

JUDICIAL AFFAIRS HANDBOOK

2016–2017

STUDENT CODE OF CONDUCT

POLICIES

PROCEDURES

RIGHTS & RESPONSIBILITIES

Millersville University

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SECTION A

PURPOSE

The purpose of this handbook is to inform students of their rights and responsibilities with regard to the standards of conduct for the Millersville University community. In addition to providing a civic educational environment for intellectual pursuits, Millersville University is concerned with developing socially responsible citizens, ensuring the welfare and freedom of all members of the University community, and protecting individual rights.

PREAMBLE

The Student Code of Conduct supports Millersville University's educational mission by setting forth standards of conduct for students and student organizations that are intended to sustain an environment for educational pursuits and individual development. The Code of Conduct also establishes due process procedures and sanctions that respect individual rights and freedoms. It is the charge of the Office of Judicial Affairs to balance between holding students accountable and creating a positive environment for learning. The University takes an educational approach to the enforcement of the Code of Conduct, intending that adherence to the Code will be a means for students to learn the importance of their responsibilities and the value of their rights. If a student ever felt as though their rights have been violated, they have the ability to file an incident report with the Office of Judicial Affairs. The Office of Judicial Affairs will diligently follow up on all complaints. The University appreciates every student's right to make a complaint and does not tolerate retaliation. Any form of retaliation will be taken very seriously, and students will be held accountable accordingly.

In accordance with Title IX of the Education Amendments of 1972, it shall be the policy of Millersville University to prohibit the harassment and discrimination of students on the basis of sex. Furthermore, the University's obligation is to provide educational programs and activities that do not discriminate on the basis of sex. The University will promptly investigate all allegations of sexual misconduct, harassment or discrimination and will take appropriate corrective action, up to and including formal discipline, against individuals who violate the University's policies. The Title IX Coordinator for the University is located within the Division of Student Affairs and Enrollment Management. The Director and Assistant Director of Judicial Affairs serve as Deputy Title IX Coordinators and will have oversight responsibility for Title IX issues that arise in student code of conduct matters. As such, both the Title IX Office and the Office of Judicial Affairs will serve as a resource location where sexual misconduct complaints can be filed.

JURISDICTION

The Code of Conduct applies to all student and student organizations of Millersville University. “Student” for the purposes of the Code of Conduct refers to any person who accepts an offer of admission indicating intention to enroll at the University, including participation in a course or participation in a University-sponsored program. A person who is not enrolled for a particular semester, but who otherwise has a continuing relationship with the University, including students who are on a Medical Leave of Absence, is considered to be a “student” for the purpose of this Code.

The classification of student is not limited to the physical campus of the University. Concern for the conduct of students extends to satellite and remote locations wherever University operations are conducted, including the virtual, online learning environment of a student. Students will also be held responsible for their conduct regardless of their place of residence or whether their conduct occurred on or off campus.

The Code also applies to any group of students who have complied with the University requirements for recognition as a student organization. Members of a student organization may be individually held responsible or charged as a group for infractions and violations of the Code.

SECTION B: STUDENT CODE OF CONDUCT

Millersville University wants to ensure that all of our students and student organizations have a rich and worthwhile educational experience in a civil environment. In order to maintain such an environment, Millersville University has adopted this Student Code of Conduct in support of its mission to prepare students to become well-rounded individuals who become involved in productive roles as civic and community-engaged leaders and citizens.

The Student Code of Conduct reflects the University community’s concern that students and student organizations on our campus and in our communities maintain the highest standards of conduct. It guarantees due process and protects the individual freedoms of our students while holding students accountable for conduct that violates the terms of the Code. Disciplinary action may be imposed on a student whose conduct violates the Code, whether that conduct occurs on or off campus.

The Student Code of Conduct details the rules and regulations for students and student organizations. It is reviewed annually by the Office of Judicial Affairs and amendments to the Code must be approved by Millersville University’s president and Council of Trustees.

The following is prohibited conduct:

V.1 Conduct threatening the welfare of others: Acts which cause harm to another person or oneself or threaten or endanger the health or safety of another person or oneself or constitute harassing conduct. The prohibited conduct may be intentional or reckless and includes but is not limited to:

- A. Harassing Conduct:** Engaging in conduct that is harassing, intimidating or threatening, or engaging in conduct that constitutes unlawful discrimination based on another person's race, color, sex, sexual orientation, gender identity, religion, creed, age, national or ethnic origin, citizenship, or veteran status, disability or any other legally protected class. This includes conduct involving electronic communication.
- B. Hazing:** No person shall engage in hazing activities or intimidating practices for the purpose of initiation or maintaining group affiliation. Hazing is defined as any action that endangers the mental or physical health or safety of a student, with or without his/her consent*. Any activity falling within the definition of hazing activities is considered to be a forced activity, subjecting the organization and its individual members to the full range of penalties. Additional information is available in our Student Organizations Guidebook.
- C. Physical Violence:** Striking, shoving or subjecting another person to unwanted physical contact.
- D. Sexual Misconduct:** All sexual misconduct cases are resolved in accordance with Section E (Student Sexual Misconduct Violations of Title IX) on page 15 of this handbook. Sexual misconduct can be defined as any type of sexual contact or conduct that occurs without the explicit consent* of the recipient. Sexual misconduct violations include but are not limited to:
 - a. Sexual harassment:** Sexual harassment consists of interaction between individuals that is characterized by unwelcome sexual advances, coercion, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, living conditions and/ or educational evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the effect of unreasonably interfering with an individual's work or academic performance or creating an

intimidating, hostile or offensive working or educational environment.

