

UNIVERSITY OF MARYLAND EASTERN SHORE
STUDENT CODE OF CONDUCT



Division of Student Affairs and Enrollment Management
**Office of the Associate Vice President for Student Affairs/
Judicial Administrator**

Student Services Center
30665 Student Services Center Lane
Suite 2165
Princess Anne, MD 21853-1299
Phone: 410 651-8440

2009 – 2011 Edition
Revised: Summer 2009

The Student Code of Conduct is published by the Office of the Vice President for Student Affairs and Enrollment Management. Contents of this book are current as of August 1, 2009.

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 and Enrollment Management.

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

ZERO TOLERANCE

The University of Maryland Eastern Shore maintains and strictly enforces a policy of *zero tolerance* with regards to fighting, the use, possession and/or distribution of illicit drugs, and the possession of dangerous weapons, firearms, and explosives. If a student is found guilty of using, possessing, selling or distributing illegal drugs; initiating a fight, or using any object (weapon) with the intent to cause harm, *the minimum sanction will be suspension from the University for one (1) academic semester*, and where appropriate will be referred to local policing authorities for criminal prosecution. *Suspension from the University for a violation of the zero tolerance policy will result in the cancellation of the accused student's housing contract, lost of tuition and fees, grades attempted, and denial of a housing contract in the future.* If a student is 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.**

Table of Contents

Preamble	5
Code of Student Values	7
Dress Code	7
The Clery Act	7
Reporting Crime and Incidents	7
Parental Notification	8
Definitions	10
Jurisdiction	15
Judicial Authority	15
Interpretation of Regulations	15
Sanctions	16
Standards of Due Process	16
Violations of Law and Disciplinary Regulations and Accountability	16
Office of the Judicial Administrator	17
Student Responsibilities	17
Academic Responsibilities	17
Financial Responsibilities	17
Organized Group Responsibilities	17
Employment Responsibilities	18
Mediation	18
Campus Judicial Board – Jurisdiction	18
Composition of Campus Judicial Board	18
Qualifications for Campus Judicial Board Membership	19
Code of Ethics for the Judicial Board Members	19
Term of Service and Removal	20
Procedures for Filing Complaints	20
Notification of Complaint(s)	20
Investigation and Adjudication by the Judicial Administrator	20
Proceedings Before the Judicial Board	21
Conducting A Hearing	21
Closed Hearings	21
Burden of Proof	22
Advisor	22
Witnesses	22
Evidence	23
Postponement of Judicial Hearings	23
Absence of the Student Charged	23
Consolidation of Cases	23
Record of Hearings and Decisions	24
Records Access	24
Copy of Judicial Proceedings	24
Disciplinary Files and Records	24
Entering a Plea	24
Entering a Plea of “Guilty”	24

Entering a Plea of “Not Guilty”	25
Waiver of the Right to a Campus Hearing	25
Complainant and Victim Rights	25
Rights of the Accused	26
Procedures for Conducting a Hearing	27
Following the Hearing	27
Notice to the Registrar	28
Self-incrimination	28
Appeals Procedures	28
How to File an Appeal	28
Remedies for Appeal	29
Stay of Sanction during the Appeals Process	29
Notification Following an Appeal	30
Limitations	30
Administrative Procedures	31
Practice and Procedures	31
President’s Right of Summary Suspension	31
Summer School	31
Judicial Suspensions, Expulsions, and Refunds	32
Procedures for Readmission Following Judicial Suspension	32
Official Withdrawal from the University	32
Search and Seizure Policy	32
Social Networking Policy	33
Psychological Emergences	34
Prohibited Conduct	35
Sanctions	45
Amendments to the Student Code of Conduct	49
Appendix	50
Interpersonal Values Statement	51
Dress Code	51

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, on and off campus.

Each student is responsible for his/her own conduct and for upholding policies and standards of the University. It is expected that students will act at all times (on campus and off-campus) in a manner that reflects favorably upon themselves, their families, and the University. Should a student's behavior be found unacceptable by the Judicial Board, depending on the nature of the violation, that student may be warned, sanctioned, placed on probation, suspended or expelled from the University.

