

Residential Code of Conduct

Please note: Policy and Procedures are subject to change.

Charge:

All students, resident apartment staff and University employees are charged with the responsibility for referring violations of the Code of Conduct and/or apartment contract to the Student Life office for investigation and possible disciplinary action.

Proscribed Student Conduct:

Generally, institutional discipline is limited to conduct which adversely affects the University community's pursuit of its educational objectives. The University strongly believes that students are adults who take personal responsibility for their own conduct. The University has determined that the following behaviors and activities constitute a violation of University norms and/or regulations, which are subject to sanctions. This listing is not exhaustive but rather suggestive of the type of behavior found to be inappropriate.

- 1) *Intentionally or recklessly causing physical harm to any person within the residential community or at University-sponsored activities within the apartment complex.* This includes any form of fighting.
- 2) *Intentionally or recklessly placing any person under mental duress or causing any person to be in fear of physical danger.* This could be transmitted through verbal abuse, harassment, improper use of the campus/university communication network, hazing, intimidation, threats or other conduct which threatens or endangers that person's emotional, mental or physical safety and well-being. A violation will be considered aggravated if it occurs in connection with an actual or pending disciplinary proceeding.
- 3) *Criminal sexual behavior.* This is defined as the use or threatened use of force to engage in any sexual act against a person's will and/or engaging in such behavior with a person who is unconscious or substantially mentally impaired (including an intoxicated individual); intentionally touching another person or making physical advances in a sexual way without the person's knowing consent.

Proscribed conduct cont.

- 4) Unauthorized use or possession of any weapon (licensed or otherwise). This includes possession or use of BB guns, hunting knives, bows etc. Weapons are not allowed as decorative items in the residential apartments.*
- 5) Intentionally initiating or causing to be initiated any false alarm/report, warning or threat of fire, explosion or other emergency.*
- 6) Intentionally or recklessly interfering with normal University/community activities, including but not limited to: teaching, research, University administration and/or City fire, police or emergency services.*
- 7) Use or possession of alcohol or display of public intoxication.*
- 8) Providing alcohol to a person less than 21 years of age.*
- 9) Use or possession of any controlled substance or illegal drug paraphernalia.*
- 10) Unauthorized distribution or possession for the purpose of distribution of any controlled substance or illegal drug.*
- 11) Intentionally or recklessly misusing or damaging fire safety equipment.*
- 12) Intentionally furnishing false information to University personnel.*
- 13) Forgery, unauthorized alteration, or unauthorized use of any University document or instrument of identification.*
- 14) Intentionally and substantially interfering with the freedom of expression of others.*
- 15) Theft of property or of services or possession of stolen property or services.*
- 16) Unauthorized access or attempted access to any computer file, program or facility within the residential setting.*
- 17) Intentionally or recklessly destroying, damaging or defacing University property or personal and corporate property found within the apartment complex.*
- 18) Intentionally or recklessly causing physical abuse or any form of suffering to animals within the apartment setting.*

Proscribed conduct cont.

- 19) Failure to comply with directions of University officials including but not limited to: Mercer Police, Student Life administrators, resident apartment staff or faculty members acting in the performance of their duties.*
- 20) Use or possession of fireworks.*
- 21) Presence when and where a violation of the Code of Conduct is occurring and failing to leave the scene and not notifying campus authorities of the violation.*
- 23) Violation of published University regulations or policies as approved and compiled by the Vice President for Student Affairs and/or Dean of Students for the Cecil B. Day campus of Mercer University. Such regulations or policies include, but are not limited to: alcohol and illegal drugs; sexual harassment; on-campus housing contract which includes policies pertaining to: visitation, alcohol, quiet hours, security, pets, keys, room capacity, health and cleanliness. Also included are those regulations relating to entry and use of University facilities, use of motor vehicles, use of amplifying equipment and misuse of identification cards.*
- 24) Knowingly violating terms of any disciplinary sanction imposed in accordance with this Code.*

Procedure for Reporting Violations:

Each student is responsible for reporting any and all violations.