- b. Nonconsensual* sexual intercourse:** Nonconsensual sexual intercourse is any sexual intercourse (anal, oral or vaginal), including the use of an object for sexual intercourse, however slight, by one person upon another without consent.
- c. Nonconsensual* sexual contact:** Nonconsensual sexual contact is any sexual touching (including touching with an object) however slight, by one person on another without consent.
- d. Sexual Exploitation and/or Exposure:** Sexual exploitation is when a student takes nonconsensual, unjust or abusive sexual advantage of another for his/her own pleasure, advantage or benefit, or to pleasure, benefit or advantage anyone other than the one being exploited. Sexual exposure occurs when a student engages in lewd exposure of the body done with the intent to arouse or satisfy the sexual desire of any person.
- e. Dating violence:** Dating violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.
- f. Domestic violence:** Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- g. Stalking:** Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) fear for his or her safety or the safety of others; or (2) suffer substantial emotional distress.

"Consent": Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity. A more extensive definition of consent can be found in the "Glossary of Terms" section.

**Please note that all sexual misconduct cases are resolved in accordance to Section E (Student Sexual Misconduct Violations of Title IX) on page 15 of this handbook.*

V.2. Alcohol: Millersville University is a "responsible use" campus which means that alcohol is not permitted on campus or any affiliated campus property or event without the express written permission of the Vice President of Student Affairs and Enrollment Management. All approved service of alcohol must adhere to the Alcoholic Beverages Administrative Policy. Accordingly, the following activities are prohibited:

- A.** Conduct involving the personal consumption and/or possession of alcohol in violation of the law on or off campus.
- B.** Distribution of alcoholic beverages to minors.
- C.** Knowingly being in the presence of unauthorized use, possession or distribution of alcoholic beverages.
- D.** Public drunkenness.
- E.** Violations of the University Alcoholic Beverage Administration Policy.

V.3. Drugs: Acts involving the manufacture, distribution, sale, exchange, use, offer to sale, or possession of illegal drugs, narcotics, or drug paraphernalia. Illegal drugs are defined by state and federal statutes. The following activities are also prohibited:

- A.** Knowingly being in the presence of unauthorized use, possession, or distribution of drugs.
- B.** The use of counterfeit substances under this section is also a violation of the Code of Conduct.

V.4. Weapons and incendiary devices: For the purposes of this policy, deadly and offensive weapons may include, but are not limited to: Firearms, loaded or unloaded; pellet, flare, tranquilizer, stun, spear, or dart guns; knives with blades larger than a small folding knife; any cutting instrument where the blade is exposed in an automatic way;

daggers or swords; striking instruments, including clubs, truncheons, and blackjacks; martial arts weapons; bow and arrow combinations; explosive devices, ammunition or components to manufacture ammunition. Objects that could be mistaken for any of the prohibited weapons are also a violation of the Student Code of Conduct. The University policy on Deadly Weapons can be [found here](#).

V.5. Impedes academic, administrative or University activities: Conduct which deviates from acceptable standards of appropriate conduct and negatively impacts the academic and administrative functions or activities hosted by the University is prohibited and includes:

- A. Academic dishonesty:** Incidents of plagiarism, cheating and other forms of academic dishonesty as set forth in the Academic Honesty Policy violate the Student Code of Conduct and are adjudicated by the appropriate academic affairs personnel under the provision of the Academic Honesty Policy which can be [found here](#).
- B. Destruction:** Deliberate or negligent acts that endanger and/or result in damage or vandalism (see Student Organization Guidebook for the policy on chalking) to University property, including its electronic resources, or the property of others.
- C. Disorderly conduct:** Conduct which is disorderly, disruptive, or interferes with orderly University operations, including but not limited to:
 - a.** Any act that fails to comply, ignores or disobeys directives given by law enforcement officers and duly authorized University officials, including Millersville University faculty, staff, paraprofessionals and student employees/leaders in the performance of their duties.
 - b.** Fire safety – Violation of safety regulations including, but not limited to, (a) setting unauthorized fires, (b) tampering with fire safety, firefighting equipment and/or defibrillators or rendering such equipment inoperable, (c) turning in false fire alarms by any means of communication, (d) tampering or improper use of campus emergency phones, (e) failure to evacuate facilities upon the sounding of a fire alarm/drill, or (f) creating any hazardous condition that endangers the health and safety of others
 - c.** Creating excessive noise or commotion.
 - d.** Disrupting scheduled University programs and activities.

- e. Obstructing vehicular and pedestrian traffic.
- f. Deliberate acts that interfere with the use of University electronic resources.
- g. False reporting of an emergency.
- h. Furnishing false information to any law enforcement officer or University employee orally, in writing or electronically.
- i. Forging, altering or misusing any University document, record or any instrument of identification.
- j. Tampering with relevant evidence/information pertinent to a disciplinary proceeding.
- k. Failing to appear when directed to do so by the Vice President for Student Affairs & Enrollment Management or his/her designee, the Judicial Affairs Director or his/her designee, or the University Conduct Board when charged with a violation of the Student Code of Conduct.
- l. Failing to comply with a sanction imposed by either the Judicial Affairs Director or his/her designee, the Associate Provost, the University's Conduct Board, Vice President for Student Affairs & Enrollment Management or the president of the University.
- m. Fire alarm causation triggered by acts which are a violation of the Student Code of Conduct or any other rules, regulations, and state or local laws.

V.6. Theft: No person shall engage in the theft or misappropriation of University provided funds or property, including its electronic resources (see policy for Responsible Use) or the property or funds of another person, entity or organization.

V.7. Trespassing: Unauthorized entry to or use of University property or facilities, including electronic systems or acts constituting unauthorized possession, duplication, or use, transfer, or access of University keys or IDs. Failure to adhere to a No Trespass order is also a violation of this policy.

V.8. Unlawful Conduct:

- A.** Conduct in violation of federal, state or local laws including violations of municipal ordinances.
- B.** Conduct that constitutes unlawful discrimination based on a person's race, color, sex, religion, age or national origin.