The UMES Judicial System is designed to assure due process, with the speedy and constructive resolution of cases and controversies. Disciplinary proceedings at UMES are not criminal proceedings; therefore the focus of inquiry in disciplinary proceedings shall be to determine whether a student(s) has violated the University Code of Student Conduct. 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. A humanistic approach to discipline is employed.

The Student Code of Conduct outlines rules and regulations relative to student conduct and housing, and is applicable to all students (on and off campus), as well as 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 and Enrollment Management. 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 and Enrollment Management. In addition, the UMES Senate shall conduct a bi-annual review of the Student Code of Conduct and make recommendations to the Associate 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 the Office of Student Affairs and Enrollment Management, located in suite 2165 in the Student Services Center. The Judicial Administrator can be reached

by dialing: 410-651-8440. The Student Code of Conduct may, at the sole discretion of the University, be amended at any time.

UNIVERSITY OF MARYLAND EASTERN SHORE STUDENT CODE OF CONDUCT

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, mutual respect for personal and property rights of others, justice, freedom, diversity, leadership, civility, courtesy, fairness, spirituality, and loyalty to the University. We have established this Code of Student Values (*see full Interpersonal Values Statement in appendix*), which forms the model of conduct for student members of our academic community.

Dress Code

The dress code is based on the theory that learning to use socially acceptable manners and selecting attire appropriate to specific occasions and activities are critical factors in the total educational process. Understanding and employing these behaviors not only improves the quality of one's Affairs, but also contributes to optimum morale, as well as embellishes the overall campus image. They also play a major role in instilling a sense of integrity and an appreciation for values and ethics. The continuous demonstration of appropriate manners and dress insures that University of Maryland Eastern Shore students meet the very minimum standards of quality achievement in the social, physical, moral and educational aspects of their lives - essential areas of development necessary for propelling students toward successful careers. ***Students may be denied admission to various functions, and facilities if their manner of dress is inappropriate.*** On this premise students at the University of Maryland Eastern Shore are expected to dress neatly at all times. The following are examples of inappropriate dress for dining and classroom attendance, they include but are not limited to: Pajamas, caps, do-rags midriffs or halters, mesh shirts, netted shirts, tube tops or cutoff tee shirts (*see full Dress Code in appendix*).

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 University 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 and Enrollment Management, 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 Enrollment Management 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. 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. Consideration in these situations will be given to the following conditions: the violation involved harm or threat of harm to self, others or property; the violation involved an arrest in which the student was taken into custody; the violation resulted in or could result in the student being suspended from the university and/or removed from the residence halls; the student has shown a pattern of violations; and the student who committed the violation became physically ill and/or required medical intervention as a result of consumption of alcohol and/or drugs.

Before notifying the parent or guardian, 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 parent/guardian 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.

The University of Maryland Eastern Shore maintains and strictly enforces a policy of zero tolerance with regards to fighting, and the possession, use, or distribution (trafficking), of illicit drugs, and the possession of dangerous weapons, firearms, and explosives. If a student is found guilty of initiating a fight, possession, use, or distribution of illicit drugs, or using an object and/or weapon while fighting with the intent to cause harm; the minimum sanction will be suspension from the University for one (1) academic semester. Individuals who remain in the presences of persons who engage in illegal or abusive use of drugs, whether actively participating or not, will be subject to the same disciplinary action and sanctions as the offenders.

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 and Enrollment Management 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 and Enrollment Management**, 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 term **witness** refers to any individual who has information regarding an incident which is an alleged violation of the Code of Conduct.
8. The terms **charging party** or **complainant** refer to the person or persons who allege violations of this Student Code of Conduct. The charging party/complainant is any individual who brings forth information indicating that a UMES student may have violated the Student Code of Conduct, and who wishes to file a judicial complaint against that student.
9. The term **victim** refers to any individual who may have suffered any harm, or loss, or threat at the hands of a currently enrolled UMES student due to a violation of the Code of Conduct. A victim does not have to serve as the complainant.
10. 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.
11. The term **health** refers to physical or emotional and mental well-being.

