

Student Conduct Code

Preamble

The central commitment of American University is to the development of thoughtful, responsible human beings in the context of a challenging yet supportive academic community.

(American University, Statement of Common Purpose)

To achieve its ends, an academic community requires the knowledge, integrity, and decency of its members. In turn, the community helps individuals develop habits and values that will enable them to achieve personal satisfaction and to contribute to a better world. This Student Conduct Code is designed to benefit the American University community and to assist in forming the highest standards of ethics and morals among its members. It fosters the university's commitment to excellence and equity and affirms the shared values that make community life possible. Students with alleged violations of the Student Conduct Code should contact Judicial Affairs and Mediation Services to receive further information on disciplinary

procedures.

I. Authority for Student Discipline

Ultimate authority for all university policy is vested in the Board of Trustees of American University. Nonacademic disciplinary authority has been delegated by the president to the vice president of student services to implement student conduct policies and take all necessary and appropriate action to protect the safety and well-being of the campus community.

The Board of Trustees reserves the right to review, and to take any action it deems necessary, in any disciplinary case. In practice, the resolution of nonacademic disciplinary cases may involve an array of university administrators and committees of students, staff, and faculty. Students are asked to assume positions of responsibility in the university judicial system in order to contribute their skills and insights to the resolution of disciplinary cases. The university reserves the right to amend this Student Conduct Code at any time according to established procedures.

II. Responsibilities and Rights

A. Every student has a duty to understand and abide by the rules and regulations of the university. Ignorance of a rule or regulation will not be an acceptable defense.

Students accused of disciplinary violations are entitled to the following procedural protections:

1. to be informed of the charges against them

2. to request an informal resolution of the case
3. to be allowed reasonable time to prepare a defense
4. to hear and respond to evidence upon which a charge is based
5. to call and examine relevant witnesses in disciplinary hearings
6. to be assured of confidentiality according to the terms of the university policy on confidentiality
7. to request that any person conducting a disciplinary conference, or serving as a Conduct Council member or hearing officer, be disqualified on the grounds of personal bias
8. to be provided with an opportunity to review these rights before any disciplinary conference or hearing
9. to be considered not responsible for the charges until found responsible by clear and convincing evidence

III. Jurisdiction

The Student Conduct Code (“Code”) is the university’s policy for nonacademic conduct offenses and applies to all students, student groups, and student organizations at American University, including students at the Washington College of Law (“WCL”). However, alleged infractions of prohibited conduct by WCL students will not be subject to the resolution mechanism described in this policy, but will be processed within the WCL judicial system.

The university retains jurisdiction over alleged infractions that occur during a student’s matriculation or attendance at the university, including winter, spring, and summer breaks, and periods of leave of absence from the university. Therefore, a hearing may be scheduled after a student has completed a program, withdrawn, or graduated from the university. Generally, the university will take disciplinary action for on-campus infractions of the Code. However, the university will take any and all necessary action to protect the safety and well-being of the campus community, including, but not limited to, taking disciplinary action against students whose behavior off-campus indicates that they pose a substantial danger to others. The university may take action against a student who is the subject of an adjudicated violation of state or federal law.

IV. Violations of Law and University Regulations

Students may be accountable both to civil authorities and to the university for acts that constitute violations of law and of this Code. Disciplinary action at the university will normally proceed while criminal proceedings are pending and will not be subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

V. Definitions

A. “Aggravated violation”—a violation that resulted or foreseeably could have resulted in significant damage to persons or property or which otherwise posed a substantial threat to the stability and continuance of normal university or university sponsored activities.

B. “Clear and convincing”—a measure of proof that produces a firm belief in the allegations presented. It is more than the standard of “preponderance of the evidence” and less than the standard of “beyond a reasonable doubt.”

C. “Disciplinary conference”—a forum in which a hearing officer meets with a student to adjudicate an alleged violation of the Code.

D. “Disciplinary hearing”—a forum in which a panel of the Conduct Council meets with a student to adjudicate an alleged violation of the Code.