V.9. Prohibited Conduct: Conduct that violates published University policies, rules, and regulations that are contained in other university publications but not specified in this Student Code of Conduct or that are announced to the university community following this publication, including but not limited to the Student Organization Guidebook, residence hall rules and regulations and the Policy for Responsible Use of technology.

V.10. Retaliation: No person shall physically harm or exhibit threatening, intimidating, or harassing conduct toward any party or witness involved in a student conduct case, or cause damage to his or her property, with the intent of influencing the outcome of the case or for retaliatory reasons.

SECTION C: SELECT POLICIES, GUIDELINES AND RESOURCES

PROCEDURES FOR REPORTING AND RESPONDING TO ALLEGED CODE VIOLATIONS

Any member of the University community may report alleged violations of the Student Code of Conduct to the Office of Judicial Affairs. All reports of violations of the Student Code of conduct must be in writing and should be submitted via the online incident report found on the Judicial Affairs web page. Please note that all emergencies/crimes should be immediately reported to the police by dialing 911.

- The Judicial Affairs Director or designee will review incident reports and will determine whether there are sufficient grounds to initiate the judicial process for violations of the Student Code of Conduct.
- The University conduct process may proceed independent of any pending criminal or civil charges and actions. The judicial process outcome, including sanctions in the University judicial process will be determined independent of other criminal or civil proceedings.

- Students will be notified in writing when a complaint of an alleged violation has been received by the Office of Judicial Affairs. The student shall respond as required by the notice. Failure to respond accordingly to notice may result in further disciplinary charges.

RESPONSIBLE ACTION POLICY

Millersville University holds the safety, security, and well-being of its students as one of its highest priorities. The University prides itself on offering all of the benefits of a public institution while preserving a caring, individualized community. Millersville University recognizes that a student's concern for potential disciplinary action while under the influence of alcohol and/or other substances may hinder his/her actions in response to seeking assistance in certain emergency situations and/or reporting incidents.

It is imperative that medical attention be sought should concerns arise for one's own safety or the safety of others. This policy is intended to increase the reporting of incidents requiring emergency assistance during a life-threatening or alcohol-related illness and will in turn result in increased safety for students and the campus community.

Policy:

The University will take into consideration actions taken by students to obtain aid for a fellow student in the event of an emergency as a result of excessive alcohol consumption. A student coming to the aid of a fellow student will be considered during sanctioning as part of the judicial process should he/she demonstrate the following:

1. The only way law enforcement officers or University officials became aware of the person's violation of the Student Code of Conduct is because the person placed a 911 call, or a call to campus safety, police or emergency services, in good faith, based on a reasonable belief and reported that another person was in need of immediate medical attention to prevent death or serious injury.
2. The person reasonably believed he/she was the first person to make a 911 call or a call to campus safety, police or emergency services, and report that a person needed immediate medical attention to prevent death or serious injury.
3. The person provided his own name to the 911 operator or equivalent campus safety, police or emergency officer.
4. The person remained with the person needing medical assistance until emergency healthcare providers arrived and the need for his presence had ended.

CONFIDENTIALITY

Judicial Affairs will take every measure to ensure the privacy of all parties involved in the disciplinary process. Information related to disciplinary cases will be shared only with appropriate University authorities and law enforcement authorities as necessary for each case. Due to University obligations to investigate particular complaints, circumstances may arise which may limit Judicial Affairs' ability to provide absolute confidentiality.

PARENTAL NOTIFICATION

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) protects the privacy of student education records. FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Millersville University must have written permission from the student in order to release any information from a student's education/judicial record. FERPA does, however allow for some disclosures without student consent and in accordance with FERPA guidelines, Millersville University's Parental Notification policy includes notifying parents of students who are under 21 years of age who have been found responsible for involvement in an incident in which there was an alcohol violation. Millersville University's Parental Notification policy also includes notifying parents of students who have been found responsible for being involved in an incident in which there was a drug violation. Parental notification is an option within the law that will be subscribed to when deemed to be in the best interest of the student.

LOCAL LAW ENFORCEMENT

Millersville University students are expected to conduct themselves at all times in a manner that is consistent with the University's Student Code of Conduct. Incidents that result in actions taken by any law enforcement agency, on or off campus, will be dealt with through the Office of Judicial Affairs. Application of the Student Code of Conduct may proceed without a finding by a criminal or civil court.

- **Citations:** A nontraffic summary citation is a ticket issued when someone has committed a non-traffic related summary offense. The citation is either handed directly to the defendant or sent via summons from a court of law. Both the Office of Judicial Affairs and Local Law enforcement separately adjudicate citations.
- **Disruptive Conduct Reports:** A formal written warning issued by local law enforcement and is adjudicated by the Office of Judicial Affairs.

JUDICIAL ADVOCATE PROGRAM

An advocate is a resource for students going through or involved in the disciplinary process at Millersville University. Advocates are here to help and guide both complainants and respondents (student accused of violating the Code of Conduct) in preparation for a University disciplinary hearing and will help students understand outcomes of disciplinary cases as appropriate. Judicial advocates also provide necessary support and resources to those who may have been a victim of a violation of the Code. The advocates are well trained in the judicial process and are neutral parties who have no influence on the outcome of the case.

SECTION D: JUDICIAL PROCESS

UNDERSTANDING THE JUDICIAL PROCESS

As members of the University community, Millersville University expects its students to act as responsible members and citizens both on campus and in the local community. In the event an incident, or conflict, arises in which the Student Code of Conduct is in question, Judicial Affairs administers the judicial process for Millersville University.

It is important to note that our campus disciplinary process is not a criminal trial. It is a University proceeding designed to determine the facts pertaining to alleged misconduct. The University will apply a “preponderance of the evidence” standard in determining whether a violation of the student code of conduct occurred. A preponderance of the evidence standard simply means that it is “more likely than not” that a violation occurred. This is in contrast to “beyond a reasonable doubt,” standard which is the higher standard of proof required for a conviction in a criminal trial.