12. The Term **Immediate Supervision** refers to employees and students who work directly in the Office of the Vice President for Student Affairs and Enrollment Management, such as secretaries, administrative assistants, and the Associate and Assistant Vice Presidents for Student Affairs and Enrollment Management, student workers, and graduate student assistants.
13. The **Judicial Administrator** is designated by the Vice President for Student Affairs and Enrollment Management to administer the Code. The Judicial Administrator may, on a case-by-case basis, investigate, mediate and settle cases where both parties are in agreement. If an agreement between the parties cannot be reached, the Judicial Administrator shall assign the case to the Judicial Board for a hearing.
14. The term **Judicial Investigator** refers to any University official appointed by the Vice President for Student Affairs and Enrollment Management, and/or the Judicial Administrator, to investigate violations of the Student Code of Conduct and to participate, if necessary, in judicial proceedings.
15. The term **may** is used in the permissive sense.
16. The term **shall** is used in the imperative sense.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. The term **restitution** means to be held financially accountable for repayment for, or replacement of property that is damaged, stolen, or destroyed.
23. The term **sanction** refers to the penalty or punishment for violations of the Code of Student Conduct.

24. The term **student organization** means any group of persons who have complied with the formal requirements for University recognition and registration. The term includes any student organization, including Greek-letter organizations that is registered with and recognized by the University.
25. 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, study abroad 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.
26. 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.
27. The terms **University premises or property** include all land, buildings, facilities, and other effects or goods in the possession of, or owned, used, rented, leased, or controlled by the University of Maryland Eastern Shore, as a constituent institution of the University System of Maryland.
28. The term **disciplinary probation** is a written reprimand for violation(s) 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 have violate the Student Code of Conduct during the probationary period.
29. 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.
30. The term **ZERO TOLERANCE** means the University prohibits all illegal and unauthorized possession, distribution (trafficking), and/or use of illicit drugs; initiating fights; 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 suspension sanction. The zero tolerance policy is effective as it relates to behaviors occurring on or off-campus.
31. 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.

32. The term **distribution** means giving, selling, or exchanging.
33. The term **Presumptive Dismissal**, includes any disciplinary separation of a student from the University, whether for a fixed period of time or permanently. As such, it includes both suspensions and expulsions. Moreover, under this provision a student who is suspended may not be admitted to any other University System of Maryland (USM) institution for the term of the suspension. A student who is expelled may not be admitted to another USM institution for at least one year.
34. The term **constructive possession** means being in close proximity to drugs/items, which can lead to judicial charges being filed or an arrest for everyone who was close enough to the drugs/items for police to conclude that the drugs/items could have belonged to them. Constructive possession cases often arise as a result of traffic stops, during which drugs/items are located in a center console or other central location that could conceivably be reached by more than one person in the car. Judicial complaint filings and/or arrests based on constructive possession are also made when drugs/items are found in a residence or in a room within a residence, and more than one person is present who could arguably be the owner of the drugs/items.
35. The term **judicial process** refers to matters of student discipline, as referred to the University by anyone, and adjudicated according to the Student Code of Conduct, local, state, and/or federal laws.
36. The term **New Evidence** shall mean evidence that was not available to the student, UMES, or not known or reasonably discoverable at the time of the hearing. In addition, the evidence must be of such a nature that it likely would have changed the Judicial Board's recommendation.
37. The term **University Sponsored Activity** shall mean any activity or event on, or off campus which is initiated, aided, authorized or supervised by the University.
38. The term **Campus Restriction** refers to barring a student from either a particular building, part of campus, or the entire campus for a pre-determined period.
39. The terms **University activity or Event** refers to any activity/event sponsored by the University, any department or registered student organization of the University, which may be attended in part or whole by students, faculty members, staff members, or other members of the general public and conducted on or off University premises.
40. The term **Summary Suspension** refers to the immediate and temporary disciplinary separation of a student from the University for a period of time, generally until a Judicial Hearing can be held. Moreover, under this provision a student who is summarily suspended, shall be removed from university housing, classes, and may not participate in university sponsored activities or events, eat in university dining facilities, or be on campus, without written permission from the Vice President of Student Affairs and Enrollment Management, the Judicial Administrator or their designee. Until and unless a student, who has been 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 shall not be altered.

