-hearing informational session. To assist the student in preparing for the hearing, a pre-hearing informational session will be available for the student. The informational session is a courtesy to students and not a requirement. This informational session will discuss the hearing procedures, inform the student of their rights and responsibilities, and allow the student the opportunity to review the available written information that will be presented at the hearing by the University. The student and his or her advisor shall have the opportunity to inspect the information at least three (3) regular business days in advance of the hearing whenever possible. Upon notification of the student's choice for a hearing body, the university shall schedule a hearing and notify the student in writing of the date, time, and location of the hearing at least three (3) regular business days in advance. A

student may choose to waive, in writing, the three (3) regular business day notice and proceed with a hearing.

3. Decisions. Decisions of “responsible” or “not responsible” on the charge(s) shall be based solely on the evidence presented at the hearing. When multiple students are charged with the same violation and it is determined that an individual identified was not responsible for that specific violation, but was present and/or had knowledge that the violation was occurring, the hearing board/officer has the authority to find that student responsible for the lesser charge of “failure to report” without recharging the student and having a separate hearing.
4. Confidentiality. All hearings shall be closed and confidential. To protect the integrity of the judicial process no audio or visual recordings of the hearing may be made other than by the hearing body.
5. Failure to Appear. If the charged student fails to appear at the hearing, the hearing may proceed in the student’s absence and a decision rendered provided that the student has been properly notified of the hearing.
6. Official Record. An official record of the hearing shall be made by the presiding hearing officer for internal University use only. The record of the hearing may exist in written or audible form. No transcript is made. Students may request to inspect their record of testimony and case file after the hearing is closed. Records will be redacted to protect other students’ FERPA rights. Written records are kept on file for 7 years.
7. Deliberations. Deliberations are closed and shall include only those members involved in the decision making process.
8. Notice of Decision. A written decision shall be available to the student or organization within seven (7) regular business days following the hearing. This time may be extended in cases in which additional time is necessary for deliberations. If additional time is necessary, the charged student shall be notified. The decision letter shall contain a decision on each charge, the finding of fact and any recommended sanctions (if applicable).
9. Hold on Student’s Records. The university may place a hold on the transcripts and/or registration of any student who fails to respond to a judicial notice or to ensure resolution of the case prior to transfer or graduation. All pending judicial matters must be resolved prior to a student’s graduation, transfer from, or continued education at Mercer University. Holds may also be placed on records after graduation if the University becomes aware of any unresolved disciplinary issues.
10. Disabilities. Any student with a documented disability may request that reasonable accommodations be provided during the judicial process. This request must be made at least three (3) regular business days in advance of the hearing, and the accommodations must be approved by the Office of ACCESS and Accommodation and the Associate Dean of Students.
11. Advisement. Students charged with a violation are permitted to bring one advisor of their choice to the hearing. The advisor shall serve as a consultant, and cannot speak on behalf of the student during the proceedings. Students are required to address the hearing body in person on their own behalf. Consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not serve as a witness or be charged in the case. Students must notify the Associate/Assistant Dean of Students on the applicable campus at least five class days prior to the hearing if they will be bringing an attorney as an advisor. When multiple students are charged from the same incident (or a related incident), students are not allowed to have the same advisor and/or person of support at any point during the judicial proceedings.

12. Witness. A witness is any student, staff, faculty member or individual who has, or is believed to have, relevant knowledge to an event related to an alleged violation of the Student Code of Conduct.
13. Testimony. Testimony is expected to be provided orally in person. Relevancy of testimony is determined by the presiding hearing officer. In situations where a witness is unable to be physically present, testimony may be obtained via telephone or video-conferencing. In cases where a witness cannot testify in person, their written statement and/or the testimony provided to a University investigator may be utilized and weighted accordingly. The University reserves the right to exempt certain witnesses from being called to provide testimony.

Violations Of The Values Of The Community Of Respect

Violation of any of the following, or the aiding, abetting, condoning, or attempting to commit these offenses by a student constitutes an offense that will result in disciplinary action. Please consult with the on-line University Student Handbook found at <http://provost.mercer.edu/handbooks/studenthandbook.cfm> for the most up-to-date and applicable definitions.