E. “Group”—persons who are associated with each other but who have not complied with university requirements for recognition as an organization.

F. “Harassment”—an intimidating, hostile, or coercive act which is intentional or persistent.

G. “Hearing officer”—any student, staff, or faculty member who conducts disciplinary conferences or disciplinary hearings as set forth in Sections XIV and XV of this Code.

H. “Institution” and “university”— American University and all of its undergraduate and graduate departments and programs.

I. “Organization”—an association of persons that has met university requirements for formal recognition.

J. “Reckless”—conduct which a reasonable person under similar circumstances should be expected to know would create a substantial risk of harm to persons or property or which would otherwise be likely to result in interference with normal university or university sponsored activities.

K. “Relevant”—related to the charges at hand. Relevant information may be excluded by a hearing officer during a disciplinary conference or hearing if it is unfairly prejudicial.

L. “University premises”—buildings and grounds owned, leased, operated, controlled, or supervised by the university.

M. “University sponsored activity”—any activity on or off university premises that is specifically initiated or supervised by the university.

N. “Weapon”—firearms, fireworks, explosives, metal knuckles, knives,

or any other instrument designed
or used to inflict injury to person
or property.

VI. Prohibited Conduct

This Code is not written with the specificity of a criminal statute, nor is it intended to cover every instance of potentially prohibited conduct. American University expects its students, wherever they are, to adhere to high standards of honor and good citizenship and to conduct themselves in a responsible manner that brings credit to themselves and the university. The following misconduct is subject to disciplinary action:

- A. physical abuse of any person, including, but not limited to, sexual assault and abuse
- B. conduct which threatens or endangers the health or safety of any person
- C. using, distributing, or manufacturing a weapon, or possessing any object produced as a weapon
- D. arson
- E. the sale, distribution, use, or possession of any illegal drug
- F. violation of university policies pertaining to the sale, distribution, use, or possession of alcohol
- G. violation of state or federal law
- H. intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency
- I. theft of property or services or knowingly possessing stolen property
- J. harassment or intimidation
- K. in university matters not covered
by the Academic Integrity Code: dishonesty; misrepresentation; fraud; forgery; or knowingly using false information, documents, or instruments
of identification

L. intentionally or recklessly destroying or damaging university property or the property of others

M. entry, attempt to enter, or remaining without authority or permission in any university office, residence hall room, university sponsored event, or university premise

N. tampering with, or unauthorized or fraudulent use of, campus telephone equipment, telephone credit cards, or access codes

O. abuse of university computer equipment, networks, systems, or services

P. intentionally or recklessly interfering with normal university or university sponsored activities, including, but not limited to, studying, teaching (including class sessions and office hours), research, university administration; or fire, police, or emergency services

Q. disorderly conduct or interfering with the rights of other students

R. illegal gambling or gaming, as defined by state or federal law

S. willfully failing to comply with the directions of university officials, including public safety officers or residential life staff members, acting in performance of their duties

T. unauthorized use of the university's corporate name, logo, or symbols

U. unauthorized soliciting or canvassing by any individual, group, or organization

V. violations of other published non-academic university regulations or

policies, including, but not limited

to, policies related to discrimination

and discriminatory harassment,

sexual harassment, computer use,

the residence halls, hazing, and amplification of sound

W. attempt to engage in any of the above prohibited conduct

X. violating the terms of any disciplinary sanction imposed in accordance with this Code

VII. Standards of Classroom Behavior

Primary responsibility for managing the classroom environment rests with the faculty. Students who engage in any prohibited or unlawful acts that result in disruption of a class may be directed by the faculty member to leave the class for the remainder of the class period. Longer suspensions from class or dismissal on disciplinary grounds may include interim suspension, as set forth in Section IX, and must be preceded by a disciplinary

conference or hearing, as set forth in Sections XIV and XV of this Code. Academic dishonesty allegations are processed in accordance with procedures set forth in the Academic Integrity Code (Academic Regulations §80.00.00). Students will be subject to both the Student Conduct Code and the Academic Integrity Code in cases where there is a combination of alleged violations of academic and nonacademic

regulations.