USE OF ADVISORS IN THE PROCESS

A student can have one advisor present with him/her at any stage in the judicial process, whether a parent, member of the University community, advocate or attorney. At the discretion of the Hearing Officer, one additional advisor may be allowed. However, advisors may not speak in the process, may not question witnesses or participate otherwise in the hearing; rather they may only communicate with the student. If the advisor charges a fee, the fee will be borne by the student.

ADMINISTRATIVE HEARING PROCEDURES

1. Upon receipt of a complaint of alleged violations of the Student Code of Conduct, a Hearing Officer will notify the respondent (student

accused of violating the code of conduct) and an Administrative Hearing will be scheduled with the student. The student will be notified by email to their university account or by U.S. mail with a hearing notification. The notification will indicate the date, time and location of the student's scheduled hearing.

- 2.** Failure to appear at a hearing for the scheduled date and time may result in a decision being made in the absence of the student, which might result in additional charges and sanctions including Failure to Comply.
- 3.** If a student organization is charged with violating the Code of Conduct, the organization's president or his/her designee must attend the hearing.
- 4.** During the Administrative Hearing the respondent:
 - a.** Shall be advised of their responsibility to tell the truth before speaking to the charges.
 - b.** Shall be allowed to introduce witness testimony, relevant evidence and his/her version of the events that resulted in the accusation of a violation of the Code of Conduct.
 - c.** May hear and may question witnesses as well as examine the relevant evidence and documents presented.
 - d.** May bring an advisor or Judicial Advocate who may consult with and advise the student/student organization but may not otherwise participate in the hearing.
- 5.** Only those individuals involved with the proceedings will be admitted to the hearing.
- 6.** The Hearing Officer shall decide that a violation of the Code of Conduct occurred if it is proven that it is more likely than not that such a violation occurred.
- 7.** Hearing decisions and penalties imposed shall be provided within 5 business days to the respondent in writing and shall include information about the student's rights to an appeal hearing.
- 8.** All hearing procedures shall be carried out promptly, adhering to the following guidelines:

- a.** All charges of a violation as well as the date, time and place of the hearing shall be provided in writing via email or U.S. mail to the complainant, respondent or student organization.
- b.** The Hearing Officer shall consider the evidence presented by the parties and determine if a violation of the code occurred. The Hearing Officer shall inform the respondent of the decision. If additional time is required to render a decision, the respondent shall be informed of the decision within five (5) business days of the hearing conclusion. All decisions will be communicated in writing via email or U.S. mail to the respondent student or student organization.
- c.** The respondent has the right to an appeal.

APPEALS

- 1.** Millersville University's appeals processes are provided to ensure that the procedures used for resolving student conduct matters are followed in such a manner as to provide fundamental fairness to all parties involved. An appeal is not a re-hearing of a case, but instead is an independent review of the original process, finding or sanctioning.
- 2.** A Respondent found responsible for violating the Code of Conduct, may request an appeal of the Administrative Hearing by submitting an appeal request form to the Office of Judicial Affairs within five (5) business days following the Hearing Officer's decision. If granted, the University Conduct Board will hear the appeal. The Appeal Form is available on the [Office of Judicial Affairs webpage](#).
- 3.** All sanctions rendered at the Administrative hearing must be adhered to while awaiting a result of the request for appeal. Appeals will only be considered if the request is based on one or more of the following reasons. The burden of proving that a legitimate reason exists for an appeal rests with the student:
 - a.** Alleged violations of Administrative Hearing procedures.
 - b.** New information pertaining to the case that was not available at the time of the Administrative Hearing that may substantially change the decision.
 - c.** Sanction(s) imposed were arbitrary or capricious.
- 4.** The Appeal officer or designee will review the appeal requests and

will determine whether there is sufficient reason to initiate the appeal process. Any requests not meeting the above criteria will not be considered and all original findings will be upheld.

5. Should the Appeal Officer or designee conclude that the request meets any of the above – noted reasons, the following actions may be taken with or without reconvening a hearing:
 - a. No change in any findings or sanctioning.
 - b. A modification of some or all of the findings and sanctions.
 - c. Reversal of all of the findings of the Administrative hearing decision and/or sanctions.

UNIVERSITY CONDUCT BOARD

The Conduct Board is responsible for reviewing appeals of findings made at Administrative Hearings and educating the University population about the rules, policies, and regulations contained in the Code.

The members of the Conduct Board include faculty, students and staff, and they take their duties to the Millersville University community very seriously. The Board is committed to preserving the integrity of the University's Student Code of Conduct. The Conduct Board's duties require the honesty, intelligence, professionalism and diligence of every Board member and to ensure this, the following is adhered to during Appeal Hearings:

1. At least 3 Conduct Board members will preside over conduct board hearings. One of the 3 board members presiding over the case will act as Chair during the hearing.
2. If a member of the Board has been involved in any way in a case to be heard or if he/she feels unable to render a fair decision, he/she must disqualify him/herself from the hearing. If it is determined by the Board Chairperson that a member of the Board is unable to render a fair decision, the Chairperson may disqualify the Board member from the hearing. A respondent may request that a Board member be disqualified if he/she feels the member is unable to make a fair decision. The Chairperson reserves the right to approve or deny the respondent student's request.
3. Those present at a University Conduct Board hearing shall be limited to the Board members and Chairperson; the respondent and his/her advisor; the complainant, the Judicial Affairs Director or his/her designee; and witnesses shall be present as called.