- 1) If a student sees, knows or hears of a violation, he/she is responsible for reporting the suspected violation to Mercer Police, the Dean of Students for the Cecil B. Day Campus, the Assistant Dean for Campus Life or an Apartment staff member.
- 2) A student who knows or sees a violation may go to the individual concerned and ask him/her to report the violation within a certain period of time or the observer will be obligated to report it.

Conduct Procedures:

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

1. **Burden of Proof** - The burden of proof rests with the University. The standard of proof shall be the "preponderance of the evidence." This standard means that the evidence, taken as a whole, supports that it is more likely than not that the violation occurred.

2. **Decisions** - Decisions of "responsible" or "not responsible" on the charge(s) shall be based solely on the evidence presented at the hearing.

3. **Confidentiality** - All hearings shall be closed and confidential unless specifically requested otherwise by the charged student in writing. This request must be received three regular business days in advance of the hearing and can not impede the University's ability to comply with state and federal laws regarding confidential information. In cases involving alleged victims and competing interest, the Assistant Dean for Campus Life will make the final determination regarding open and closed hearings. Information can be conveyed from one hearing to the other in cases with multiple charged students.

4. **Failure to Appear** - If the student fails to appear at the hearing, the hearing may proceed in the student's absence and a decision rendered provided that the student has been properly notified of the hearing.

5. **Official Record** - A record of the hearing shall be made by the presiding hearing officer. The record may be in written form or in any other form capable of being converted into written form within a reasonable time. Any student who wishes to have an audio copy of the hearing must notify the Assistant Dean for Campus Life at least three (3) regular business days in advance of the hearing.

6. **Deliberations** - Deliberations are closed and shall include only those members involved in the decision making process.

Conduct procedures cont.

7. **Notice of Decision** - A written decision shall be available to the student within five (5) regular business days following the hearing. This time may be extended in cases in which additional time is necessary for deliberations. If additional time is necessary, the charged student shall be notified. The decision letter shall contain a decision on each charge, the finding of fact and any recommended sanctions (if applicable).

8. **Hold on Student's Records** - The University may place a hold on the records or registration of any student who fails to respond to a judicial notice or to ensure resolution of the case prior to transfer or graduation. All pending judicial matters must be resolved prior to a student's graduation, transfer from, or continued education at Mercer University.

9. **Disabilities** - Any student with a documented disability may request that reasonable accommodations be provided during the judicial process. This request must be made at least three (3) regular business days in advance of the hearing, and the accommodations must be approved by the Assistant Dean for Campus Life.

Rights of the Charged Student

1. **Notice** - Students charged with violations of the Student Code of Conduct will be provided clear and complete notice of the charge(s) against them and the allegations upon which the charge is based.

2. **Pre-hearing informational session** - To assist the student in preparing for the hearing, pre-hearing information will be available for the student. This informational session will discuss the hearing procedures, inform the student of their rights and responsibilities, and allow the student the opportunity to review the available written information that will be presented at the hearing. The student and his or her advisor shall have the opportunity to inspect the information at least three (3) regular business days in advance of the hearing. Upon notification of the student's choice for a hearing body, the university shall schedule a hearing and notify the student of the date, time, and location of the hearing at least five (5) regular business days in advance. A student may choose to waive, in writing, the five (5) regular business day notice and proceed with a hearing.

Rights of charged cont.

3. **Hearing** - Students shall be entitled to a prompt hearing. Students will be given an opportunity to present information, including witnesses during a fair and impartial hearing. The student may inspect all documentary evidence presented at the hearing, may hear and question all available adverse witnesses testifying at the hearing, and may present evidence and call witnesses. If a called witness does not appear, the hearing body may consider their written or taped statements; the statement shall be weighted accordingly by the hearing body as the charged student has no opportunity to cross examine the witness making the written or taped statement. Student questioning of witnesses may be modified in cases involving victims of crimes or protected student information. Witnesses for the hearing will be required to wait outside of the hearing until their point of participation.

