

**UNIVERSITY OF MARYLAND EASTERN SHORE  
STUDENT CODE OF CONDUCT: STUDENT JUDICIAL MANUAL**



**University of Maryland Eastern Shore  
Division of Student Affairs  
Office of the Vice President for Student Affairs**

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**2005 – 2007 Edition  
Revised November 2005**

**The Student Code of Conduct: Student Judicial Manual is published by the Office of the Vice President for Student Affairs. Contents of this book are current as of August 25, 2005. Editor: Mignon Holland Anderson, Associate Professor of English, University of Maryland Eastern Shore.**

*It is the responsibility and the duty of every student to become acquainted with this Student Code of Conduct. Every student is presumed to have knowledge of the Student Code of Conduct and to agree to abide by the Code as a condition of his or her enrollment. Ignorance of the Code of Conduct and its provisions will not constitute a defense in any proceeding against a student. Copies of the Code of Conduct will be provided to each incoming student and will be generally available in the Offices of the Judicial Administrator, Public Safety, and the Vice President for Student Affairs.*

*This document supersedes any previously published student code of conduct or judicial code. It is intended for internal distribution and use within the University.*

### **ZERO TOLERANCE**

*The University of Maryland Eastern Shore maintains and strictly enforces a policy of zero tolerance with regards to fighting, the use and possession of illicit drugs, and the possession of dangerous weapons, firearms, and explosives. If a student is found guilty of initiating a fight, drug possession, use, or distribution (trafficking), or using any object with the intent to cause harm, the minimum sanction will be suspension from the University for one (1) academic semester. Suspension from the University for a violation of the zero tolerance policy will result in the cancellation of the accused student's housing contract and denial of a housing contract in the future. If found guilty of drug distribution or the possession of dangerous weapons, firearms, or explosives, the maximum sanction may result in expulsion from the University.*

**Robert's Rules of Order will prevail  
for all provisions not specifically addressed  
in the Student Code of Conduct.**

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## **UNIVERSITY OF MARYLAND EASTER SHORE STUDENT CODE OF CONDUCT: STUDENT JUDICIAL MANUAL**

### **Preamble**

The University of Maryland Eastern Shore (UMES) is a student-centered community, the central purpose of which is the discovery and transmission of knowledge and learning through scholarly research, teaching, service, and community outreach, building towards the total development of its students and the global community.

Members of the UMES community (students, faculty, administrators, and staff) have come together in a voluntary association, not merely to fulfill individual responsibilities, but to contribute to the realization of the University's objectives and mission. Therefore; in the interest of maintaining order (in the University community) within the broadest range of student freedom, these rules and regulations have been established by the University of Maryland Eastern Shore to govern student conduct.

The UMES Judicial System is designed to assure due process, with the speedy and constructive resolution of cases and controversies. A humanistic approach to discipline is employed whenever possible. It is intended that this judicial system, will operate on the principle that justice will best be served by promoting the development of self-knowledge and self-discipline, expressed in socially desirable ways, rather than harmful, destructive or immature attitudes or behaviors.

The Student Code of Conduct outlines rules and regulations relative to student conduct and housing, and is applicable to all students, as well as to recognized and registered student and Greek-letter organizations.

The authority to administer the Student Code of Conduct and its judicial system is delegated to the Vice President for Student Affairs. The Campus Judicial Board adjudicates disputes over complaints of violations of these rules and regulations.

The Student Code of Conduct shall be reviewed bi-annually under the direction of the Vice President for Student Affairs. In addition, the Senate Student Affairs Advisory Board shall conduct a bi-annual review of the Student Code of Conduct and make recommendations to the Vice President for Student Affairs regarding omissions, clarifications, constructive changes, and other matters germane to the proper interpretation and operation of the Code. Questions of interpretation regarding the Student Code of Conduct shall be referred to the Office of the Judicial Administrator. In keeping with normal University policy approval processes, the Student Code of Conduct may, at the sole discretion of the University, be amended at any time.

## **UMES Code of Student Values**

The University of Maryland Eastern Shore claims certain foundational principles of values upon which its entire existence stands. All students at the University of Maryland Eastern Shore have the duty to observe and uphold and accept these values as standards of conduct. These include honor, personal and academic integrity, respect for personal and property rights of others, justice, freedom, diversity, leadership, civility, spirituality, and loyalty to the University. We have established this Code of Student Values, which forms the model of conduct for student members of our academic community.

## **Attire**

UMES students are encouraged to dress appropriately at all times and in all settings. Careless or inappropriate dress is always out of place in the University community and on sponsored trips. Success as to appropriate attire resides in the exercise of good judgment and knowledge of what is correct. For assistance regarding matters of dress and attire, please visit the Career Services Center.

## **The Clery Act: Reported Annually**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, codified at 20 USC 1092 (f) as a part of the Higher Education Act of 1965, is a federal law that requires colleges and universities to disclose certain timely and annual information about campus crime and security policies. All public and private institutions of postsecondary education participating in federal student aid programs are subject to it. UMES publishes **a report every year by October 1st** that contains three years of campus crime statistics, and certain security policy statements, including policies which assure basic rights to victims of sexual assault, which state the law enforcement authority of campus police, and which explain where students should go to report crimes. Students should contact the Office of Public Safety for more information and a copy of the report.

## **Reporting Crime and Incidents**

Reporting crimes and incidents immediately is very important. The University Police Department is an agency that is manned by sworn police officers who have arrest powers. The Police Department complements its sworn police officers with security personnel and Student Security. Any occurrence that takes place on campus is to be reported immediately, and those that occur off campus should be reported as soon as possible.

Any victim or witness of a crime, who desires to report an incident on a voluntary and confidential basis, may do so through the Police Department, the Vice President for Student Affairs, the Vice President for Administrative Affairs, Student Security, Athletic Director, Coaches, Area Directors, and Resident Assistants, or any other member of the UMES faculty/staff. The individual's identity will be safeguarded when possible.

The University Police Department closely cooperates with the Vice Presidents for Student Affairs and Administrative Affairs, Residence Life, Student Government, and the Counseling Center, to disseminate information about safety and security matters to the campus community through newsletters, annual brochures, scheduled meetings, and other forms of mass communications.

**Parental Notification**

The University of Maryland Eastern Shore recognizes that students, parents/guardians, and the University are in a partnership in which each has the responsibility to promote a healthy and productive educational experience. The University disciplinary process exists to provide corrective action which is educational and developmental, to protect the campus community, and to maintain an environment conducive to living and learning. Violations of the Student Code of Conduct can detract from the learning environment. The University believes parents can assist students in fulfilling their educational goals through the use of open dialogue.

Due to recent amendments to the Family Educational Rights and Privacy Act (FERPA) by the U.S. Department of Education, it is now permissible for the University to notify the parent or guardian of students under the age of 21 when those students have been found responsible for violations to the Student Code of Conduct.

The University of Maryland Eastern Shore maintains and strictly enforces a policy of zero tolerance with regards to fighting, the use and possession of illicit drugs, and the possession of dangerous weapons, firearms, and explosives. If a student is found guilty of initiating a fight, drug possession, use, or distribution (trafficking), or using any object with the intent to cause harm, the minimum sanction will be suspension from the University for one (1) academic semester.

In the event that a student under the age of 21 has been charged with a Code violation in which the sanction of suspension from the University is required, the parent or guardian of that student may be notified by phone or in writing by the Judicial Administrator before the judicial hearing. The University may notify the parent or guardian of students, under the age of 21, who have been found in violation of the Student Code of Conduct where the violation has involved the use of alcohol or illegal substances. The parent or guardian may also be contacted in any instance in which the health or safety of the student has been threatened either through the student's own acts or the acts of others.

Before notifying the parents or guardians, every effort will be made to consult with the student in an attempt to have the student make the first contact. This is consistent with the general philosophy that supports students developing independence and personal accountability. However; in some situations, consultation with the student or first contact by the student may not be possible or appropriate, and in such cases the University is not required to alert the student when it has notified his/her parent or legal guardian. In other situations, after consulting with the student, the judicial administrator may determine that notifying the parents/guardians may be harmful to the student and in such cases the University is not obligated to make notification.

If a student under the age of 21 is found to be responsible for a violation to the Student Code of Conduct resulting in suspension from the University, the resultant sanction will include notification of the parent/guardian.