VIII. Student Groups and Organizations

Student groups and organizations may be charged with violations of this Code, as described below:

A. A student group or organization and its officers may be held collectively and individually responsible when violations of this Code by those associated with the group or organization have received the consent or encouragement of the group or organization or of the group's or organization's leaders or officers.

B. The officers or leaders or any identifiable spokesperson for a student group or organization may be ordered by the director of judicial affairs and mediation services to take appropriate action designed to prevent or end violations of this Code by the group or organization. Failure to make reasonable efforts to comply with the director's order shall be considered a violation of this Code, both by the officers, leaders, or spokespersons for the group or organization and by the group or organization itself.

C. Sanctions for group or organization misconduct may include revocation or denial of registration or recognition, as well as other appropriate sanctions.

D. Student organizations, including fraternities and sororities, may appoint panels or boards to mediate disputes and enforce association bylaws. Decisions or recommendations by such panels or boards do not constitute official action by the university.

IX. Interim Suspension

The dean of students or designee may suspend a student from the university for an interim period pending disciplinary or criminal proceedings or medical evaluation regarding behavior relevant to such proceedings. The interim suspension will be effective immediately without prior notice whenever there is evidence that the continued presence of the student at the university poses a substantial and immediate threat to him or herself, to others, or to the stability and continuance of normal university functions. Interim suspension excludes students from university premises and other privileges or activities. A student suspended on an interim basis will be given a prompt opportunity to appear personally before the dean of students or designee in order to discuss the following issues only: (a) the reliability of the information concerning the student's conduct, including the matter of identity; (b) whether the conduct and surrounding circumstances reasonably

indicate that the continued presence of the student on university premises poses a substantial and immediate threat to him or herself, to others, or to the stability and continuance of normal university functions.

X. Conduct Council

The Conduct Council will consist of 12 students nominated by the Student Confederation, Residence Hall Association, and the Graduate Student Association; four faculty members nominated by the University Senate; and four staff members nominated by the University Staff Council. The dean of students, with the approval of the vice president of student services, will appoint members to the Conduct Council. Among other duties, members of the Conduct Council will sit on hearing panels designed to resolve allegations referred for a hearing in accordance with Section XV of this Code. The director of judicial affairs and mediation services will be responsible for training and providing administrative support to the Council.

A. The director of judicial affairs and mediation services will select a hearing panel from the Conduct Council comprised of five persons: three students, one faculty member, and one staff

member.

B. An ad hoc hearing panel of the Conduct Council may be established

by the dean of students or designee whenever the Conduct Council is not constituted, or is otherwise unable to hear a case. An ad hoc Conduct Council hearing panel will be composed at a minimum of one faculty member nominated by the chair of the University Senate, one student nominated by the director of judicial affairs and mediation services or designee, and one staff member nominated by the chair of the University Staff Council.

C. Both the findings and the sanctions determined by Conduct Council hearing panels are recommendations to the dean of students who will render a decision.

D. Members of the Conduct Council who are charged with any violation of this Code, other university policies, or

a criminal offense may be temporarily suspended from their positions by

the director of judicial affairs and

mediation services while charges against them are pending. Members found responsible for any such violation or offense may be disqualified from any further participation in the university judicial system.

Additional grounds and procedures

for removal may be established by the director of judicial affairs and mediation services.

XI. Advisors

At their own discretion, complainants and respondents may be advised by an American University student, faculty, or staff member. The role of advisors is limited to consultation. While advisors may be present at disciplinary conferences or hearings, they may not address hearing bodies, speak in disciplinary conferences, or question witnesses. Because the purpose of this disciplinary process is to provide a fair review of alleged violations of this Code rather than a formal legal proceeding, participation of persons acting as legal counsel is not permitted.