1. Forgery. Alteration or misuse of documents or records.
2. Alcohol Misconduct.
 - A. Possession and/or consumption of alcoholic beverages including empty containers on Mercer University property or at University-sponsored events. (Professional and graduate programs may adopt policies related to alcohol that are more in line with the profile of their student body, as long as these policies are reviewed and approved in advance by the Provost).
 - B. Any conduct taken under the influence of alcohol that endangers one's own health or safety or the safety of others.
 - C. Buying, selling or distributing alcohol beverages to individuals under the age of 21.
 - D. Possession and/or consumption of alcohol or alcohol paraphernalia by individuals under the age of 21.
3. Threatening and Harassing behavior.
 - A. Threatening Behavior. Intimidation, hostility, coercion, or threats of physical abuse.
 - B. Harassment. Language and/or physical acts which degrade, insult, taunt, or challenge another person by any means of communication. This includes communication of threats, defamation of character, use of profanity, verbal assaults, derogatory comments, racist remarks or behavior that places another person in a state of fear, anxiety or emotional distress.
 - C. Bullying. Aggressive behavior where one person (or group of people) deliberately intimidates, abuses, or coerces an individual with the intention to hurt that person physically or emotionally. Acts of bullying can be physical, verbal, or relational.
 - D. Cyberbullying. Aggressive behavior where one person (or group of people) deliberately intimidates, abuses, degrades, insults, taunts, challenges or coerces an individual with the intention to hurt that person physically or emotionally, that occurs through digital technology, such as text messages, e-mail, and/or material posted on social media sites.
4. Physical Assault. An intentional attempt to injure or harm another person using violence or force (which includes fighting).
5. Endangerment. Actions that endanger one's own health or safety, the health or safety of another person, or the community.

6. Sexual Harassment. Unwelcome sexual advances, requests for sexual favors and other gender-based verbal, non-verbal or physical conduct of a sexual nature when:
- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or status in a course, program or activity; or submission to or rejection of such conduct is used as a basis for an academic, employment or placement decision affecting the individual; or
 - Such conduct is objectively offensive and sufficiently severe, persistent, or pervasive that it has the effect of unreasonably interfering with an individual's work performance or educational experience, creates an intimidating, hostile environment, or involves retaliation.
- Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to unwelcome sexual attention; to punish a refusal to comply with a sexual-based request; to condition a benefit on submitting to sexual advances; or gender-based bullying. Sexual harassment can occur regardless of the relationship, position or respective sex and/or gender of the parties. Same-sex harassment violates this policy, as does harassment by a student of a faculty member or a subordinate employee of his/her supervisor.
7. Sexual Assault: Non-Consensual Sexual Contact. Any intentional sexual touching
1. However slight,
 2. Of any part of any person's body with any part of another person's body or an object,
 3. By a man or a woman upon a man or woman,
 4. That is without consent and/or force.
- Examples include: intentional sexual contact with the breasts, buttocks, groin, or genitals, or sexually touching another with any of these body parts, or making one person sexually touch another person or themselves with or on any of these body parts; or any intentional bodily contact in a sexual manner.
8. Sexual Assault: Non-Consensual Sexual Intercourse. Any sexual intercourse
- however slight,
 - with any part of a person's body or an object,
 - by a man or woman upon a man or woman,
 - that is without consent and/or by force.
- Intercourse includes: vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue or finger; or oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.
9. Sexual Exploitation. Taking non-consensual sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage another, that does not otherwise constitute one of the other sexual harassment, sexual assault and sexual misconduct offenses.
- Examples include: invasion of sexual privacy; prostituting another individual; non-consensual observation, either by direct observation or video or audio-taping of sexual activity; engaging in voyeurism; knowingly transmitting an STI (Sexually Transmitted Infection) or HIV (Human Immunodeficiency Virus) to another; exposing one's genitals in non-consensual circumstances; or inducing another to expose his or her genitals.
10. Stalking. Engaging in a course/pattern of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. Such conduct includes two or more acts by which the stalker directly,

or indirectly, or through third parties follows, monitors, observes, surveils, threatens, or communicates about a person or interferes with his or her property.