## Definitions

1. The term **advisor** means a person who gives information or advice to the accused student or complainant.
2. The term **Business Day(s)** refers to the following five days of the week: Monday, Tuesday, Wednesday, Thursday and Friday.
3. The terms “**Campus Judicial Board,**” “**Hearing Board,**” or “**Judicial Board,**” means any person or persons authorized by the Vice President for Student Affairs to determine whether a student has violated the Student Code of Conduct and to recommend imposition of sanctions.
4. The terms **charged student or the accused student** means any student who has been charged with a violation of the Student Code of Conduct.
5. The **Vice President for Student Affairs**, designated by the University President, has primary responsibility for the administration of all student discipline. He/she serves as the appeals officer for cases that have been heard by the Judicial Board.
6. The term "**Code**" means the University of Maryland Eastern Shore’s Student Code of Conduct.
7. The terms **charging party** or **complainant** refer to the person or persons who allege violations of this Student Code of Conduct.
8. The term **guest(s)** means any person who is not a student or UMES employee and who is on University property for the purpose of visiting a student or UMES employee.
9. The term **health** refers to physical or emotional and mental well-being.
10. The Term **Immediate Supervision** refers to employees and students who work directly in the Office of the Vice President for Student Affairs, such as secretaries, administrative assistants, and the Associate and Assistant Vice Presidents for Student Affairs, student workers, and graduate student assistants.
11. The **Judicial Administrator** is designated by the Vice President for Student Affairs to administer the Code. The Judicial Administrator may, on a case-by-case basis, investigate and settle cases where both parties are in agreement. If there is no agreement to settle between the parties, the Judicial Administrator shall assign the case to the Judicial Board for a hearing.
12. The term **Judicial Investigator** refers to any University official appointed by the Vice President for Student Affairs, and/or the Judicial Administrator, to investigate violations of the Student Code of Conduct and to participate, if necessary, in judicial proceedings.

13. The term **may** is used in the permissive sense.
14. The term **shall** is used in the imperative sense.
15. The term **member of the University community** includes any person who is a student, faculty member, staff member, University official or any other person employed by the University.
16. The term **Officer** refers to any sworn Police Officer in the Office of Public Safety/University Police, who presents facts, statements, evidence and/or charges in a case during a Judicial Hearing or during cases adjudicated by the Judicial Administrator.
17. The term **policy** is defined as the written regulations of the University and University System of Maryland as found in, but not limited to, the Student Code of Conduct, the Residence Life Handbook, the Student Handbook, graduate and undergraduate catalogs, the Athletics Handbook and the Student Organizational and Advisor's Resource Guide, and other written rules for departments and clubs.
18. The term **possession**, either actual or constructive, means having possession of a thing or object or when a person has the power to control possession of a thing or object.
19. The term **preponderance of the evidence** means evidence, when taken as a whole, which would lead a person to conclude that it is more likely than not that the conduct in question did occur.
20. The term **restitution** means to be held financially accountable for property that is damaged or destroyed.
21. The term **sanction** refers to the penalty or punishment for violation of the Code of Student Conduct.
22. The term **student organization** means any group of persons who have complied with the formal requirements for University recognition and registration.
23. The term **student** refers to any person taking a course or courses at UMES, either on a full-time or part-time basis, pursuing undergraduate, graduate, or professional studies or research, or attending post-secondary educational institutions other than the University of Maryland Eastern Shore. It includes persons who are assigned to field placements and internships as well as persons who live on and off campus and who are not officially enrolled for a particular term, but who have a continuing relationship with the University. In cases of dual enrollment, jurisdiction over a student's conduct will be determined in consultation with appropriate officials at the student's other institution. The term includes any student organization, including Greek-letter organizations that is registered with and recognized by the University.

24. The term **UMES Employees** refers to any person employed by the University as a faculty member, or non-faculty member or University official employed by the University of Maryland Eastern Shore, performing assigned administrative, professional, instructional, research, or other responsibilities.
25. The terms **University premises or property** include all land, buildings, facilities, and other effects or goods in the possession of, or owned, used, leased, or controlled by the University of Maryland Eastern Shore, as a constituent institution of the University System of Maryland.
26. The term **University workday** means a day when the University is open for normal business, regardless of whether classes are in session (e.g., the day immediately preceding Thanksgiving and Christmas).
27. The term **disciplinary probation** is a written reprimand for violation of specified regulations, for a specified period of time. A sanction of disciplinary probation includes the probability of more severe disciplinary sanctions (including, but not limited to suspension and expulsion from the University) if the student is found to be violating the Student Code of Conduct during the probationary period.
28. The term **personal identifying information** means the name, address, telephone number, driver's license number, social security number, place of employment, employee identification number, mother's maiden name, bank or other financial institution account number, date of birth, personal identification number, credit card number, or other payment device numbers of an individual.
29. The term **ZERO TOLERANCE** means the University prohibits all illegal and unauthorized possession, distribution (trafficking), and/or use of illicit drugs; fighting; possession of dangerous weapons, firearms, explosives, or use of any object with the intent to cause harm. Persons found in violation of this policy, shall receive the minimum sanction. The zero tolerance policy is effective as it relates to behaviors occurring on or off-campus.
30. The term **trespass** shall mean forcible or unauthorized entry into or unauthorized presence on University premises or unauthorized entry or presence in student properties such as automobiles, lockers or residences.
31. The term **legal process** refers to all matters of litigation which occur between the University of Maryland Eastern Shore and/or students, staff, faculty, or any other employees of the University, either full or part-time, or under contract to the University for any length of time, and adjudicated according to the local, state, and/or federal laws.

## **STUDENT CODE OF CONDUCT**

### **Jurisdiction**

The University of Maryland Eastern Shore (UMES) reserves the right to take necessary and appropriate action to protect the safety and well being of UMES students, faculty, and staff and University property. The University's jurisdiction in the administration of the Code of Conduct applies to all enrolled part time, full time undergraduate and graduate students while they are on premises owned, rented or leased by UMES, on streets running through or adjacent to the campus, in off-campus facilities occupied by students by virtue of their association with an organization recognized by UMES, or while on University-sponsored events. Disciplinary action may be taken against a student for off-campus conduct that seriously threatens the safety and well being of other UMES students, faculty, or staff or property, as determined by University officials (President, Vice Presidents, administrators, office of public safety, faculty or staff), when the conduct impairs, interferes with, or obstructs any activity or the mission, processes, and functions of the University. In the case of University-sponsored off-campus events, conduct related incidents will be treated as if the event took place on campus and thus are governed by the Student Code of Student Conduct. A violation of the Code of Conduct may result in criminal or civil charges as well as a University judicial action. Unless otherwise provided by law, University judicial and court proceedings may occur concurrently. Students are subject to disciplinary action, up to and including expulsion for violations of the Student Code of Conduct.

### **Judicial Authority**

Ultimate authority for student discipline is vested in the President. The Vice President for Student Affairs is the person designated by the President to be responsible for the administration of the Student Code of Conduct. Discipline authority may be delegated to University officials and committees as set forth in this Code, in accordance with other University policies, rules, or regulations, and as deemed appropriate by the Vice President for Student Affairs.

### **Interpretation of Regulations**

The Student Code of Conduct is intended to give students general notice of prohibited conduct. The Student Code of Conduct should be read broadly and is not designed to define misconduct in exhaustive terms.

### **Standards of Due Process**

The focus of inquiry in disciplinary proceedings shall be to determine whether or not the accused student has violated the Student Code of Conduct, as proven by a preponderance of the evidence (which would lead a person to conclude that it is more likely than not that the conduct in question did occur). Formal rules of evidence shall not be applicable, nor shall deviations from prescribed procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student respondent or the university may result.

### **Violations of Law, Disciplinary Regulations and Accountability**

Students may be accountable to both civil authorities and to the University for their conduct. When attending the University of Maryland Eastern Shore, students are expected to obey applicable federal, state, and local laws. A student is also expected to obey the rules and regulations in the Student Code of Conduct and other University policies. Disciplinary action at

the University will normally proceed despite the pendency of criminal proceedings. Disciplinary action under this Student Code of Conduct is not subject to challenge on the grounds that criminal charges involving the same incident have been dismissed or reduced.