CONVENING THE APPEAL HEARING

After completing and submitting the Administrative Appeal Hearing Form, the respondent may be granted an appeal hearing before the University Conduct Board. The Judicial Affairs Director or designee shall convene the board to conduct a hearing. The University Conduct Board members, the complainant and the respondent shall be notified of the time, date and location of the hearing and all parties will notify his/her witnesses he/she wishes to have attend the hearing. During the hearing the following process will be followed:

1. A recording of the hearing, not including the board deliberations, shall be made. The recording shall be the property of the University. Copies may be available to the complainant and the respondent student or student organization upon request. The requestor shall be responsible for all costs.
2. Pertinent records, exhibits and written statements may be accepted as information for consideration by the University Conduct Board at the discretion of the Chairperson.
3. All procedural questions are subject to the final decision of the Chairperson of the University Conduct Board.
4. All decisions made by the University Conduct Board are final.

SECTION E: STUDENT SEXUAL MISCONDUCT VIOLATIONS OF TITLE IX

Allegations of violations of sexual misconduct can be a very difficult period for both the complainant and the respondent. Title IX of the Education Amendments of 1972 and its underlying regulations mandate that educational institutions prevent and address cases of sexual misconduct against students, whether perpetrated by peers or by employees of the institution. Millersville University has appointed, a Campus Title IX Coordinator. The Director of Judicial Affairs and the Assistant Director of Judicial Affairs serve as Deputy Title IX Coordinators who work closely with the Campus Title IX Coordinator to ensure adherence to the guidelines provided in Title IX. Alleged violations must be immediately reported to the Campus Title IX Coordinator or Deputy Title IX coordinators. See Section B for full descriptions of potential violations. In addition, please reference the complainant and respondent rights statements below if you are the victim (referred to as a complainant throughout this document) or accused person (referred to as a respondent throughout out this document) of

sexual misconduct. Mediation will not be used to resolve reports of sexual misconduct. More information about the sexual misconduct policy and additional resources can be [found here](#).

STATEMENT OF RIGHTS TO THE COMPLAINANT IN CASES INVOLVING SEXUAL MISCONDUCT

- A.** The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to university administrators;
- B.** The right to be treated with respect by university officials;
- C.** The right of both accuser and respondent to have the same opportunity to have others present (in support or advisory roles) during a campus investigation;
- D.** The right to be promptly informed of the outcome and sanction of any disciplinary hearing involving sexual misconduct and/or any violent crime offenses;
- E.** The right to be informed by university officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the right not to report, if this is the victim's desire;
- F.** The right to be notified of available counseling, mental health or student services for victims of sexual misconduct, both on campus and in the community;
- G.** The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the complainant and if such changes are reasonably available (no formal complaint, or investigation, campus or criminal, need occur before this option is available);
- H.** The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- I.** The right to have any complaint of sexual misconduct fairly adjudicated and not mediated;
- J.** The right to make a victim-impact statement during the investigation

and to have that statement become a part of the report submitted to the Director of Judicial Affairs or designee;

- K.** The right to a no contact order against another person who has engaged in or threatens to engage in stalking, threatening, harassing or other improper conduct that presents a danger to the welfare of the complaining student or others;
- L.** The right to have complaints of sexual misconduct responded to quickly and professionally by campus law enforcement, Judicial Affairs and the Title IX Coordinator;
- M.** The right to review all documentary evidence provided in the investigative report available regarding the complaint, subject to the privacy limitations imposed by state and federal law and/or cannot be revealed for compelling safety reasons, at least 48 hours prior to the hearing;
- N.** The right to preservation of confidentiality, to the extent possible and allowed by law;
- O.** The right to an adequate, reliable and impartial investigation closed to the public;
- P.** The right to bring a victim advocate or advisor to all phases of the investigation;
- Q.** The right to give testimony in a campus hearing by means other than being in the same room with the respondent student;
- R.** The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- S.** The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint;
- T.** The right to have the university compel the presence of student and employee witnesses, and the right to challenge documentary evidence;
- U.** The right to have complaints investigated and heard by investigators and administrators who have received annual sexual misconduct training;

- V.** The right to appeal the findings and sanctions given to the respondent in accordance with the standards of appeal established for sexual misconduct cases;
- W.** The right to have university policies and procedures followed without material deviation;
- X.** The right to be considered for amnesty of other Code of Conduct violations when reporting a sexual misconduct incident;
- Y.** The right to have the disclosure of this information governed by the Family Educational Rights and Privacy Act and to only permit exceptions that are allowed by FERPA legislation. More information about the disclosing of information can be [found here](#).

STATEMENT OF RIGHTS TO THE RESPONDENT IN CASES INVOLVING SEXUAL MISCONDUCT

- A.** The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to university administrators;
- B.** The right to be treated with respect by university officials;
- C.** The right to be informed of and have access to campus resources for medical, counseling, and advisory services;
- D.** The right to be fully informed of the nature, rules and procedures of the campus conduct process and to the timely written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions;
- E.** The right to a hearing on the complaint, including timely notice of the hearing date, and adequate time for preparation;
- F.** The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing;
- G.** The right to make an impact statement during the investigation and to have that statement become a part of the report submitted to the Director of Judicial Affairs or designee;
- H.** The right to appeal the findings and sanctions given to the respondent, in accordance with the standards for appeal established for sexual misconduct cases;

- I. The right to review all documentary evidence provided in the investigative report available regarding the complaint, subject to the privacy limitations imposed by state and federal law and or cannot be revealed for compelling safety reasons, at least 48 hours prior to the hearing;
- J. The right to an adequate, reliable and impartial hearing closed to the public;
- K. The right to have the university compel the presence of students, and the right to challenge documentary evidence.
- L. The right to have complaints investigated and heard by investigators and conduct administrators who have received annual sexual misconduct training;
- M. The right to have university policies and procedures followed without material deviation;
- N. The right to have an advisor or advocate accompany and assist in the campus hearing process. This advisor can be anyone, including an attorney (provided at the respondent student's own cost), but the advisor may not take part directly in the hearing itself, though they may communicate with the respondent student as necessary;
- O. The right to a campus conduct outcome based solely on evidence presented during the investigation process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- P. The right to written notice of the outcome and sanction of the hearing;
- Q. The right to have the disclosure of this information governed by the Family Educational Rights and Privacy Act and to only permit exceptions that are allowed by FERPA legislation. More information about the disclosing of information can be [found here](#).