XII. Standards of Due Process

Students who may be subject to dismissal, suspension, or removal from university housing will be referred to a disciplinary hearing, as specified in Section XV of this Code. Students who may be subject to lesser sanctions for nonacademic misconduct will be referred to a disciplinary conference, as set forth in Section XIV of this Code. Formal rules of evidence will not be applied, nor will deviations from prescribed procedures necessarily invalidate a decision, unless significant prejudice to a student respondent or the university may result.

XIII. Procedures for Case Resolution

A. Mediation is encouraged as an alternative means to resolve some disciplinary cases. The director of judicial affairs and mediation services will inform complainants and respondents of the availability of mediation resources. The director, at his or her discretion, may decline to process a complaint until the parties in a nonacademic misconduct case make a reasonable attempt to achieve a mediated settlement. To be binding in a disciplinary case, any mediated settlement must be approved by the director of judicial affairs and mediation services.

If mediation fails, the case will be forwarded for a disciplinary conference.

B. Any American University student, faculty, or staff member may refer a student, student group, or organization suspected of violating this Code to the director of judicial affairs and mediation services. Those referring cases are normally expected to serve as the complainant and to present relevant evidence in hearings or disciplinary conferences. The complainant may request the assistance of an advisor, as set forth in Section XI of this Code. A written complaint must be filed with the director of judicial affairs and mediation services within 15 days (excluding weekends, official university holidays, winter and spring breaks) of the occurrence or discovery of the alleged infraction(s). Complainants filing cases after the 15-day filing period may request in writing an extension of the filing period from the director of judicial affairs and mediation services. Requests for waivers of the filing period may be made up to one major semester (fall or spring) after the date of discovery of the alleged incident. In such cases, the director will evaluate whether a reasonable person might be justified in filing after the 15-day period due to the nature of the charges alleged. The deadline for filing a case will also be

extended if there is an alleged violation of the university's discrimination and discriminatory harassment policy. In such cases, the complainant will have one year from the date of discovery to file a complaint.

C. The director of judicial affairs and mediation services will conduct a preliminary review to determine whether the alleged misconduct, if proved, might result in dismissal, suspension, or removal from university housing. Students who may be subject to removal from university housing, suspension, or dismissal, will be entitled to a disciplinary hearing before a Conduct Council panel consisting of five members of the Conduct Council. Students who are unlikely to be subject to removal from university housing, suspension, or dismissal will be referred to a disciplinary conference with a hearing officer, as set forth in Section XIV of this Code.

D. Students referred for a disciplinary hearing by the director of judicial affairs and mediation services may elect to have their cases resolved in a disciplinary conference in accordance with Section XIV of this Code. Such an election must be in writing, affirming that the student is aware a hearing is being waived. The full range of sanctions may be imposed, including removal from university housing, suspension, or dismissal from the university. Both the findings and the sanctions determined by the hearing officer will be regarded as recommendations to the dean of students in the case of removal from university housing, suspension, or dismissal.

E. Hearing panel members, hearing officers, complainants, and respondents will have the right to question witnesses.

XIV. Procedures for Disciplinary Conferences

Students accused of nonacademic offenses that will likely result in penalties less than removal from university housing, suspension, or dismissal are subject to a disciplinary conference with a hearing officer. The director of judicial affairs and mediation services or designee will serve as the hearing officer and conduct the disciplinary conference. Any party may challenge a hearing officer on the ground of personal bias. The hearing officer may be disqualified by the director of judicial affairs and mediation services or the dean of students. The hearing officer will make inquiries into evidence if necessary to ensure a just outcome of the case. In complex cases, the director of judicial affairs and mediation services, at his or her discretion, may refer the case to a disciplinary conference board. Conference board members will be selected by the director. The board will consist of one hearing officer and two Conduct Council members, including at least one student. Decisions of the disciplinary conference board are determined by majority vote and are final. The director of judicial affairs and mediation services will review all disciplinary conference decisions to ensure their procedural integrity and consistency with precedent. In cases where the director of judicial affairs and mediation services serves as the hearing officer, the dean of students will conduct the review.