### **Office of the Judicial Administrator**

The Judicial Administrator is appointed by the Vice President for Student Affairs and is responsible for the administration of the UMES Judicial System. The Judicial Administrator is not a voting member of the Judicial Board. During hearings, the Judicial Administrator may raise questions or provide expert advice on procedural matters for the purpose of clarity on issues relevant to the Code. The Judicial Administrator may adjudicate any case, provided the complainant and the accused student agree to the adjudication. In addition, the Judicial Administrator is responsible for having notice of complaints or charges served, scheduling hearings, maintaining files and/or records of judicial matters, and maintaining order at hearings of the Judicial Board. The Judicial Administrator, after receiving the Board's recommendations, will review the related hearing records, and write the final and official University decision. The Judicial Administrator may also refer notice and/or evidence of any act, which allegedly violates federal, state, or local laws, to appropriate law enforcement or civic authorities. The Director of Public Safety of the University shall inform the Vice President for Student Affairs of the referral of any student for an alleged violation of any federal, state, or local law.

### **Student Responsibilities**

All UMES students share the following responsibilities:

- To read, become acquainted with, and adhere to the Code;
- To respect personal and property rights of others, and to act in a responsible manner at all times, on or off campus;
- To protect and foster the intellectual, academic, research, cultural, and social missions of the University; and
- To observe the laws of local, state and federal governments and agencies.

### **Academic Responsibility**

The responsibility of students for academic achievement is specified in the University catalog. Student grievances over this responsibility are resolved through academic rather than judicial system proceedings. Complaints involving grades, plagiarism, cheating, or other academic issues are also resolved through academic proceedings, which can be found in the University catalog and academic departments.

### **Financial Responsibilities**

Disputes over the amounts owed by the student to the University for tuition, room and board, financial aid or other charges, are not subject to this Student Judicial Code of Conduct and are resolved through administrative, and, if necessary, the legal process.

### **Organized Group Responsibilities**

Policies and regulations, which relate to the responsibilities of fraternities, sororities, registered student organizations, and other groups, are established by the agencies, which register, accept, or charter such groups. As a condition of being recognized by the University, all such groups and their officers and members are responsible for conforming to this Student Code of Conduct.

### **Employment Responsibilities**

Generally, matters or disputes arising out of an employment relationship between a student and the University are handled through the University's Department of Human Resources.

### **Mediation**

This procedure is implemented by the Office of Student Affairs, Judicial Administrator, or his or her delegate, and is generally reserved for first and less serious violations. It is employed when a violation arises out of a dispute between a charged student and another party or parties. The goal is to design a mechanism to resolve the dispute and to prevent it from recurring. In cases where expulsion or suspension from the University is not contemplated as a sanction, and where there are no pending charges in any criminal court, the parties involved in an alleged violation of the Code of Conduct may agree to enter into a formal mediation process through the Office of Campus Mediation Services. (In cases where there is no agreement among the parties about seeking mediation, formal disciplinary procedures will be employed.) The results of a mediation conference do not become part of a student's official disciplinary record, but a record is kept of the findings and agreements reached.

### **Campus Judicial Board – Jurisdiction**

Except as otherwise provided, herein, the Campus Judicial Board shall consider all complaints involving violations of the Student Code of Conduct.

### **Composition of Campus Judicial Board**

**Composition:** The Campus Judicial Board shall be composed of seven (7) members, none of whom will be under the immediate supervision of the Vice President for Student Affairs. Three members shall be students recommended to the Judicial Administrator by the President of the Student Government Association. Four members of the Campus Judicial Board shall be UMES employees appointed by the Judicial Administrator. The Judicial Administrator shall designate a chairperson. A quorum shall consist of any five (5) sitting members of the Board. A special panel consisting of students, faculty, and staff members shall be appointed to provide alternate members in the event a committee cannot be filled.

### **Qualifications for Campus Judicial Board Membership**

**Student Membership:** To be a member of the Campus Judicial Board, a student must possess the following minimum qualifications:

- The student must be currently enrolled at the University of Maryland Eastern Shore on a full-time basis.
- The student must not be on academic or conduct probation at any time during tenure as a Board member.
- The student may not be an elected officer of the Student Government Association, Pan Hellenic Council, UMES Senate, or be employed as a University Police Officer or Student Security Officer.
- The student may not be a member of any other judicial body on the campus.
- The student must be in good academic standing.

**Faculty/Staff Membership:** To be eligible to sit as a faculty/staff member of the Campus Judicial Board, one should meet the following minimum qualifications:

- The faculty/staff member may not be elected members of the UMES Senate.
- The faculty/staff member may not be members of any other judicial body on the campus.

**Chairperson:** To be eligible to sit as Chairperson of the Campus Judicial Board, one must be a faculty member, staff member, or administrator.

- The Chairperson shall be appointed by the Judicial Administrator, with the approval of the Vice President for Student Affairs.

### **Code of Ethics for Judicial Board Members**

Members of the Judicial Board are expected to maintain the highest ethical standards at all times. Judicial Board members shall adhere to the following code of ethics:

- A member's public and official behavior should be professional and free from impropriety or the appearance of impropriety;
- No hearing, pending or otherwise, before the Judicial Board, should be mentioned or discussed by any member except when the Board has convened to consider that case;
- No member should hear or entertain the merits of, or pre-judge a case, except when sitting as a member of the Board to hear or consider that case;
- No member should be swayed by partisan demands, public clamor, consideration of personal popularity or notoriety, nor be apprehensive of unjust criticism;
- A member should use his/her discretion and disqualify him/her self from a case where there may be a conflict of interest, or where he/she may have some involvement as a witness or as a complainant;
- A member shall maintain decorum at all times during judicial hearings;
- A member shall be professionally attired during all judicial hearings;
- A member shall make fair, objective, and accurate judgments based on the best available information;
- Any member of the Board who comes before the Board, and is found guilty of violating this Student Code of Conduct, shall be immediately discharged from the Board.

### **Term of Service and Removal**

- A member can be removed for any valid reason by a 2/3 vote of the Campus Judicial Board and a written recommendation from the Board to the Judicial Administrator.
- Student members of the judicial board, who are charged with a violation of this Code or with a criminal offense, may be suspended from their judicial position by the Judicial Administrator, pending the outcome of the charges against them. Students convicted of violations or offenses may be disqualified from any further participation on the university judicial board.
- Members shall serve for one calendar year and are eligible for reappointment.

### **Procedures for Filing Complaints**

Any member of the University community may file a written complaint against a student for violation of the Student Code of Conduct. The complaint shall be filed with the Office of the Judicial Administrator, using the prepared Judicial Complaint Form. The complaint shall contain the following information:

- the name and address of the person filing the complaint, the name and address of the student against whom the complaint is filed, and the date on which the complaint was filed;
- a short, clear statement of the conduct that is at issue with an explanation as to how that conduct violates the Student Code of Conduct; to the extent available, this statement should include the date, time, place of the conduct at issue, and the names of any witness who may have observed the conduct;
- a request for judgment or the relief desired, if any; and,

In more egregious matters, a written complaint and charges shall be filed with the Office of Public Safety/University Police. University Police will investigate, and if warranted at their discretion, pursue the matter either judicially and/or criminally.

### **Notification of Complaint**

A copy of the complaint shall be served in person or by certified mail upon each accused student by an appropriate University administrator or official, as expeditiously as possible, usually within seven (7) days, to include Saturday and Sunday, after the complaint is received by the Judicial Administrator. A written record shall be made of the fact and date of service.

### **Investigation and adjudication by the Judicial Administrator**

The Judicial Administrator may conduct an investigation to determine if the complaint has any merit and/or to determine if it can be resolved administratively by the written mutual consent of the parties involved on a basis acceptable to the Judicial Administrator. Such disposition is final, and there are no subsequent proceedings. If the complaint cannot be resolved by mutual consent, the case shall be presented to the Judicial Board for a hearing. Complaints involving criminal violations will be given to University Police for an investigation and processing.

### **Proceedings Before the Judicial Board**

In all cases where the Judicial Board considers if a student's conduct has violated the Code, a quorum of five (5) members must be present. To find an accused student guilty or not guilty, following deliberations, the Judicial Board members will vote (the Judicial Administrator does not vote). A simple majority of the members present shall be required to find an accused student guilty or not guilty of Code violations.

### **Conducting a Hearing**

The chairperson of the Judicial Board is responsible for conducting the hearing and controlling the order of proceedings. All persons involved in a hearing are expected to maintain the confidentiality of information disclosed during the hearing. All hearings shall be closed unless designated by the chairperson.

In all proceedings, under this Student Code of Conduct, the accused student is presumed innocent until a violation of the Student Code of Conduct is proved by a preponderance of the evidence. The burden of proof rests on the complainant.