4. **Advisement** - Students are required to address the hearing body in person, on their own behalf, although they may consult with their advisor during the hearing. This consultation must take place in a manner that does not disrupt the proceedings. The advisor shall not speak on behalf of the student. The advisor shall not serve as a witness. At the charged student's request, the Assistant Dean for Campus Life will assign a student to serve as the charged student's advisor.

5. **Testimony** - Students shall not be forced to present self-incriminating testimony. The University is not required to postpone disciplinary proceedings pending the outcome of any criminal proceeding.

6. **Decision** - The charged student has the right to receive a written decision regarding the charges against him/her. The decision letter shall contain a decision regarding responsibility on each charge, a finding of fact, and any sanctions (if applicable). The student will be sent a copy of the board's decision within five (5) regular business days after the hearing. (This time may be extended as noted in hearing procedures).

7. **Student status** - The student's status on campus will remain unchanged pending the final decision and appeals process, except in cases involving interim suspensions (see Immediate Suspension).

Rights of the Victim

Victim's rights apply to cases involving sexual misconduct, stalking and physical abuse. These rights include:

1. **Advisement** - To have an advisor or advocate of the alleged victim accompany her/him when presenting information to the hearing body and to any other relevant meetings held throughout the disciplinary process.

2. **Victim Impact Statement** - To submit a victim impact statement to the hearing body. This information would only be used in the sanctioning phase of deliberations. The impact statement consists of how the victim was impacted by the incident and contains recommendations for possible sanctions. The hearing body is not bound by these recommendations.

3. **Past Behavior(s)** - To have unrelated past behavior excluded from the hearing. The hearing body will decide if such information is relevant if necessary.

4. **Questions** - To submit potential questions to the hearing body. The hearing body will consider posing those questions to the charged student.

5. **Limited Privacy** - To testify in limited privacy, as long as the process does not compromise the charged student's right to confront and question the witness. This option must be requested at least three (3) regular business days in advance of the hearing. Questions by the charged student to the victim may be asked through the hearing body. Appropriate follow-up questions by the charged student are permitted.

6. **Notification** - To be notified of the outcome of the hearing, including the decision and the sanctions, once a final decision is rendered.

Hearing Board Options

The charged student has the right to have charges heard by a University panel or by a designated University administrator, who will then review the case and make a determination with regard to responsibility and sanctioning. In electing one hearing, the student waives the right to the other. The University retains the right to send any conduct case that is determined to be serious in nature directly to a hearing board. Such cases may include physical assault, sexual misconduct, or drug offenses.

Hearing board cont.

When two or more individual cases stem from the same incident, the same hearing body shall hear all cases. In such cases, the University may either pre-select the hearing or consult with the students involved before making the determination. This hearing body may hear individual cases together or separately. Procedural modifications are permitted when cases are heard together. In cases involving multiple students charged from the same incident, information obtained at one hearing may be used at another hearing provided that the charged student involved has the full opportunity to review and to respond to any information that will be used against them.

For cases handled by a hearing **panel**, the designated board is composed of students and faculty/staff members. The hearing **panel** consists of one non-voting faculty or staff member to serve as chairperson, one voting faculty/staff member, and two voting students.

For cases handled by a University **administrator**, the designated staff member is appointed by the Assistant Dean for Campus Life (or designee).

Presumptive Sanctions for Alcohol Violations

The following list provides presumptive sanctions for violations of the University's alcohol policy. These presumptive sanctions will usually be invoked unless the Hearing Board determines that there are aggravating or mitigating circumstances that need to be taken into consideration.

Consumption, Possession and Public Intoxication

- Educational activity concerning alcohol
- \$75 fine
- Parental notification (**of underage violators**) will be an option after any alcohol offense but will be mandatory for the second alcohol offense during one school year.

Alcohol Abuse

- Alcohol assessment at the student's expense; proof of assessment is the responsibility of the student
- Final disposition of the sanction will be delivered after the alcohol assessment has been reviewed by the Dean of Student Life
- Letter of notification and telephone call to parents of underage violators.
- \$100 fine
- 8 hours community service

presumptive sanctions cont.