The following procedural protections are provided to respondents in disciplinary conferences:

A. written notice of the specific charges at least three business days prior to the scheduled conference with additional time at the director's discretion

B. reasonable access to the case file prior to and during the conference

C. an opportunity to respond to the

evidence

D. a right to be accompanied by an advisor, as provided in Section XI of

this Code

XV. Procedures for Disciplinary Hearings

Students accused of nonacademic offenses that will likely result in sanctions such as removal from university housing, suspension, or dismissal are subject to a disciplinary hearing convened by a hearing officer before Conduct Council members.

A. The director of judicial affairs and mediation services or designee will serve as the hearing officer and conduct the hearing. He or she may participate in hearing panel deliberations and discussions but cannot vote. The hearing officer is responsible for final decisions on all procedural issues and may modify hearing procedures, if necessary, to ensure a fair and expedient administration of the hearing.

B. The director of judicial affairs and mediation services will give respondents notice of the hearing date and the

specific charges against them at least

five business days in advance of the

hearing. Respondents will be accorded reasonable access to the case file, which will be retained in the office of the

director of judicial affairs and mediation services.

C. Respondents who fail to appear

after proper notice will be deemed to have pled no contest to the charges pending against them. Nonetheless, the complainant will be required to present

a case that meets the standard of clear and convincing evidence.

D. All hearings are closed to the

public unless parties mutually request that a hearing be open to the public. The hearing officer will ordinarily

honor such requests unless there are overriding interests to have the hearing closed (e.g., to protect the identity of a sexual harassment victim). Even in a public hearing, the hearing panel may limit the number of observers based on the physical limitations of the hearing room.

E. The hearing officer will exercise control over the proceedings to avoid needless consumption of time and to achieve orderly completion of the hearing. Any person, including the accused student, who disrupts a hearing may be excluded by the hearing officer.

F. The university will make audio recordings of hearings. A transcript of the hearing will be provided, upon written request by the respondent, who must pay for the cost of the transcript service.

G. Any party may challenge a panel member or the hearing officer on the grounds of personal bias. Hearing panel members may be disqualified by the hearing officer. A hearing officer may be disqualified by a majority vote of the members of the hearing panel. Votes will be taken by secret ballot.

H. Witnesses will be asked to affirm that their testimony is truthful and may be subject to charges of violating this Code by intentionally providing false information to the university.

I. Witnesses, other than the complainant and the respondent, will be excluded from the hearing except when providing testimony to the hearing panel. All parties, the witnesses, and the public will be excluded during panel deliberations, which will not be recorded or transcribed.

J. The charges against the respondent must be established by clear and convincing evidence.

K. Formal rules of evidence will not be applicable in disciplinary proceedings conducted pursuant to this Code. The hearing officer will abide by the rules of confidentiality and privilege, but will admit all other matters into evidence which are relevant. The respondent may challenge the relevance of evidence. Irrelevant or unduly repetitious evidence may be excluded by the hearing officer.

L. Complainants and respondents will be accorded an opportunity to ask relevant questions of witnesses who testify at the hearing.

M. Affidavits will be admitted into evidence only if signed by the affiant and witnessed by the director of judicial affairs and mediation services or designee.

N. A determination of responsibility will be followed by a supplemental proceeding in which either party may submit relevant evidence or make relevant statements concerning the appropriate sanction to be imposed. The past disciplinary record of the respondent will be supplied to the panel only during the supplementary proceeding.

O. Any determination of responsibility by majority vote of the hearing board will be supported by written findings, which will be placed in the case file and made available to the student respondent before a final decision is rendered by the dean of students.

XVI. Sanctions

Sanctions for violating provisions, including, but not limited to (a)

through (k) in Section VI of this

Code may result in suspension or

dismissal from the university.

Repeated or aggravated violations

of any part of this Code may also

result in suspension or dismissal. Significant mitigating or aggravating

factors will be considered when

sanctions are imposed, including

the present demeanor and past

disciplinary record of the offender,

the nature of the offense, and the

severity of any damage, injury or

harm resulting from it. Sanctions

which may be imposed in accordance with this Code include, but are not

limited to:

A. "Warning"—notice, oral or written, that continuation or repetition of prohibited conduct may be cause for additional disciplinary action.