The accused student and the complainant may attend the Judicial Board hearing, either in person or by telephone. The accused student and complainant may present his or her version of the facts

through oral and written statements, including those of witnesses, and may hear all evidence presented. The accused student and complainant may be permitted to question adverse witnesses personally, or by directing questions for the witnesses to the Judicial Board, who will then direct the questions to the witness, as appropriate.

### **Closed Hearings**

All hearings are closed to anyone other than those persons directly involved (the complainant, the accused, advisors, and witnesses), unless the Judicial Administrator determines otherwise.

### **Burden of Proof**

The complainant has the burden of proof to establish the guilt (by a preponderance of the evidence) of the accused. The accused should be prepared to respond to charges and evidence presented against him/her with documents and/or witnesses, as appropriate.

### **Advisor**

The accused student and complainant may be assisted at the hearing by an advisor of his/her choice. Except in cases where the accused student is subject to pending criminal charges, which arise from the same conduct for which the Student Code of Conduct complaint is filed, only non-lawyer members of the University community are eligible to serve as an advisor. In cases where the accused student is subject to pending criminal charges, the accused student may consult with his or her lawyer in order to safeguard the student's Fifth Amendment right against self-incrimination. In all cases, the advisor (or lawyer as permitted above) plays a limited role and will not be permitted to present evidence, testimony or argument, cross-examine witnesses, nor in any way interfere with the proceedings. The advisor may not be a witness or a charged student in the same alleged misconduct/incident. The advisor may address the Judicial Board only at the request of the Judicial Board or the Judicial Administrator.

Persons and representatives who participate in disciplinary hearings shall not:

1. Engage in conduct to disrupt a hearing;
2. Attempt to improperly influence the Judicial Administrator, or any member of a judicial board;
3. Fail to obey a reasonably definite and specific order by a presiding officer;
4. Knowingly offer false evidence, falsify evidence, counsel or induce witnesses to testify falsely, or offer improper inducements to testify.

Representatives found responsible for violations of the provisions of this section of the Code may be suspended from the privilege of representation.

### **Witnesses**

The accused and complainant may call all persons with direct knowledge of the incident to appear as witnesses. However, the Judicial Board may limit the number of witnesses, when it is apparent that all witnesses are giving the same testimony. Persons accused of the same violation of the Code may appear as witnesses for each other. Those persons attesting to character, alone, are not allowed to serve as witnesses. Character witnesses may give statements as to the character of accused students, after the Judicial Board has heard testimony relevant to the hearing.

**Evidence**

The technical rules of evidence do not apply in Judicial Board hearings. The Judicial Board may consider any evidence, including hearsay evidence that it determines is probative, relevant, or material to the case. It may exclude evidence that is irrelevant, immaterial, or repetitious.

In the absence of the investigating officer, any member of the Office of Public Safety may present a case on behalf of the University.

**Postponement of Judicial Hearings**

A one-time request for postponement by either the accused student or the complainant may be granted when the Judicial Administrator determines that there is a compelling reason for the delay. The Judicial Administrator will set a new date for the hearing and notify all parties involved, in writing. Further requests for postponement do not have to be considered, and a hearing may be held in the absence of the accused student or complainant.

**Consolidation of Cases**

In situations in which a student has more than one judicial hearing pending, the cases may be consolidated at the discretion of the Judicial Board and considered together at a single hearing.

**Record of Hearings and Decisions**

A tape recording will be made of each hearing. If a recording malfunction occurs, the Board shall include a summary of the testimony sufficiently detailed to permit review on appeal. All records of the hearing, including evidence presented, are the property of the University of Maryland Eastern Shore and may be disclosed as permitted by law.

**Copy of Judicial Proceedings**

An accused student may obtain a copy of the taped proceedings for a fee. Forms can be obtained from the Office of the Judicial Administrator. Cash is not acceptable, checks or money orders are to be made payable to UMES. Once the form and the designated payment are presented to the office, it will take 5-7 business days for the tapes to be copied.

**Records Access**

As permitted by law, the charged student(s) and complainant(s) may have reasonable access to all of the relevant case records that are maintained by the Judicial Administrator, prior to the hearing. The records and/or documents prepared by the Judicial Administrator and submitted during the hearing, as well as the statements given, will constitute the record of the Board or the Judicial Administrator.

**Disciplinary Files and Records**

The Judicial Administrator shall maintain judicial records and a disciplinary tracking system, which shall include, but not be limited to, the accused student's name and related information, description of the incident, parties involved, Code violations, sanctions, and other data deemed relevant by the Judicial Administrator. Such information shall be maintained in accordance with the provisions of the Federal Educational Rights and Privacy Act. Disciplinary records shall be made available to judicial bodies and University officials designated in the Code, as necessary.

Students may arrange to review their own disciplinary records by contacting the Office of the Vice President for Student Affairs. Except as provided in the Student Code or pursuant to a lawfully issued subpoena, the University shall not communicate a student's disciplinary record and related information to any person or agency without the prior written consent of the student. Upon graduation, the student's confidential record may be expunged of disciplinary actions, other than Disciplinary Suspension or Dismissal, upon application to the Vice President for Student Affairs. Otherwise, the confidential record will be retained for a period of three years after the student's date of graduation. Cases involving Disciplinary Suspension or Dismissal will be retained permanently, and may only be expunged upon successful application to the Vice President for Student Affairs.

### **Entering a Plea**

It is important that the accused have an understanding of the judicial proceedings, before entering his/her plea. During the hearing process, the accused will be asked to enter his/her plea as "Guilty," or "Not Guilty."

**Entering a plea of "Guilty,"** the accused waves his/her right to present testimony in defense of the charges. Waiving his/her right to a hearing does not mean that the accused will receive more lenient discipline. The accused will be disciplined in accordance with the Code of Conduct, including but not limited to suspension and/or expulsion from the University. In waiving his/her right to a hearing, the accused will have an opportunity to present an oral statement to the Board, regarding factors that mitigate disciplinary action. *NOTE: Students who enter a plea of "guilty," forfeit their right to appeal the outcome of their hearing.*

After reading the charges, the accused will be asked to enter a plea. Upon entering the plea of "guilty," the Board will ask the accused for final statements and hear from character witnesses. Following the statements from character witnesses, the accused will be dismissed from the proceedings while the Board deliberates to determine the appropriate sanction(s).

**Entering a plea of "Not Guilty,"** the accused along with the complainant, as provided in the Code, may give testimony and question witnesses. After hearing all witnesses, including character witnesses, the Board will ask the accused and complainant for final statements. Following the statements, the accused, complainant, and witnesses will be dismissed from the proceedings (but shall remain in the immediate area of the hearing, should the Board decide to recall someone to clarify a point of testimony) while the Board deliberates. The accused and complainant will receive written notification of the sanction(s) as provided in the Code.

### **Waiver of the Right to a Campus Hearing**

All charged students have a right to a judicial hearing, before the Judicial Board to determine whether they are guilty or innocent of the charge(s) filed. Charged students also have a right to waive their right to a judicial hearing and plead guilty, by completing the "*Waiver of the Right to a Campus Hearing*" form. Students, who waive their right to a hearing and plead guilty, will be disciplined in accordance with the Code of Conduct, including but not limited to suspension and/or expulsion from the university. Waiving the right to a hearing and pleading guilty does not mean that a student will receive a more lenient discipline. Students, who waive their right to a

hearing and plead guilty, will have an opportunity to present an oral statement to the Judicial Board, regarding factors that mitigate disciplinary action. Students will be permitted to present character witnesses' testimony or evidence in mitigation of disciplinary action only. However, a student waiving his/her right to a hearing will eliminate his/her opportunity to appeal the decision of the Judicial Board. In this event the decision of the Board is absolutely final!

### **Complainant and Victim Rights**

The complainant/victim is entitled to:

1. An advocate present during the hearing process;
2. A timely hearing;
3. Be present during the entire hearing;
4. Question witnesses and/or evidence; and
5. In the event the case involves a sexual violation, the victim has the right to have her/his sexual history kept private.

### **Rights of the Accused**

The accused is entitled to:

1. Be present at the hearing and hear all testimony presented. If a student, who has been properly notified, fails to appear at the scheduled date, time, and place for the hearing, the Board may proceed with the case and make its findings in the student's absence;
2. Be provided, prior to the hearing, with the names of witnesses whom the Judicial Administrator has asked to appear at the hearing;
3. Question witnesses in accordance with the rules;
4. Present evidence in accordance with the rules;
5. Remain silent or testify during the formal hearing (Silence will not be used against the accused in any way);
6. Know that a written (taped) record of the hearing is being maintained;
7. Know that the hearing is closed;
8. Plead guilty or not guilty to the charges;
10. The right to consult with counsel of choice (including an attorney who may advise, but not speak at the hearing);

11. The right to appeal a sanction(s) rendered by the Judicial Board, or the Judicial Administrator, under the provisions for filing appeals,
12. A decision by the Board based solely on a preponderance of the evidence presented during the hearing.