11. Dating Violence: A violent act committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
12. Domestic Violence. A pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner, which includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim. An "intimate partner" is defined as a current or former spouse of the complainant, a person with whom the complainant shares a child in common, or a person who is cohabitating with or has cohabitated with the complainant as a spouse. It also includes any person covered under the current domestic or family violence laws applicable to the jurisdiction of the infraction. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. For charges involving violations of the Sexual Misconduct and Relationship Violence Policy, additional definitions related to these violations (including consent and force) can be found in that policy.
13. Destruction/Damage of Property. Destruction, damaging or misuse of public or private property.
14. Theft or Possession of Stolen Property. Taking, possessing, or using property without proper authorization or permission.
15. Drug Misconduct.
 - A. Possession and/or consumption of drugs or any controlled substance prohibited by law.
 - B. Manufacturing, buying, selling or distributing drugs or any controlled substance prohibited by law.
 - C. Possession of drug paraphernalia.
 - D. Any conduct taken under the influence of drugs that endangers one's own health or safety or the safety of others.
16. Possession and/or Use of Weapons, Firearms. Unauthorized possession or use of weapons, firearms, fireworks, or explosive devices (except for use in the Department of Military Science and in the rifle range). This includes, but is not limited to BB guns, stun guns/Taser, air rifles, air pistols, paintball guns, edged weapons (i.e. blades no more than 2 inches), bow and arrows, and martial arts weapons. **Weapons may be stored at Mercer Police. They may not be left in personal vehicles.
17. Disorderly/Disruptive Conduct. This includes acting in a violent manner in a public place, or behaving in a way that reasonably makes other persons fear for their or their property's safety. It also includes using profane or abusive language—sometimes called "fighting words"—that is likely to provoke an immediate violent reaction, in addition to disturbing the peace whether on or off campus. Disturbing or disrupting the peace includes behavior that interrupts an event or any action determined to infringe upon the privacy, rights, privileges, health or safety of students, faculty, staff, or organizations, whether on or off campus.
18. Conduct Unbecoming. Any conduct not previously stated, which is determined to be potentially detrimental to the University's reputation or is in violation of the University's Community of Respect statement. This includes the display of indecent or offensive material, or engaging in indecent or lewd conduct and/or speech.

19. Hate Offenses. Offenses against a person or property motivated in part or in whole by an offender's bias against a race, disability, religion, ethnic origin or sexual orientation
20. Failure to Report. Being present or having knowledge that a violation has occurred and failing to report the incident. [The University retains the right to find a student responsible for this charge in lieu of another if the hearing body determines that the student(s) involvement was sufficiently passive and/or warrants consideration for this lesser charge for any reason. In such cases, the University is not required to recharge the student or rehear the case to find the student responsible for this charge.]
21. Computer Misuse/Unauthorized access. Any misuse of or unauthorized access to a computer, computer system, network, software or data; or the unauthorized alteration, copying or distribution of software or data.
22. Hazing. Any act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization. The express or implied consent of the victim will not be a defense. Apathy or acquiescence in the presence of hazing is a violation of this rule. Specific examples of hazing include, but are not limited:
 - A. Acts that embarrass, harass, or ridicule an individual
 - B. Acts that create excessive fatigue
 - C. Physical or psychological shocks
 - D. Morally degrading or humiliating games or activities
 - E. The wearing of signs or advertisements
 - F. Activities that involve late or early work sessions (not affiliated with a university academic program)
 - G. Quests, treasure or scavenger hunts
 - H. Acts of servitudeFurther information about Hazing can be found in the Office of Campus Life.
23. Unauthorized Entry or Use of Facilities. The unauthorized access to an area, room or building.
24. Fire Alarms and Fire Safety Misconduct.
 - A. Inappropriate activation of any emergency warning equipment or the false reporting of any fire emergency.
 - B. Removal, damage or tampering with fire safety or other emergency warning equipment belonging to a student, student organization, the University or the Macon community.
 - C. Initiating and/or igniting of a fire.
 - D. Failure to evacuate during a fire alarm.
25. Possession and/or use Fireworks, and Explosive Devices. Unauthorized possession and/or use of fireworks, or explosive devices.
26. Furnishing False Information. Knowingly providing false or misleading information to a university official, to a hearing body, on a university document, or to a law enforcement agent or agency.
27. Failure to Comply. Noncompliance with the reasonable direction of university officials acting in the performance of their duties.
28. Campus Elections and Referendums Misconduct. Casting more than one ballot in any campus election or referendum, or otherwise circumvent the prescribed procedures in an election process.
29. Student Identification Misconduct.
 - A. Failure of a student to carry their Mercer identification cards at all times or to allow anyone else to use their identification card.