Driving While Impaired (DWI) [within parking area or on access roads of apartment complex] (*Please note: Nursing & Pharmacy students this may impact your academic program based on required reporting and colleges' academic guidelines*)

- Educational activity concerning alcohol
- \$150 fine
- 16 hours community service

Two or more alcohol abuse violations (or DWI violations) constitute grounds for immediate removal from on-campus apartments. This is effective throughout the student's entire career at Mercer University.

Aiding and abetting possession, purchase, or consumption of alcohol

- Educational activity concerning alcohol
- \$100 fine
- 12 hours community service

Presumptive alcohol sanctions cont.

Common-source container, or serving of alcohol to a group of people

- Educational activity concerning alcohol
- \$100 fine
- 12 hours community service

Public Display

- Educational activity concerning alcohol
- \$50 fine
- 5 hours community service

If an organization is found responsible for any of the presumptive alcohol violations, monetary fines and community service hours can be imposed on each individual member of the organization.

Sanctions

The following are possible disciplinary measures, which may be imposed upon a student for an infraction of residential policies. This list shall not be considered exhaustive. It may be enlarged upon or modified to meet particular circumstances in any given situation.

Sanctions cont.

1. **Forced Change of Residence** - In order to remove a student from an undesirable environment, the Judicial System can recommend that the student(s) be moved to another available residence location. This action is taken in an effort to enable the student's behavior to conform to the standards of the apartment community.

2. **Trespass Warning** - Notice that a student is prohibited from visiting or returning to the apartment complex. If violated, the student may be referred to the Judicial System or Mercer Police. This sanction may be given in conjunction with any of the sanctions listed.

3. **Fines** - Not to exceed \$150 per individual. Fines will be contributed to restricted accounts for alcohol and drug education programs, campus safety or scholarship funds.

4. **Restitution** - Payment to the University, individuals, groups, or organizations for damages incurred as a result of a violation of these policies.

5. **Community Service** - Assignment to work a specific number of hours at a university or community service agency.

6. **Restrictions** - Apartment restrictions, housing relocation.

7. **Social Probation** - Notice that all or a portion of social functions must cease for a designated period of time.

8. **Censure** - A written rebuke given to the offending student, which shall be sent to the accused, the Dean or designee of the student's school or college and the Dean of Student Life.

9. **Warning** - A written rebuke given to the offending student stating that his/her conduct falls below the acceptable standard required by the University. Parental notification may be included in special cases and for those under the age of 18.

10. **Creative/Educational Sanctions** – Innovative-sanctioning ideas usually related to the violation.

Appeals Procedure

Any student or organization may appeal the decision of the Administrative Hearing Board or the Judicial Hearing Board in writing, with supporting facts and arguments to the Appeals Board (**composed of 2 voting students and 1 voting administrator or faculty**).

Appeals cont.

For cases involving non-academic appeals, a student may appeal the original decision to the Dean of Students within five (5) working days after receipt of the written decision. The appeal shall be in the form of a written request for review. The Dean of Students may choose to hear the appeal or designate an appropriate staff member to review the appeal and make a recommendation. No person may hear or decide an appeal if he or she participated in the hearing process. The appeal shall consist of a review of the prior proceedings; it shall not be another hearing. The student or organization shall receive a written decision regarding the appeal.

Grounds for appeal are:

- A) An error in procedural due process which prejudiced the accused to the extent that the student or organization was denied a fundamentally fair hearing as a result of the error.
- B) Emergence of new evidence that could not have been previously discovered and that had it been represented at the initial hearing would have substantially affected the original decision of the hearing body.
- C) The imposition of sanctions that is disproportionate to the offense.

Judicial System Handbook

A complete description of the policies and procedures are available in the Judicial System Handbook that is available in the Student Affairs office or on line at

www2.mercer.edu/StudentLife/Atlanta/StudentHandbook/Student+Policies