### **Suggested Procedures for Conducting a Hearing**

A Judicial Board Hearing will usually follow this outline. Exceptions may occur when deemed necessary by the Judicial Board and where the change will not deny the student due process.

The Chairperson:

1. Introduces the Judicial Hearing Board, complaining and accused parties, and others present.
2. Confirms that the accused student has received copies of the charges and Student Code of Conduct: Student Judicial Manual.
3. Charges the Board.
4. Ensures that charge(s) are read.
5. Directs accused student to enter a plea.
  - a. If the student **pleads** guilty, waiving his/her right to a hearing, the Board will accept an oral statement (not testimony), from the accused regarding factors that mitigate disciplinary action and accept character witnesses. Following the statements from the accused and witnesses, the Board will convene to deliberate to determine the appropriate sanction(s). *Students who enter a plea of "guilty," forfeit their right to appeal the outcome of their hearing.*
  - b. If the student pleads not guilty (see steps 6-32 below),
6. Instructs all parties present regarding questioning of witnesses.
  - a. The questioning of any person appearing before the Board by any individual participating in a hearing shall not be in a badgering, unduly repetitious, or irrelevant manner. It shall be at the discretion of the chairperson to curtail a participant's further opportunity for questioning, if such behavior occurs.
  - b. Under no circumstances should the Chairperson allow arguments to develop between the accused and witnesses.

### **The Chairperson Directs:**

7. Complainant to describe the incident(s).
8. The Board to question the complainant.
9. The accused to ask questions of the complainant.

10. The accused to describe the incident(s).
11. The Board to question the accused.
12. The Complainant to ask questions of the accused.
13. Complainant witnesses to be called individually.
14. Each witness to describe the incident and what he or she witnessed.
15. The Board to question the witness(s), and may question the complainant and/or the accused.
16. The Complainant, at will, to ask questions of the witness.
17. The Accused, at will, to ask questions of the witness.
18. The dismissal of witnesses when there are no relevant questions remaining.
19. That Steps 12 – 17 are repeated until all of the accused witnesses are heard.
20. That all Accused witnesses are called individually.
21. Each witness to describe the incident and what he/she witnessed.
22. The Board to question the witness, and may question the complainant and/or accused.
23. The Accused, at will, to ask questions of the witness.
24. The Complainant, at will, to ask questions of the witness.
25. The dismissal of witnesses when there are no relevant questions remaining.
26. That Steps 19 – 24 are repeated until all of the accused witnesses are heard.
27. Complainant(s) and/or Accused to give closing statements or any additional comments. Closing statements are not required; there may not be additional testimony.
28. The Complainant and the Accused are excused from the room and are asked to remain in the immediate area until they are dismissed by the Board.
29. The Board deliberates, in private, to decide if it is more likely than not that the Accused violated the Student Code of Conduct. Deliberations by the Board shall not be recorded.
30. Chairperson will dismiss the Complainant and the Accused, informing the Accused of how and when to expect the official decision of the Board.

31. Rules of common courtesy and decency shall be observed.
32. Any person who interferes with or obstructs the hearing or who fails to abide by the rulings of the chairperson may be dismissed from the hearing.

### **Following the Hearing**

After deliberating, the Board will promptly notify the Judicial Administrator, in writing, of its findings as to whether the accused student violated the Student Code of Conduct. The Board may take into consideration prior findings of Code violations when determining sanctions. The Judicial Board will recommend disciplinary action for any violations of the Code to the Judicial Administrator. The Judicial Administrator, after receiving the Board's recommendations, will review the related hearing records, and write the final and official University decision. The Judicial Administrator will notify the accused student within three (3) days (to include Saturday and Sunday) in writing of his/her final decision, including any findings as to whether the accused student violated the student Code of Conduct and any disciplinary action imposed. The Judicial Administrator's decision will be delivered by a member of the Office of Public Safety. Information about the Judicial Administrator's final decision and any disciplinary action taken may be disclosed to the complainant and to third parties, as permitted by law.

### **Notice to the Registrar**

The Vice President for Student Affairs shall notify the Office of the Registrar, and other appropriate administrative offices, if a judicial finding results in a sanction, restricting a student from being enrolled at the university, withholding grades, official transcripts or a degree, during the period in which the sanction is imposed.

### **Self-incrimination**

All parties giving testimony (accused, witnesses, and/or complainant) before the Board are advised that self-incriminating testimony (admitting to or acknowledging a crime or a violation of the Code) can be used to file charges against them at a later date.

### **Absence of the Student Charged**

If the accused student does not appear (personally or by telephone) without satisfactory explanation of the absence, or should the accused student leave a hearing that has already commenced, the hearing shall proceed without the accused student, and the Judicial Board may render a decision, based upon the available evidence, and forward it to the Judicial.

### **Appeals Procedures**

Only students who have attended and participated in their disciplinary hearing have the right to appeal. Appeals shall be decided upon the record of the original hearing, the disciplinary record, and the written appeal request of the accused student. Each case may be appealed only once. Therefore the finding of the designated appeal board is final and binding. *NOTE: Students who enter a plea of "guilty," forfeit the right to appeal the outcome of their hearing.*

### **Requirements for Filing an Appeal**

The accused student may appeal a decision of the Judicial Administrator to the Vice President for Student Affairs, or to his or her designate. An appeal must be based on one of the following requirements:

1. There was a substantial departure from, or the denial of rights or procedures under the Student Code of Conduct, which effectively precluded a fair hearing; or
2. New evidence is discovered or made available, which was not available at the hearing and which would substantially alter the decision as to whether the accused student violated the Student Code of Conduct, or as to the discipline imposed on the accused student.

Appeals based on grounds other than those enumerated above will be dismissed.

### **How to File an Appeal**

The Vice President for Student Affairs has primary responsibility for the administration of all student discipline. He/she serves as the appeals officer for cases that have been heard by the Judicial Board.

To file an appeal, the accused student must deliver to the Judicial Administrator a typed letter addressed to the Vice President for Student Affairs within **two (2) business days** subsequent to receiving notice of the outcome from the Judicial Administrator. This letter should be concise and clearly state all reasons for the appeal. The Judicial Administrator will review the letter for appropriateness and will forward the letter to the Vice President for Student Affairs, with a suggestion on acceptability.

The Vice President for Student Affairs, or his/her designee, will review the notice of charges, the appeal letter, the hearing record, and the Judicial Administrator's decision, and will issue a timely response. Failure to appeal within the allotted time will render the original decision final. The decision of the Vice President for Student Affairs or his/her designate, is final. The appeal shall be in writing and must include the following information:

1. The specific grounds for appeal;
2. Supporting arguments, witnesses, and documents; and
3. Other relevant information the student wishes to include.

### **Remedies for Appeal**

The following actions may be taken by the Vice President for Student Affairs or his/her designee, as a result of the filing of an appeal. He or she may:

1. Deny the appeal;
2. Affirm the decision;
3. Affirm the decision, but amend the sanction(s) levied;
4. Vacate (overturn) the decision and order a new hearing with the same hearing board; or,
5. Vacate (overturn) the decision and order a new hearing with a different hearing board.

When a new hearing is ordered, the case, along with a written rationale for upholding the appeal, will be heard by a different panel. In this situation, the charged student retains the right to appeal as if it were an original hearing.

### **Stay of Sanction(s) During the Appeals Process**

The act of filing an appeal usually postpones the sanction(s) required by the initial decision until the appeals process is completed, unless the Judicial Administrator determines that postponement of the sanction(s) may result in a threat to the University community. The Judicial Administrator may impose sanctions during the appeals process to ensure the safety and well-being of members of the University community or preservation of University property. If an appeal is not granted, or should an appeal fail, the imposed sanction(s) will be retroactive to the original date, unless the Judicial Administrator affixes a different sanction and/or date.

### **Notification Following an Appeal**

The Vice President for Student Affairs, or his/her designate, having received an appeal from the Judicial Administrator, shall review the case and issue his/her decision, in writing, regarding the appeal within five (5) business days. Copies of the decision will be mailed to the person filing the appeal, the Judicial Administrator, and other university officials, as deemed necessary by the sanction(s).