ADMINISTRATIVE FACT-FINDING

Upon notification of an alleged sexual misconduct violation, the Campus Title IX Coordinator or Deputy Title IX Coordinators will coordinate an Administrative Fact Finding process. This process will include interviews of the complainant, the respondent, and any witnesses. Included in the Fact Finding Report will be a summary of the allegation, a list of university policies that

may have been violated and a synthesis of the facts outlining what questions remain and elements that are in dispute or in agreement. Also, investigators will assess the credibility of both complainant and respondent and provide an objective credibility statement based on the interviews and other facts of the case. Respondents and Complainants will be informed of the outcome of the Administrative Fact Finding process. If policy allegations have been substantiated the Fact Finding Report will be submitted to the Director of Judicial Affairs or designee for an Administrative Hearing.

ADMINISTRATIVE HEARING PROCEDURES

It is important to note that our campus disciplinary process is not a criminal trial. It is a University proceeding designed to hold students responsible for their role in violations of the Student Code of Conduct.

Like in all other Administrative Hearings, the University will apply a “preponderance of the evidence” standard in determining whether a violation of the student code of conduct occurred in cases of alleged sexual misconduct. A preponderance of the evidence standard simply means that it is “more likely than not” that a violation occurred. This is in contrast to “beyond a reasonable doubt,” which is the higher standard of proof required for a conviction in a criminal trial. In addition, the University has chosen to utilize an investigation model for resolving sexual misconduct complaints. The investigation model is non-adversarial and minimizes re-victimization by discouraging interaction between the complainant and respondent. Investigations are conducted with all involved parties separately. Pertinent notes are synthesized and compiled into a Fact Finding Report. If a Code of Conduct violation is prevalent in the Fact Finding report, the respondent (also known as the accused student) will be afforded an administrative hearing by the Office of Judicial Affairs. Outlined below are the additions to the existing Administrative Hearing procedures adhered to in cases of alleged sexual misconduct:

- 1.** Upon receipt of the substantiated allegations in the Administrative Fact Finding Report, an Administrative Hearing will be held.
- 2.** In cases of alleged sexual misconduct, the respondent:
 - a.** May select an advocate to guide them through the judicial process;
 - b.** Shall be advised of their responsibility to tell the truth before speaking to the charges;
 - c.** May decline to answer questions posed during a hearing.

APPEALS IN TITLE IX SEXUAL MISCONDUCT CASES

A student may appeal the Administrative Hearing decision in Title IX sexual misconduct cases in writing to the University's President or designee within five (5) class days following the decision. The President or a designee will review the appeal and render a decision.

Appeals to the President or his/her designee must be based on one or more of the following:

1. Alleged violations of hearing procedures.
2. New information pertaining to the case that was not available at the time of the hearing that may substantially change the decision.
3. Sanctions imposed were arbitrary or capricious for the violation of the Student Code of Conduct.

The President or designee will review the existing record and may:

1. Uphold the findings and sanctions.
2. Modify some or all of the findings and sanctions.
3. Reverse all of the findings of the Administrative Hearing decision.
4. Order a new hearing.

The decision rendered by the President or designee is final.

In matters of a safety and/or security risk to the campus, the President or designee reserves the right to institute measures to protect the safety and well-being of the campus. In such matters the President or designee will have sole discretion to ensure the safety of the University, including but not limited to an interim suspension.

SECTION F: DISCIPLINARY SANCTIONS

The following are general University sanctions which may be imposed upon a student or an organization that is found responsible for a violation of the Student Code of Conduct. This list is not intended to be exhaustive, and the University and its agents reserve the right to impose additional sanctions to ensure the highest standards of conduct. Counseling, treatment programs, restrictions from facilities, or other conditions may be imposed when deemed

appropriate. The University may impose any combination of the following sanctions listed below:

***INTERIM SUSPENSION**

Pending final action on charges of violating the Student Code of Conduct, the student may be subject to immediate suspension or loss of privileges if it is determined by the Vice President for Student Affairs & Enrollment Management or designee that the student's presence on campus may constitute a threat to the health, safety and welfare of the University community. In addition, a student may be placed on interim suspension if the student poses an ongoing disruption of, or interference with, the normal operations of the University.

If a student is placed on interim suspension, an Administrative Hearing will be scheduled within 10 class days to determine a final sanction. Unless extenuating circumstances prevent the facilitation of a hearing, the reversal of an interim suspension shall not be construed as a determination that the student is not in violation of the Student Code of Conduct. The University reserves the right to extend the required time period for exceptions based on the health and/or mental-health concerns that may impede the students' ability to effectively participate on his/her behalf. In such matters the Vice President for Student Affairs & Enrollment Management will have sole discretion.

**While on interim suspension the student is responsible for the payment of all tuition and fees in accordance with the University payment policies. (Please reference the offices of Housing and Residential Programs and the Bursar's Office fee schedules for more details.)*

EDUCATIONAL SANCTIONS (S.E.)

This action will be commensurate with the violation. The objective of educational sanctions is to provide the responsible student with a dynamic and active educative experience. The goal is to help the student better understand the impact of his/her conduct on themselves and on the community, and to help rebuild healthy communities, increase the violator's social capital, decrease the likelihood of future negative conduct, repair harm, and restore relationships.

A. Educational reflection: Students may be required to attend an educational program, produce an educational project, write an essay or other such creative educational activities.

B. Educational development: Hearing officers may refer students found

responsible for violations to campus resources to assist, educate or monitor the development of appropriate conduct, critical thinking skills, mature decision-making skills, etc. These referrals are mandatory and failure to complete a referral could result in additional judicial action. Referrals may include a Drug & Alcohol Education Program, or other appropriate program or resource.