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 addition, disciplinary action may be taken on the basis of any conduct on/or off campus that poses a threat to persons or property within the University community. The Judicial Administrator shall decide if disciplinary action shall be taken for off-campus conduct on a case-by-case basis at his/her sole discretion. 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 Conduct.

Students are responsible to both civil and criminal authorities and to the University for conduct that constitutes violations of law and of the Student Code of Conduct/University regulations. A violation of the Code of Conduct may result in criminal or civil charges as well as a University judicial (disciplinary) action. Unless otherwise provided by law, University judicial proceedings may occur simultaneously with, or following criminal and or civil proceedings. Judicial outcomes including finding of guilt and sanctions shall not be subject to change because of criminal or civil outcomes. Students are subject to disciplinary action, up to and including expulsion for violations of the Student Code of Conduct.

Persons who are not members of the University community, who violate the Code are subject to being barred from all University-owned, and operated property, and all university-sponsored events.

Judicial Authority

Ultimate authority for student discipline is vested in the President. The Vice President for Student Affairs and Enrollment Management 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 and Enrollment Management.

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.

Sanctions

Sanctions are intended to accomplish at least ten educational goals. These goals are considered when developing sanctions. The goals are:

- To provide an opportunity for the student to learn from the experience.
- To motivate the student toward making better choices and decisions.
- To offer the student an opportunity to rectify the mistake.
- To reinforce University expectations regarding appropriate behavior.
- To educate the student how inappropriate behavior impacts others in the University community.
- To protect the University community from persons who may harm others or are a danger to themselves.
- To educate the student as to how inappropriate behavior impacts him/her.
- To emphasize civility and civil behavior.
- To instruct students in how to settle conflicts appropriately.
- To ensure conflict does not interfere with the educational mission of the University.

Sanctions must be completed (served) in their entirety, as ordered, affirmed, or modified on appeal. Students, who have been suspended from the University, will not be granted an early return to the university, prior to the successful completion of their judicial/disciplinary sanction.

Standards of Due Process

Disciplinary proceedings at UMES are not criminal proceedings, therefore the focus of inquiry in disciplinary proceedings shall be to determine whether a student(s) has violated the Student Code of Conduct, and do not require the same standards of procedural due process as do criminal proceedings. However, the substance and spirit of a fair and impartial hearing are reflected in the procedures of the UMES hearing. 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, or laws of a foreign country, if the student is out of the county at the time of the conduct, which is the subject of the violation. 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 Enrollment Management and is responsible for the administration of the UMES Judicial System and Code. 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, or mediate any case, provided the complainant and the accused student agree to the adjudication/mediation. 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. All decisions of the Judicial Board are recommendations to the Judicial Administrator, or designated representative. Sanctions may be approved, altered, or withheld at the discretion of the Judicial Administrator or designee. 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 and Enrollment Management 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 and 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 and Enrollment Management, 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 the Judicial Administrator. (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. The following conditions must be accepted by the parties:

- All parties involved must agree to the mediation process;
- The resolution that results from the mediation process will be written, must be signed by all parties, and will bind the parties to abide by the agreed terms until such terms are completed, or an alternative agreement is developed by the parties;
- The agreement reached through mediation is not subject to any appeals process; and
- If no form of resolution can be determined by mutual consent, the judicial administrator or mediator may recommend that the matter be referred to the judicial board for adjudication.

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 and Enrollment Management. 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 may not be on conduct probation at any time during his/her 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 and Enrollment Management.