### **Limitations**

No judicial hearing may be initiated against any person for a violation of any rules or regulations after a period of three months from the date such violation has been reported to the Judicial Administrator or to the UMES Department of Public Safety, and such person has been cited for the offense. Only the accused may file an appeal. Each case may be appealed only once. Therefore, the appeals finding of the Vice President for Student Affairs, or his/her designate, is final and binding.

## **Administrative Procedures**

### **Practices and Procedures**

The rules of Practice and Procedure are general guidelines to be utilized by the Judicial Board. Said rules are not subject to amendment without the approval of the Vice President for Student Affairs. However, the Judicial Administrator may include such additional guidelines that will amplify or clarify these Rules, or that facilitate their implementation, provided that such guidelines do not deny the guarantee of due process specified or explicit in these Rules. Such guidelines shall be stated in writing by the Judicial Administrator.

### **President's Right of Summary Suspension**

Subject to prompt review, the President, or his or her designee, may summarily suspend a student from the University for a period of up to five (5) business days, when in his or her judgment, such action is to protect the safety and well-being of the University, University property, and/or any member of the University community. When a summary suspension is imposed, a Judicial Board hearing will be convened by the tenth-working day, to determine whether the suspended student violated the Student Code of Conduct and, if so, to determine whether to discipline the student for the violation. If the suspended student seeks a postponement of the hearing date and the request for a postponement is granted, the suspension will remain in effect until the new hearing date.

*A summary suspension requires that a student immediately leave the campus.* During the summary suspension, students shall be denied access to the residence halls, all campus facilities, and University classes, on or off campus University activities or privileges for which the student might otherwise be eligible. Should a student return to campus during the summary suspension period, or engage in a University sponsored activity/event, without written permission from the Vice President for Student Affairs, he/she shall be cited for trespass and shall be subject to further disciplinary action, arrest, and/or criminal prosecution.

Until and unless a student, who was summarily suspended, is found to have violated the Student Code of Conduct after a hearing, his or her status as a student of the University of Maryland Eastern Shore shall not be altered. If the suspension is not upheld after the Judicial Board hearing process, the student who was summarily suspended will be excused from classes that were missed because of the suspension, and allowed a reasonable time to make-up academic work that was missed or impacted by the suspension.

### **Summer School**

The judiciaries of the University during summer school sessions shall function in each instance in the same manner as authorized for the regular school year. Temporary Judicial Board members may be drafted for summer hearings. The incumbent Student Government Association administration may recommend student representatives, from qualified students who are enrolled in the summer school. The authority of the summer school judiciaries commences with the opening of the summer school session. Faculty representatives will be appointed from the summer school faculty. Appeals shall be handled in the same manner as proscribed during the regular school year.

**Judicial Suspensions, Expulsions, and Refunds**

Students who are suspended or expelled from the University for Disciplinary Reasons shall not be entitled to any refund of tuition or fees. Similarly, students whose housing or boarding contracts are terminated for disciplinary reasons shall not be eligible for refunds.

**Procedures for Readmission Following Judicial Suspension**

Students who are suspended must apply to the Judicial Administrator in writing for readmission after the period of suspension. Request for Readmission forms can be obtained from the Office of the Registrar and must accompany the written request for readmission. All conditions/sanctions associated with a judicial suspension, must be satisfied prior to making the request for readmission. A suspended student will be considered for readmission only after filing the Request for Readmission Form, with all supporting documents, i.e., medical clearance form/release, etc.

**Official Withdrawal from the University**

Should an accused student be academically dismissed or leave the University voluntarily, before pending disciplinary charges have been resolved, the Judicial Administrator may precede at his/her discretion with the judicial process (case) in the absence of the student as outlined in the Code. An accused student, who withdraws from the University with a case pending, will not be readmitted to the university, until such time as his or her case has been judicially processed and resolved. The Judicial Administrator will place a disciplinary hold (academic flag) on the student's record, which will prevent reinstatement (selection of classes and registration) of that student until the case has been adjudicated.

**Search and Seizure Policy**

Authorized University employees may search premises occupied by students and their personal possessions with prior authorization from the Vice President for Student Affairs, or The Vice President for Administrative Affairs or their designees. The Vice Presidents, or their designees, will authorize a search only upon a showing of reasonable grounds to believe that the search will reveal evidence of a Code of Conduct violation. Employees who need to enter a room during the performance of their duties will knock and identify themselves. If there is no response, a passkey will be used to enter the room. For purposes of this provision, premises occupied by students include, but are not limited to, University owned or controlled property and residences, student vehicles, personal property, backpacks, workstations, or any other space occupied by a student on a University sponsored trip or activity.

Contraband items, for example, those prohibited by law or University policy, in clear view may be confiscated by the university employee and used as evidence in a disciplinary proceeding. Such items will not be returned to students.

## **Prohibited Conduct**

The following conduct is prohibited by the University of Maryland Eastern Shore and subject to disciplinary action in accordance with the Student Code of Conduct. Attempts to commit acts prohibited by this Code shall be punished to the same extent as completed acts. Students and student organizations are responsible for the conduct of their guest(s) on, or in University property and at functions sponsored by the University, and may be disciplined for a guest's violation of this Student Code of Conduct. Pursuant to the University's parental notification policy, parents or guardians will be notified when students under the age of eighteen (21) receive disciplinary sanctions for abuse and/or misuse of alcohol, and drugs, or for arrest.

### **1. Tampering with Safety Equipment**

Tampering with safety **equipment**, i.e., fire extinguishers, blue light safety telephones, detection equipment, or the inappropriate use of or possession of safety equipment on property owned or controlled by the University.

### **2. Tampering with University Equipment**

Tampering with and/or disabling any security camera, elevator, wiring, plumbing, telephone or computer line or system, or other University equipment so as to endanger oneself or others.

### **3. Computer Misuse and Dishonesty**

The University considers any misuse of its computer systems to be a serious offense. A student may not attempt to degrade the performance of the computer systems, to seek to penetrate its security, or in any way deprive other users of resources or access to the computer systems. Violations may include, but are not limited to, (a) using a computer account belonging to another individual without the permission of that individual; (b) tampering with the operation of the University's computer systems including both equipment and programs; (c) using the systems for commercial or other unauthorized purposes; (d) inspecting, modifying or copying programs or data without authorization from the owner; and (e) using the University's computer systems to send abusive, obscene, or harassing communications.

### **4. Rioting, Breach of the Peace**

Any student convicted in any state or federal court, or found responsible by a preponderance of the evidence, during a judicial hearing, of rioting, assault, theft, vandalism, arson, or breach of the peace, providing such misconduct was related directly or indirectly to University sponsored activities, including athletic events, will be suspended or expelled from the University. Students expelled in accordance with this provision shall not be admitted to any other institution in the System for at least one year from the effective date of his/her expulsion (**Approved by the Board of Regents on July 10, 2002**).

### **5. Forgery, Fraud, and Dishonesty**

Student may not knowingly providing false or misleading identification or information, written or oral, in a manner which has the intent or effect of deceiving authorized University personnel, including members of judicial hearing panels;

knowingly making false charges under the Judicial Code or of altering or falsifying official institutional records. Misrepresentation of oneself or of an organization will also be considered a violation of this section.

**6. Improper Possession, Use or Abuse of Alcoholic Beverages**

Students may not possess, purchase, or consume any alcoholic beverages unless they are of legal age as defined by the State of Maryland for purchase, possession, or consumption of such beverages. Students of legal age may not purchase or provide alcohol to under aged persons, as defined by the State of Maryland. Any violation of the University's Alcoholic Beverages Policy shall be construed as a violation of this section (see **Substance Abuse Policy in Student Handbook**).

**7. Possession, Use, and/or Intent to Distribute (traffic) Drugs**

A student shall not possess or use illegal or controlled drugs, other substances or drug paraphernalia, as defined by the laws of the State of Maryland. No student shall sell or give such drugs or substances to any other person. *Individuals who remain in the presence of individuals who engage in the illegal or abusive use of drugs, whether actively participating or not, will be subject to the same disciplinary action and sanctions as the offenders.* The misuse and abuse of prescription drugs and inhalants is a violation of this Student Code of Conduct (see **complete UMES Drug Policy in Student Handbook**).