- C. Service restitution:** Students may be required to perform a community service to assist in developing increased awareness of the impact of misconduct to strengthen critical thinking abilities to identify appropriate conduct.
- D. Counseling services:** Where there is a question of safety a student may be required to obtain an evaluation through the University's Counseling and Human Development Center or another counseling resource and comply with the recommendations that result from the evaluation.
- E. Conduct contract:** A student and hearing officer may reach a written agreement concerning expectations for future conduct and decisions to assist in preventing inappropriate conduct from recurring.
- F. Behavioral mentor:** An assignment to a faculty, staff, community or student mentor to provide support in the areas of personal and academic development relevant to the violation. The Hearing Officer will establish the frequency and duration of the mentoring relationship. Any missed appointment with the assigned mentor will be considered a failure to comply and additional sanctions may be imposed.
- G. Restorative practices:** Restorative Action holds students responsible for violating the Code accountable for their conduct by involving them in face-to-face encounters with the people they have harmed/ impacted. The Restorative Action seeks to develop good relationships and restore a sense of community.

RETRIBUTIVE SANCTIONS (S.R.)

This action will be commensurate with the violation. The objective of this administrative imposition of sanction is to hold accountable the responsible student with a proportionate penalty in response to their role in violating the code of conduct.

- A. Deferred action:** Deferring the imposition of a standard sanction for a violation based on mitigating circumstances. Students imposed

“Deferred Action” sanctions understand that any new misconduct for which a student is found responsible will result in the immediate imposition of the sanction that was deferred.

- B. Reprimand:** A student shall be warned, in writing, not to violate the Student Code of Conduct in the future. Additional violations may result in more serious disciplinary action.
- C. Financial restitution:** A student or student organization may be required to make payment to the University or to another specified person(s) or group(s) for damages incurred as a result of a violation of behavioral expectations.
- D. Fines:** A financial cost applied to the student or organization as predetermined on existing policies.
- E. Parental notification:** A student’s parent or guardian may be notified of a violation of the code of conduct and the student’s disciplinary record in accordance with the Family Educational Records Privacy Act (FERPA). (see page 10)
- F. No contact directive:** This action is implemented at the discretion of a hearing officer directing a student to avoid initiating contact with another member of the university community and may include limiting access to areas to avoid incidental contact. Restricted contact includes direct interactions in person or through technology as well as the use of third parties to interact.
- G. Loss of privileges:** A student/student organization may be denied specific privileges for a designated period of time. These privileges include but are not limited to access to specific buildings, facilities, residence hall assignment, and participation in extracurricular activities.
- H. Probation:** Designated for a period not to exceed one academic year. This level of probation is intended to provide the student an opportunity to reflect on and learn from their conduct while increasing their awareness of the impact of their conduct on themselves and others and of the university’s behavioral expectations. Additional violations during this period will result in more serious judicial action.
- I. Censure:** Designated for a period of not less than a full academic year and not more than the remainder of his/her academic career at Millersville University. During a period of assigned “censure” a student may maintain membership with any student organization, group, or

team but the student may not represent the University in any official leadership capacity or hold office or leadership position in any student organizations, groups, or teams. Censure indicates to the student that further violation(s) of University regulations will result in more stringent conduct action, including but not limited to suspension or expulsion from the University.

- J. Suspension:** The loss of privileges of enrollment for a designated period of time determined by the hearing officer or designee and not to exceed one full academic year. During this time the student will be prohibited from being present on the property of any campus without permission. Readmission is contingent upon completion of the suspension period, fulfillment of sanctions, if any, and approval of the Vice President for Student Affairs & Enrollment Management or designee. The suspension is in place during the appeal process and remains in places until a final outcome of the appeal has been determined. **The suspended student is responsible for the payment of all tuition and fees in accordance with the University payment policies. (Please reference the offices of Housing and Residential Programs and Bursar fee schedules for more details.)*
- K. Inactivation:** Temporary loss of University recognition and campus privileges for a designated period of time not to exceed five (5) years, imposed upon a student organization.
- L. Termination of University recognition:** The organization is not eligible for reinstatement for a minimum of five (5) years. Only the Vice President for Student Affairs & Enrollment Management can grant reinstatement of an organization's recognition. Consideration for reinstatement must be accompanied by a written proposal developed under the guidance of the Director of the Center for Student Involvement & Leadership. The proposal for reinstatement must also include the following criteria:
- a. A letter of endorsement/support from a proposed faculty/staff advisor.
 - b. A letter of support from the Executive Board of Student Senate.
 - c. A cover letter outlining the steps that have been taken to avoid a repeat of the earlier misconduct.
- M. Expulsion:** The student is separated from the University permanently. There are no provisions for the readmission of the student in the future. **The expelled student is responsible for the payment of all tuition*

and fees in accordance with the University payment policies. (Please reference the offices of Housing and Residential Programs and Bursar fee schedules for more details.)

COMPLIANCE

The Judicial Affairs Director and/or designee has oversight for monitoring the compliance of sanctions. In the event a student does not comply with the imposed sanctions, the Hearing Officer may recommend to the Vice President for Student Affairs & Enrollment Management to place a hold on the student record. A hold will prevent future course registration, receipt of diplomas, and prevent access to general business services.

Before a judicial hold can be removed the student will be required to submit a Judicial Hold Removal Petition located on the webpage of the Office of Judicial Affairs, to the Vice President for Student Affairs & Enrollment Management to release the hold on their record. Any relevant supporting evidence should accompany the petition when it is submitted to the Vice President for Student Affairs & Enrollment Management. The Vice President for Student Affairs & Enrollment Management or designee will render a decision within 5 business days. (See Appeals to the President for the process for appealing the VPSAEM decision on judicial holds).