- B. False Identification. A false or fake ID is any form of identification that is forged, altered, or otherwise intends to establish the false identity of a student. It includes knowingly using a fake ID to obtain access to events and/or resources.
 - C. Identity Theft. Deceptively using another student, or faculty/staff member's identification to access resources on or off campus, which includes ID cards, credit cards, email addresses, passwords, etc.
 - D. Unauthorized Representation. Unauthorized representation is when a student or organization falsely uses an emblem, name or falsely claims membership or affiliation with an organization such as any benevolent, fraternal, social, humane, or charitable organization which is entitled to the exclusive use of that name or emblem. This includes, but is not limited to, wearing badges, buttons, paraphernalia, logos as well as the unauthorized use of letterhead, symbols or hand gestures associated with the organization being falsely represented.
30. Refusal to Vacate. Refusal to vacate a building, sidewalk, driveway, or private facility being used by the University for a student or department-sponsored activity when directed to do so by an authorized officer of the University.
 31. Advertising/Media Misuse. Circulation or display of any media (i.e. electronic or paper) that contains matter that violates or is contrary to University policies or community values. This includes, but is not limited to, the display or promotion of alcoholic liquors, wines, or beers. This also includes displaying materials or information without proper approval from the University.
 32. Solicitation/Fundraising. The solicitation of sales, services, memberships or gifts on campus without the permission of the Office of Campus Life.
 33. Unauthorized Visitation/Campus Housing. No unauthorized student, group of students, or organization shall enter or remain in restricted areas of residential facilities during non-visitation hours, as published in the Housing Handbook.
 34. Contempt and/or Disregard for Judicial Procedures.
 - A. Failure to fully comply with all instructions and imposed sanctions of the university judicial system and Honor Council.
 - B. Coercing a student or organization member to give false information.
 - C. Engaging in conduct that disrupts the proceedings, lessens their authority or dignity, or otherwise obstructs justice on campus.
 35. Unsanitary or Unsafe Facilities. Failure to maintain a student organization, facilities, property, or surrounding property so as to prevent a potential danger to the health and safety of members of the University community.
 36. Cruelty to Animals. Intentionally or recklessly causing physical abuse or any form of suffering to animals.
 37. Gambling. Games of chance or bets in which participants commit money, or anything of value, in order to participate.
 38. Violation of Published University Regulations. Violation of any published Mercer University policies, rules or regulations. This includes-but is not limited to, housing policies, computer policies or other university policies directly related to departments, organizations or clubs.
 39. Violation of Local, State, or Federal Law. Any violation of any local, state, or federal law.
 40. Greek Policy Violation and/or Unauthorized Recruitment/Membership Intake
 - A. Failure to comply with all the instructions that guide membership into Greek organizations, which includes, but is not limited to recruitment, timelines, events, activities, documentation, etc.
 - B. Participating, arranging, or engaging in unauthorized recruitment or intake processes known as "underground pledging." This includes coercing a student or

organization to facilitate a process as well as students willingly engaging in a process not approved by the University or the affiliated national organization.

41. Retaliation. Any adverse action taken in response to an individual who has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under any University Policy (including the academic honor code and Sexual Misconduct and Relationship Policy). Retaliation includes intimidation, threats, harassment, or any type of adverse action taken against an individual in the attempt to deter them from addressing, reporting, or testifying on adverse conduct. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct.