**8. Discriminatory Conduct**

Engaging in acts of violence, verbal or physical behavior directed at an individual or group that has as its purpose subordination based on race, color, creed, disability, marital status, national origin, sex or sexual orientation; creation of an intimidating or demeaning environment that impedes health, safety or access of other students, faculty and staff to the educational benefits available from or through the University is prohibited. If anyone feels that he/she has been discriminated against by a student, or a faculty or staff member, he/she should also contact the Affirmative Action Officer, Office of Human Resources.

**9. Violence to Persons**

The University will not tolerate acts of violence to other persons by individuals or groups. Acts of violence include, but are not limited to assault, battery, and/or actions in reckless disregard of human life and safety. Assault includes, but is not limited to, verbal or written acts which place a person in personal fear or which have the effect of harassing or intimidating a person. Battery includes, but is not limited to, fighting and/or the unauthorized touching of another person.

**10. Theft, Vandalism, Destruction and Abuse of Property**

The University will hold students responsible for conduct that causes or attempts to cause damage, abuse, or theft of University property or property belonging to members of the University community. Students found to have violated this provision may be required to make restitution for any loss of property, in addition to other sanctions which might be imposed.

- 11. Non-Compliance.** A student may be disciplined for:
- a. Willfully failing to comply with a proper order or summons when requested by authorized University officials;
  - b. Willfully failing to comply with instructions of University officials acting in performance of their duties;
  - c. Willfully failing to appear before a disciplinary committee upon request;
  - d. Failure to provide student identification upon request;
  - e. Failure to abide by or comply with University policies and procedures;
  - f. Failure to comply with the housing/residence life contract; or
  - g. Failure to comply with an ordered sanction.

**12. Abuse of the Judicial System**

Abusing the judicial system includes but is not limited to:

- a. Failure to obey the summons of the Judicial Board or University Official;
- b. Falsification, distortion, or misrepresentation of information before a Judicial Board;
- c. Disruption or interference with the orderly conduct of a judicial proceeding;
- d. Attempting to discourage an individual's proper participation in, or use of, the judicial system;
- e. Attempting to influence the impartiality of a member of the Judicial Board prior to, and/or during, and/or after a judicial proceeding;
- f. Harassment (verbal or physical) and/or intimidation of a member of the Judicial Board prior to, and/or during, and/or after a judicial proceeding;
- g. Failure to comply with imposed sanction(s); or,
- h. Influencing or attempting to influence another person to commit an abuse of the judicial system.

**13. Disruptive, Disorderly, or Reckless Conduct**

Disruptive, disorderly, or reckless conduct includes indecent exposure, lewd behavior, bomb threats, false fire alarms, and other actions which disrupt normal University functions, activities, and processes of the University community. When disorderly or disruptive conduct occurs in class, a faculty member may file a complaint of misconduct with the Judicial Administrator, and after a hearing, if that complaint is upheld; the student may be administratively withdrawn, and may then appeal. Disruptive, disorderly, or reckless conduct includes, but is not limited to the following:

- a. Threats, physical abuse, harassment, or hazing which threatens or endangers the health, safety, or welfare of a member of the University community;
- b. Fighting or physically assaulting another person or recklessly causing physical harm or causing reasonable apprehension of such harm;
- c. Obstructing or disrupting teaching, research, administrative and public service functions;
- d. Obstructing or disrupting disciplinary proceedings or other authorized University activities;

- e. Intentional participation in campus demonstrations which disrupt the normal operations of the University and infringe on the rights of other members of the University community;
- f. Leading or inciting others to disrupt scheduled and/or normal activity in any campus area, causing infringement on the rights of members of the University community; or,
- g. Trespass or unauthorized entry to any University premises, facility, property, or at a University-sponsored event or activity.

**14. Possession of Dangerous Weapons, Firearms, or Explosives on Campus**

Except for authorized use by law enforcement agencies and officials, the possession or use of dangerous weapons, firearms, or explosives is prohibited on University property. Prohibited weapons are those listed in the Maryland Code, including, but not limited to the following: BB guns, martial arts weapons, brass or metal knuckles, stun guns, pellet guns, rifles, air/gas guns, laser pointers, hand guns and multiple firing weapons, knives, straight razors, or any sharp pointed or edged instrument (e.g., box cutters) and chemicals such as tear gas, any incendiary devices, biological agents, grenade, mine or powerful explosives, and ammunition.

**15. Violations of Residence Life and Housing/Rules and Regulations**

Any violation of Residence Life and Housing/Rules and Regulations is subject to discipline under this Student Code of Conduct.

**16. Cellular Telephone and Pagers in the Classroom**

The use of cellular phones and pagers is expressly prohibited in academic classrooms and laboratories. All such telephones and pagers, audible or silent, must be kept in the "Off" position while students attend classes. Students in non-compliance may be asked to leave the classroom immediately upon discovery of phone and/or pager use.

**17. Ticket Scalping**

Selling tickets to University functions or events for a price in excess of the price printed on the ticket is prohibited.

**18. Contracts**

Students as individuals or representatives of student organizations are prohibited from entering into verbal or written agreements or contracts that purport to bind, obligate, or create liability for the University. In such instances, the University will hold the student individually, and/or the student organization, liable for the financial or legal consequences or damages that may result from such unauthorized actions.

**19. Possession of Stolen Property**

Knowingly possessing property that may be identified as being stolen from the University or from any other person is prohibited.

**20. Obstruction of the free flow of pedestrian or vehicular traffic**

Blocking, impeding, or causing a restriction to the free flow of pedestrian or vehicular

traffic on University premises, or at University sponsored or supervised events is prohibited.

**21. Forcible Entry**

Breaking and entering into any building, structure, or facility on University premises is prohibited.

**22. Littering, Throwing Objects Out of Windows**

The inappropriate disposal of refuse, including ejecting or dropping any object from windows in residence halls or balconies or other university buildings or vehicles is prohibited.

**23. Falsely Reporting Fires**

Falsely reporting fires or other emergencies, falsely setting off fire alarms or tampering with fire equipment is prohibited.

**24. Arson**

The malicious or fraudulent burning of property, creating fires, open flames, and/or lighting flammable materials in a building or facility on University premises.

**25. Disregard of Fire or Evacuation Alarm Signals**

The disregard of fire alarm signals or refusal to evacuate a building or a section of a building when a fire or evacuation alarm is sounding is prohibited.

**26. Harassment**

Engaging in intentional conduct directed at a specific person or persons which seriously alarms or intimidates such person or persons and which serves no legitimate purpose will not be tolerated. Such conduct may include: explicit or implicit threats, including gestures which place a person in reasonable fear of unwelcome physical contact, harm, or death; following a person about in a public place or to or from his or her residence; making remarks in a public place to a specific person which are by common usage lewd, obscene, expose a person to public hatred, or that can reasonably be expected to have a tendency to cause acts of violence by the person to whom the remark is addressed; or communicating anonymously by voice or graphic means, or making a telephone call, anonymously, whether or not a conversation ensues.

**27. Sexual Harassment**

For the purpose of this Policy, the University adopts the sexual harassment definitions promulgated by the Equal Employment Opportunity Commission (EEOC) and the Office of Civil Rights of the United States Department of Education (OCR). Unwelcome sexual advances, unwelcome requests for sexual favors, and other behavior of a sexual nature constitute sexual harassment when [VI-1.20 (B) - UMES GUIDELINES AND POLICIES PROHIBITING SEXUAL HARASSMENT AND CAMPUS PROCEDURES AND POLICIES FOR FILING COMPLAINTS: APPROVED BY THE PRESIDENT ON SEPTEMBER 27, 2000]:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment by the University or an individual's participation in a program; or
2. Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or
3. Such conduct by an employee, by a student, or by a third party is sufficiently severe, persistent, or pervasive to:
  - a. limit an individual's ability to participate in or benefit from an educational program or activity;
  - b. create a hostile or abusive educational environment; or
  - c. have the purpose or effect of unreasonably interfering with an individual's work performance, or of creating an intimidating, hostile, or offensive work environment at the University.

**28. Sexual Assault I**

By stranger or acquaintance, rape, forcible sodomy, or forcible sexual penetration, however slight, of another person's anal or genital opening with any object. These acts must be committed either by force, threat, intimidation or through the use of the victim's mental or physical helplessness, of which the accused is aware or should have been aware.

**29. Sexual Assault II**

By stranger or acquaintance, the touch of an unwilling person's intimate parts (defined as genitalia, groin, breast, or buttocks, or clothing covering them) or forcing an unwilling person to touch another's intimate parts. These acts must be committed either by force, threat, or through the use of the victim's mental or physical helplessness of which the accused was aware or should have been aware.