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, or Human Resource Employment Policy, 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.
- Faculty/staff members of the judicial board, who are charged with a violation of Human Resource Policy or with a criminal offense, may be suspended from their judicial position by the Judicial Administrator, pending the outcome of the charges against them.
- 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 first class, or certified mail, or overnight service upon each accused student by an appropriate University administrator, official, or by a recognized postal service, as expeditiously as possible, usually within seven (7) days, to include Saturday and Sunday, after the complaint is received by the Judicial Administrator. In the event that a student cannot be reached/served at his/her address on file, notification shall be attempted, by contacting the student via his/her telephone number on record. 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/responsible or not guilty/not responsible, 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 hearing shall be conducted in such a manner that is fundamentally fair and shall not be restricted unduly by rules of civil or criminal procedures or evidence. Evidence not directly related to the matter at hand will not be considered for review. It is the responsibility of the Chairperson of a hearing board to rule on the admissibility of evidence and on relevant and irrelevant matters. *The focus of inquiry in disciplinary proceedings shall be whether or not the accused person was in violation of a community expectation and/or the Code of Conduct.* Formal civil or criminal rules of evidence are not applicable; nor shall deviations from prescribed institutional procedures necessarily invalidate a decision or proceeding, unless significant prejudice to a student respondent or the University results from those deviations.

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 otherwise designated by the Judicial Administrator.

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 (see below), unless the Judicial Administrator determines otherwise. Parents may not attend judicial hearings. Proceedings of the board are confidential.

Closed hearings may include only the following individuals:

- Accused student
- Advisor
- Accused student's attorney (at the discretion of the Judicial Administrator)
- Witnesses when called

- Judicial Board chairperson
- Judicial Board members
- University Presenter (UMES member presenting the case)
- Victim/Witness Advocate (at the discretion of the Judicial Administrator)
- Victim (may be present throughout the entire hearing)

Burden of Proof

The focus of inquiry in judicial disciplinary proceedings shall be to determine whether a student(s) has violated the University Code of Student Conduct. The victim/complainant has the burden of proof to establish the guilt by a preponderance of the evidence. Formal rules of evidence shall not be applicable. Deviations from prescribed procedures shall not invalidate a decision or proceeding unless, in the opinion of the Judicial Administrator or Judicial Chairperson, significant prejudice to a student respondent resulted from the deviation. 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.

Character Witnesses

A University hearing is a review of facts and circumstances pertaining to specific allegations resulting from a reported incident or series of incidents, not an assessment of an individual's overall character. Good character is presumed and as such, character witnesses are of little value to the process and are generally not permitted to testify; but a charged student may have a character witness submit a letter of reference that may be considered during the sanctioning process.

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. If granted, 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.

Absence of the Student Charged

If the accused student does not appear in person, or provide a satisfactory explanation of their 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 recommendation, based upon the available evidence, and forward that recommendation to the Judicial Administrator. No imposition of sanctions will be based solely upon the failure of the accused to answer the charges. In the event of the refusal of the accused student to appear at the hearing, the evidence in support of the charges will be presented, considered and a recommendation of sanction(s) will be made by the Judicial Board on the existing relevant evidence presented at the hearing.

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 Administrator and considered together at a single hearing.

Confidentiality Standards and Records – Policy/Procedures

All proceedings under the Code are confidential. All proceedings and all documents generated by the process form a part of the charged student's records and are, therefore, confidential under the federal Family Educational Rights and Privacy Act (FERPA). Participants in the process, including the charged, the complainant, witnesses, hearing board members, and staff members are advised to preserve the confidentiality of all proceedings and all documents under this Code. Any breach of the confidentiality may subject the responsible party to charges under this Code. Board members, who breach this provision, may be removed from the Board.

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.

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.

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. Checks or money orders are to be made payable to UMES. Once the form and the designated payment are presented to the office, it may take up to five business days for the tape(s) to be copied.

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 Associate Vice President for Student Affairs and Enrollment Management. Except as provided in the Student Code, pursuant to a lawfully issued subpoena, or pursuant to any other lawful order, 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 and Enrollment Management. Otherwise, the confidential record will be retained for a period of six 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 and Enrollment Management.

Entering a Plea

Prior to the start of hearing, the accused student will be asked to enter his/her plea as "Guilty," or "Not Guilty."