Sanctions

The determination of sanctions is made in light of the unique facts and circumstances surrounding each individual case and the previous conduct history of the student. The Students found responsible of violations(s) of the Student Code of Conduct will be subject to one or more of the following sanctions:

1. Warning: Formal written notice to the student and official recognition that a violation has occurred.
2. Counseling Assessment: A recommendation to be evaluated by psychological services to help the student deal more effectively with his/her conduct issue.
3. Community Service: Performance of a preapproved service location for a prescribed number of hours to the local or university community.
4. Creative/Educational Sanctions: Attendance at educational programs, interviews with appropriate officials, planning and implementing educational programs, research papers and other educational activities related to the violation.
5. Restriction: The withdrawal of specified privilege(s) for a definite period of time. Restrictions may include, but are not limited to requirements such as: not entering certain areas of housing or the campus, not contacting a certain individual or group, or not operating a motor vehicle on campus. Students may also be restricted from holding office in any student organization or participating in some activities.
6. Fines: Not to exceed \$150 per individual or \$150 per individual member of an organization.
7. Restitution: A payment of financial injury in cases involving theft, destruction or property or deception.
8. Probation: A period of time during which any further violations of the Student Code of Conduct may impact or jeopardize the student's status in a specific manner. The four types of probation that can be imposed are as follows:
 - A. Conduct Probation. A specified period of time in which any future violations of the Student Code of Conduct can result in increased sanctions being imposed that exceed those of a student who is not on conduct probation.
 - B. Housing Probation. A specified period of time in which any future violations of the Student Code of Conduct will result in the termination of housing privileges and access to any university owned housing facilities.
 - C. Social Probation. Notice to an organization or student that all or a portion of social functions must cease for a designated period of time.
 - D. University Probation. A specified period of time during which any further violation of the Student Code of Conduct may result in suspension or expulsion. As part of this probation, students may be restricted from holding certain leadership positions or participating in some activities.

9. Forced Change of Residence. The temporary or permanent relocation of a student within housing.
10. Eviction from University Housing. Permanent removal from the housing system.
11. Suspension. The termination of the student's attendance or an organization's representation at the university for an indefinite or specified period of time. A suspension means that students may not be on University property or that an organization is prohibited from being recognized at any time without prior approval from the Vice President for Student Affairs or designee. Stipulations may be applied to either the student or organization as a condition for ending the suspension.
12. Expulsion. The permanent separation of the student from the University.
13. Deferred Degree. The holding of an academic degree for a specified period of time with or without conditions.
14. Withholding Degree. The withholding of a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a grievance pending, or as a sanction if the student is found responsible for an alleged violation.
15. Revocation of Degree. Revoking a degree awarded from the University for fraud, misrepresentation or other violation of University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.

Appeals Procedure

For cases involving non-academic appeals, a student may appeal the original decision to the Vice President for Student Affairs within three (3) working days after receipt of the written decision (additional time may be requested for extenuating circumstances). The Vice President may choose to hear the appeal or designate an appropriate staff member from the academic program or location in which the student is enrolled to review the appeal and make a recommendation. No person may hear or decide an appeal if he or she participated in the hearing process. The appeal shall consist of a review of the prior proceedings; it shall not be another hearing. The student shall receive a written decision regarding the appeal.

Grounds for appealing a decision are:

1. A significant error in adhering to Mercer's procedural process, which prejudiced the accused to the extent that the student was denied a fundamentally fair hearing as a result of the error. Procedural flaws alone are not grounds for an appeal. Significant procedural errors that may have affected the verdict or sanction will be considered.
2. The emergence of new evidence that could not have been previously discovered and that, had it been represented at the initial hearing, would have substantially affected the original decision of the hearing body.
3. The imposition of sanctions which are disproportionate to the offense.

Student status. The student's status on campus will remain unchanged pending the final decision and appeals process, except in cases involving interim suspensions (see Interim Suspension). The Vice President shall have the authority to act *de novo* to determine the issues of both responsibility and sanction(s). The decision of the Vice President for Student Affairs is final.