- Students who are victims of sexual assault shall be offered access to counseling through mental health services available at the institution, other victim service entities in the surrounding community, or the nearest state designated rape crisis program. After a sexual assault has been reported at the institution, and upon the request of the alleged victim, the victim shall be offered an alternative academic, living or employment situation if such alternative is available, feasible, and appropriate to the facts of the sexual assault reported.

**30. Smoking**

Pursuant to State law, smoking is prohibited in all state buildings, including residence halls.

**31. Identity Theft**

Violations include, but are not limited to knowingly and willfully assuming and using personal identifying information, without the consent of said owner, for the purpose of misrepresenting oneself; using, selling, or transferring that information to obtain any benefits, credit, goods, services or other items of value in the name of said owner, is a violation of this Code.

**32. Retaliation**

Harassment of complainant or other person(s) alleging misconduct, including but not limited to intimidation, threats or unwanted physical contact.

**33. Violating the Terms of a Sanction**

Violating the terms of any disciplinary sanction imposed (including failing to meet deadlines and/or committing a violation of university rules while serving a probationary sanction) in accordance with the Student Code of Conduct will be grounds for further action under the Code.

**34. Stalking**

Any repeated conduct directed specifically at another person that causes that person to fear for his or her safety. Such conduct includes, but is not limited to: telephone calls, following another person, and acts that threaten or intimidate another person through fear of bodily injury or death.

**35. Harboring**

Knowingly harboring or transporting a fugitive from justice, or any individual who has been officially barred (suspended or expelled) from the University or University sponsored activities, or for whom there is an outstanding warrant, is prohibited.

**36. Illegal Gambling or Wagering**

Gambling or wagering in any form is not permitted on the University premises, without the prior approval of the Vice President for Student Affairs.

**37. Misuse of Keys**

Duplication or misuse of University keys or other access devices is a violation of the Code.

**38. Violation of Criminal Codes of the Local, State, or Federal Governments**

Actions or activities, on or off-campus, that violate criminal law, also violate the Student Code of Conduct, and are subject to judicial action.

**39. Hazing**

Hazing, in any form, is a violation of both the National Pan Hellenic Board (NPHC) and the University of Maryland Eastern Shore Hazing Policy.

- a. No member of the University community shall participate in the hazing of another.

- b. No member of the University community shall knowingly permit the hazing of any person.
- c. No member of the University community shall fail to report hazing.  
**(See UMES Hazing Policy, located in the Student Handbook).**

## Sanctions

### Sanctions and Definitions

Upon the finding of a violation of the Code of Conduct, students are subject to any of the following sanctions, alone or in combination. The purpose of judicial sanctions is to educate students about responsible behavior as members of the UMES community, to maintain order, to provide an atmosphere in which students can study and develop academically, and to protect the rights and property of others. During deliberations, the Judicial Board and/or the Judicial Administrator may take into consideration the following factors when determining an appropriate sanction: the present demeanor of the accused student, the accused student's past disciplinary record, the nature of the violation, and the nature and extent of damage, injury, or harm resulting from the violation. Sanctions are imposed, consistent with the severity of the violation and without regard to a student's classification, prospective graduation date, the time in the semester, or when the violation occurred, scholarship status, or any other factor.

Students who fail to complete their prescribed sanctions within the time allotted, may have their registration cancelled for subsequent semesters, until such time as the sanctions have been completely satisfied. Failure to perform prescribed sanctions, as directed, can lead to the imposition of more severe sanctions, including suspension from the University. Parents of minor students who receive a disciplinary sanction and/or arrest may be notified by a University official.

One or more of the following sanctions may be imposed for any single violation of the UMES Student Code of Conduct.

#### 1. **Expulsion**

Expulsion constitutes the permanent separation of the student from the University, to which a student is not eligible for readmission and is permanently barred from University property and from all University sponsored or sanctioned events. In addition, students expelled from the University may not attend another college or university within the University System. If an expelled student returns to the campus, he or she may be charged with unlawful entry (trespass) and arrested. Any student who is expelled is not entitled to any tuition or fee refund.

#### 2. **Suspension**

Suspension involves separation of the student from the University for a specified period of time. In particular cases, the student may also be barred from University property during the period of suspension. Any student who is suspended shall not be entitled to any tuition or fee refund. Upon the imposition of a sanction of suspension, the Judicial Administrator will place a disciplinary hold (academic flag) on the student's record, which will prevent reinstatement until the completion of the suspension. Upon completion of the suspension, the student must contact the Judicial Administrator for reinstatement and to have the hold removed.

**3. Disciplinary Probation**

Disciplinary probation is a written reprimand for violation of specified regulations, imposed for a specified period of time. A sanction of disciplinary probation includes the probability of more severe disciplinary sanctions (including, but not limited to suspension and expulsion from the University) if the student is found to be violating the Student Code of Conduct during the probationary period.

**4. Disciplinary Reprimand**

Disciplinary reprimand involves the issuance of a formal written warning to the student that future misconduct may result in more severe disciplinary action.

**5. Suspension of Group**

Suspension is the withdrawal of an organization's recognition by the University for a stated period of time when an organization is found to have violated the Student Code of Conduct. Suspension shall result in complete suspension of the activities of the group during the stated period of time and may also include conditions for removal of suspension.

**6. Organizational Dissolution**

Organizational dissolution is a sanction imposed upon student organizations that violate the Student Code of Conduct. The sanction involves permanent withdrawal of recognition by the University, denial of the use of University facilities or funds, and official dissolution of the organization on the campus.

**7. Mandatory Work Sanction**

Assignment may be made to perform tasks under the supervision of the Judicial Administrator, or faculty/staff assigned, or another outside agency, for a period of time.

**8. Restitution**

Restitution may be imposed on students when a violation of the Student Code of Conduct involves monetary loss or damage. Restitution to the University becomes a financial obligation, and failure to pay restitution may impact upon a student's ability to register for classes, to graduate, or to obtain a transcript.

**9. Cancellation of Housing Contract**

Violation of the Student Judicial Code may result in cancellation of the accused student's housing contract and denial of a housing contract in the future:

- When a sanction of suspension from university housing is imposed, the student is denied the opportunity to enter, even as a guest, or to live in university housing for a specified or indefinite period of time. **Students removed from university housing shall remain liable for all housing fees and are not eligible for any refunds for the full occupancy period of the housing contract.**

- When a sanction of expulsion from university housing is imposed, the student is permanently denied the opportunity to live in university housing, or to enter university housing, even as a guest. **Students removed from university housing shall remain liable for all housing fees and any damages incurred, and are not eligible for any refunds for the full occupancy period of the housing contract.**

**10. Academic Registration Block**

The Vice President for Student Affairs may request that the Registrar place an Academic Registration Block on a student's ability to register or to secure classes for subsequent semesters, for violations of the Code. The academic registration block will remain in place until the student has satisfactorily completed his/her sanction(s).

**11. Order to Seek Counseling**

In cases where this sanction has been imposed, the student shall be required to provide evidence (on official agency's letterhead) to the Office of the Judicial Administrator, of attendance and satisfactory completion of counseling by qualified professionals.

**11. Fees**

The Judicial Board may assess fees as a part of its sanction.

- Students found in violation of University alcohol or drug regulations shall be assessed for a first offense \$50.00, plus any additional sanctions; for a second and any subsequent offense \$100.00, plus any additional sanctions.

**12. Other Sanctions**

Sanctions other than those described above may be imposed for violations of the Student Code of Conduct. For example, participation in extra-curricular or athletic activities may be limited, or a student may be required to attend special classes, counseling or conferences on anger management, alcohol and drug abuse, etc.

## **Amendments to the Student Code of Conduct**

The Judicial Board may propose changes to the Student Code of Conduct at any time. In addition, the Senate Student Affairs Advisory Committee, and the Judicial Board, shall participate in the bi-annual review of the Student Code of Conduct and make recommendations to the Vice President for Student Affairs regarding omissions, clarifications, constructive changes, and other matters germane to the proper interpretation and operation of the Code. Proposed amendments shall be reviewed by the University Judicial Committee and then submitted to the Vice President for Student Affairs, who will coordinate an extensive review of the amendments. The review shall include, but not be limited to, consultation with the Student Government Association, the University's legal advisor, and other appropriate bodies. The Vice President for Student Affairs submits recommendations to the UMES President for action.