B. "Censure"—a written reprimand

for violation of specified regulations, including a warning that continuation

or repetition of prohibited conduct

may be cause for additional disciplinary action.

C. “Disciplinary Probation”—

exclusion from participation in privileged or extracurricular institutional activities for a specified period of time. Additional restrictions or conditions

may also be imposed. Violations of the terms of disciplinary probation, or any other violation of this Code during

the period of probation, may result

in removal from university housing,

suspension, or dismissal from the

university.

D. “Restitution”—repayment of the direct cost to the university for damages resulting from a violation of this Code.

E. “Removal from University Housing” —denial of housing privileges.

F. “Suspension”—exclusion from university premises and other privileges or activities as set forth in the suspension notice. This action will be permanently recorded on the student’s academic transcript.

G. “Dismissal”—permanent termination of student status and exclusion from

university premises, privileges, and activities. This action will be permanently recorded on the student’s academic

transcript.

H. “Other Sanctions”—other sanctions may be imposed instead of or in addition to those specified in sections (A) through (G) of this section. For example, students may be offered the option of voluntary withdrawal rather than suspension. Service or research projects may also be assigned.

XVII. Appeals

Any disciplinary determination arrived

at through a disciplinary hearing and resulting in removal from university housing, suspension, or dismissal may be appealed to the vice president of student services by the respondent.

A. The appeal must be in writing and delivered to the Office of Judicial Affairs and Mediation Services within seven business days after the notice of removal from university housing, suspension, or dismissal is delivered to the address on record for the student in the Office of the Registrar.

B. Appeals will be reviewed by an appellate board of the Conduct Council to determine their viability. The appellate board will consist of one student, one faculty member, and one staff member selected from the Conduct Council by the director of judicial affairs and mediation services. The appellate board will meet as soon as possible after the appeal is received.

C. The appellate board will determine viability based on whether there is new information that significantly alters the finding of fact, evidence of improper procedure, findings that are against the weight of the evidence, or excessive sanctions. Only when deemed viable will the appeal be forwarded to the vice president of student services for review and decision. Decisions of the appellate board about the viability of the appeal are determined by majority vote and are final.

D. The appellate board may deny the request for appeal and affirm the findings of the dean of students or grant the request for appeal and forward its recommendations to the vice president of student services.

E. Appeals will be decided based on the report filed by the hearing officer and the appellate board, the respondent's written statement, and any written response or memoranda prepared by university officials. All written materials considered by the appellate board and vice president of student services will be subject to inspection by the respondent. The respondent may request an opportunity to discuss the written materials in person with the vice president of student services. New hearings will not be conducted on appeal. Decisions rendered

by the vice president of student services are final.

F. The following standards will apply when appeals are considered by the vice president of student services:

1. Sanctions may be reduced only if found to be substantially disproportionate to the offense.

2. Cases may be remanded for

rehearing only if specified procedural errors or errors in interpretation of university regulations were so substantial as to deny the student a fair hearing, or if new and significant evidence becomes available that could not have been discovered by a properly diligent student before or during the original hearing.

3. Cases may be dismissed if the finding is held to be unsupported by the evidence.

G. The imposition of sanctions will be deferred while an appeal is pending, unless, in the discretion of the vice president of student services, the continued presence of the student in the residence halls or on the campus poses a substantial threat to him or herself, to others, or to the stability and continuance of normal university functions.

XVIII. Disciplinary Files and Records

Case referrals may result in the development of a disciplinary file in the name of the respondent, which will be voided if the student is found not responsible for violating the Code. Voided files will be so marked, will not be kept with active disciplinary records, and will not constitute disciplinary records. Voided files will normally be destroyed after five years. The files of students found responsible for any charges against them will normally be retained as a disciplinary record for at least five years from the date of the letter providing notice of final disciplinary action.

Senate Action, April 1999.

President and provost approval, June 1999.

Effective summer 1999.