Interim Suspension of a Student or Organization

In certain circumstances involving a student or organizations actions that may affect the safety, health, or general welfare of the student or the university community, the Vice President for Students

Affairs, the Associate/Assistant Dean of Students, or Student Affairs designee on each campus may impose an interim suspension prior to the student or organizations conduct hearing. The Vice President of Student Affairs, the Associate/Assistant Dean of Students, Student Affairs designee on each campus, and the Director of Housing and Residence Life have the authority to cancel a student's university housing contract under a separate process.

An interim suspension means that a student cannot be on university property, cannot attend classes, and cannot use university facilities unless otherwise stipulated. An interim suspension requires that the student or organization be notified in writing by the university. For organizations it means immediate suspension of all or some of the activities associated with the organization as determined by the university.

The student or organization has the right to request a hearing on the interim suspension with the Vice President for Student Affairs. If requested, the hearing will be conducted within three (3) regular business days from the receipt of the student's written request by the Vice President for Student Affairs or designee. The scope of this hearing is solely on whether the interim suspension should continue until a hearing is conducted on the facts of the case. Student disciplinary charges will be filed either when the interim suspension is imposed or as soon as possible thereafter. Student organizations should refer to the Student Organization Policy.

For cases in which a student is placed on interim suspension, but subsequently found not responsible for all violations, the university will take the following steps: (1) correct any record of the change in enrollment status in the student's permanent records and reports in a manner compliant with state and federal laws; and (2) refund to the student a pro rata portion of any fees, charges for tuition, or other university specific fees and charges, as appropriate due to the temporary change in enrollment status.

Parental Notification Policy

Mercer University, like many other colleges and universities, is concerned about the health and safety of its students specifically where there is use and abuse of drugs and alcohol. Under the Family Educational Rights and Privacy Act (FERPA), institutions are permitted to release any and all information to parents, without the consent of the student, "if the student is a dependent for tax purposes under the IRS rules." FERPA allows colleges and universities to disclose information to parents if there is a health or safety emergency involving their student as well as to disclose information if the student is under the age of 21 and "has violated any law or policy concerning the use or possession of alcohol or a controlled substance." The Vice President for Student Affairs or designee will be the responsible University official to contact the parent or guardian. Students whose parents are divorced or separated have the option of designating the parent to be contacted. The Vice President for Students Affairs or designee may use discretion regarding parental notification in incidents where it is determined that extenuating circumstances exist that would directly and conclusively impact the situation negatively. Alternative guardian contact determinations will be made by the Vice President for Student Affairs or designee. The process of adjudicating any violations will be handled in accordance with the Student Code of Conduct.

Mercer University has opted to contact parents and/or legal guardians under the following conditions:

1. Mercer students, under the age of 21, found responsible for first time minor offenses involving alcohol in accordance with the Student Code of Conduct will be dealt with directly, without notification of their parents. "Minor offenses" are defined as non-life-threatening,

non-threatening to the community, and not involving any other significant violations of the law or the Student Code of Conduct.

2. Enrolled students, under the age of 21, found responsible for two or more offenses involving alcohol will result in parental notification.
3. Enrolled students, under the age of 21, found responsible for offenses involving drugs will result in parental notification.
4. Incidents related to alcohol and/or drugs that are determined to be life threatening to the student, threatening to the community, or involving other significant violations of the law or the Student Code of Conduct may result in parental notification regardless of the number of offenses. An incident in which a student is transported to the hospital as a result of alcohol and/or drugs may also be determined to constitute a threat or disruption to the campus community depending on the circumstances.

Non-Academic Conduct Records

The Office of the Vice President for Student Affairs in Macon and Dean of Students in Atlanta are the official custodian of all records involving non-academic misconduct. Student files involving cases that do not result in suspensions or expulsions shall be expunged seven (7) years after a decision is reached on a charge. Cases that result in suspensions or expulsions will be kept permanently. Statistical data and database information may be kept permanently at the university. Students have the right to view their files. Students found “not responsible” or cases in which charges are dropped are considered not to have a judicial record.