Students who miss appointments during or as a part of the fulfillment of any phase of the judicial process may incur fines and may have additional charges imposed against them for non-compliance. This includes appointments with the Hearing Officer, the Conduct Board, Counseling Center personnel or with any other internal or external individuals or entities enlisted by the university to assist with the judicial process.

It should be noted that non-compliance with mandated sanctions may also result in the loss of University scholarships. Students who are found responsible for violations are directed to contact the Financial Aid Department to assess the consequences that may result from a judicial sanction.

Sanctions imposed against student organizations do not apply to the individual members of the organizations. However, organization members may be held separately responsible for violations depending on their individual role and involvement; and relevant sanctions may be imposed as appropriate.

** Please note that Interim Suspensions are applied prior to any judicial proceedings in cases where safety may be a major concern.*

APPENDIX

RETENTION OF RECORDS

Expunging of Records

1. All disciplinary records or electronic files for cases involving sanctions other than suspension or expulsion will be expunged seven years after the initial date of the incident. If for some reason the date of the initial incident is unable to be determined, the case will be expunged 7 years after the resolution of the initial incident.
2. University suspension and expulsion records will be maintained by the Office of Judicial Affairs for an indefinite period of time.
3. Audio recordings for cases resulting in suspension or expulsion will be maintained for an indefinite period of time

Request to Obtain Students Records

1. All requests for a student disciplinary record must be done in writing, authorized/signed by the student and given to the appropriate office.
2. Students are able to view the file in the corresponding office where the file is kept and take appropriate notes of their observations.
 - a. Student disciplinary records are the property of Millersville University and cannot be copied, photographed, or removed from the corresponding office.

AMENDMENTS AND REVISIONS

Any question of interpretation or application of the Code of Conduct shall be referred to the Vice President for Student Affairs & Enrollment Management for final determination, P.O. Box 1002, Millersville, PA 17551-0302.

The Code of Conduct is reviewed annually and amendments are made under the direction of the Judicial Affairs Director. Amendments to the Student Code of Conduct Policy are subject to presidential approval and formal action by the Council of Trustees. An electronic version of the updated Code of Conduct is available for all students each year via the Internet on the Judicial Affairs website.

Information regarding Advocates or forms may be [found here](#).

GLOSSARY OF TERMS

“Administrative Hearing” refers to the lowest level of review in the conduct process. The Hearing Officer conducts this hearing.

“Arbitrary or capricious” refers to decisions subject to individual will or judgment without restriction; contingent solely upon one’s discretion: made by an arbiter rather than by a law or statute.

“Business days” refers to days when University Offices are open for normal business hours.

“Complainant” refers to the person who is reporting the alleged violation. In some cases the Millersville University Police Department or the Office of Judicial Affairs, serving in the best interest of the University, may act as the Complainant.

“Consent”: Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.
- In order to give effective consent, one must be of legal age.

“Designee” means a person authorized to make decisions on behalf of the named administrator in his/her absence or on behalf of that administrator.

“Faculty member” means any person defined as a member of the Faculty in the APSCUF Collective Bargaining Agreement.

“Force”: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and coercion that overcome resistance or produce consent.

“Good Standing” is defined as having no outstanding disciplinary sanctions or disciplinary actions pending. Students must be in “good standing” to receive a degree from the University. “Hearing Officer” refers to a staff member designated by the Vice President for Student Affairs & Enrollment Management or Judicial Affairs Director to hold Disciplinary hearings

including the Administrative Hearing, impose sanctions, manage student conduct records and administer the Student Code of Conduct.

“Incapacitation” is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This definition also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the use of alcohol or drugs. Sexual activity with someone who one should know to be—or based on the circumstances should reasonably have known to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout) constitutes sexual misconduct under this code.

“Interim suspension” means that a student cannot attend classes and must leave university property and remain off university property until a hearing is completed.

“Judicial Advocate” refers to a resource for students going through or involved in the judicial process at Millersville University. The Advocates are well trained in the judicial process and provide necessary support and resources as needed to any party involved in the disciplinary process. As neutral parties they have no influence on the outcome of the case.

“Judicial Affairs Director” refers to the administrator within the Division of Student Affairs & Enrollment Management who is responsible for overseeing the overall operations of the conduct process.

“Judicial Affairs Office” investigates possible violations, maintains judicial records, trains the University Conduct Board, interviews parties involved in alleged violations and coordinates with the Title IX coordinator in matters pertaining to sexual assault/harassment.

“Preponderance of the evidence” means a preponderance of evidence has been described as just enough evidence to make it more likely than not.

“Relevant Evidence” refers to evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

“Respondent” refers to the party accused of violating the code of conduct.

“Staff member” is a University employee who is not a faculty member.

“Student organization” refers to any number of students who have complied with the formal requirements to be sanctioned as a student organization at the University.

“University campus” includes all property owned or leased by Millersville University.

“University Conduct Board” refers to a hearing which can result when the charges rise to a higher level, or if there is disagreement among the parties in the Administrative Hearing. Members are chosen from among the staff, faculty and students. The University Conduct Board is charged with determining whether a student/student organization has violated the Code of Conduct and recommending sanctions.

“University official” includes any person employed by the University, performing assigned administrative or professional responsibilities.

“University” means Millersville University of Pennsylvania also referred to as Millersville University.

The term **“may”** is used in the permissive sense. The term **“shall”** is used in the imperative sense.



Approved by the Millersville University Council of Trustees
Effective date: July 1, 2016
Current Date: June 1, 2016

Millersville University is an Equal Opportunity/Affirmative Action institution. Coordinators:
Services for Students with Disabilities—Dr. Sherlynn Bessick, Director, Office of Learning Services,
Lyle Hall, 717-871-5554; Mr. Robert Wood, Title VI and Title IX Coordinator – Student Memorial
Center, (717) 871-4100; ADA Coordinator— Mr. Patrick C. Weidinger, Director of Safety and
Environmental Health, Dilworth Building, (717) 871-4950