Entering a plea of "Guilty," after reading the charges, the accused will be asked to enter a plea. Upon entering the plea of "guilty," the board will not hear testimony from the accused student, or

the complainant. The Board will ask the accused to present an oral statement to the Board, regarding factors that mitigate disciplinary action. The same opportunity to make an oral statement to the Board will be afforded to the complainant and/or victim, regarding mitigating circumstances he/she feels the board should consider when deliberating. Following the statements, non-Board members will be dismissed from the proceedings and the Board will review and consider all character/reference letters, presented for consideration prior to deliberating. The accused will be disciplined in accordance with the Code of Conduct, including but not limited to suspension and/or expulsion from the University. The accused and complainant will receive written notification of the sanction(s) as provided in the Code. *NOTE: Students who enter a plea of "guilty," forfeit their right to appeal the outcome of their hearing.*

Entering a plea of "Not Guilty," after reading the charges, the accused will be asked to enter a plea. Upon entering the plea of "not guilty," the board will hear testimony from the accused student, and the complainant. As provided in the Code, the accused student, the victim, and the complainant may give testimony and question witnesses. After hearing all witnesses, including character witnesses, the Board will ask the accused student, the victim and complainant for final statements. Following the statements, the accused, complainant, victim, 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 student, victim 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, or to the Judicial Administrator, regarding factors that mitigate disciplinary action. Once a student has waived his/her right to a hearing, witnesses will not be heard. Students waiving his/her right to a hearing will eliminate his/her opportunity to appeal the recommendation of the Judicial Board, or the decision of the Judicial Administrator. In the event of waiver the decision is absolutely final. The accused student, victim, and complainant will receive written notification of the sanction(s) as provided in the Code.

Complainant and Victim Rights

Students who are the victims of violations of the Code shall be provided with rights in the disciplinary process. Typically the victim's input shall be sought during the disciplinary process; however, the right and responsibility for disposition of any individual complaint is reserved by the University. If a victim withdraws his or her complaint or refuses to offer statements during the course of a disciplinary proceeding, the University reserves the right to proceed with a disposition of the allegations consistent with this Code. The complainant/victim is entitled to:

1. The victim shall be advised in writing of the time and place of the disciplinary hearing at least three (3) business days in advance.
2. The victim shall be given an opportunity to submit a written account of the alleged incident.
3. The victim shall have the right to be accompanied at all stages of the discipline process by an advisor (advocate or counsel) whose participation shall be limited to advising the victim. The advisor (advocate or counsel) may not conduct direct or cross-examination, make opening or closing statements, or engage in testimony.
4. The victim shall have the right to a timely hearing.
5. The victim shall be afforded an opportunity to be present during the entire hearing and to participate as a witness during the hearing.
6. The victim shall have the right to question witnesses and/or evidence.
7. In the event the case involves a sexual violation, the victim has the right to have her/his sexual history kept private.
8. The victim may reserve the right to decline to participate during a judicial hearing, with the knowledge that such action could potentially result in dismissal of allegations of University Code violations for lack of evidence.
9. The victim shall be notified of the outcome of the judicial hearing process unless the victim requests not to be notified of such. The notification will include the finding of responsibility and any resulting sanctions.

Rights of the Accused

1. The accused (charged) shall have the right to be present at the hearing and hear all testimony presented. If an accused 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 recommendations in the student's absence.
2. The accused shall be provided, prior to the hearing, with the names of witnesses whom the Judicial Administrator has asked to appear at the hearing.
3. The accused shall be afforded an opportunity to question witnesses in accordance with the rules.
4. The accused shall be afforded an opportunity to present evidence in accordance with the rules.
5. The accused may remain silent or testify during the formal hearing (silence will not be used against the accused in any way).

6. The accused will be advised that written or taped (at the discretion of the Judicial Administrator) record of the hearing is being maintained.
7. The accused has the right to know that the hearing is closed.
8. The accused shall be afforded an opportunity to plead guilty or not guilty to the charges.
9. The accused shall have the right to consult with counsel of choice (including an attorney who may advise, but not speak at the hearing); counsel whose participation shall be limited to advising the accused; counsel may not conduct direct or cross-examination, make opening or closing statements, or engage in testimony.
10. The accused shall have the right to appeal a sanction(s) rendered by the Judicial Board, or the Judicial Administrator, under the provisions for filing appeals. *NOTE: Students who enter a plea of "guilty," or waive their right to a hearing, forfeit their right to appeal the decision/sanction or outcome of their hearing.*
11. The accused will be advised that a decision by the Board will be based solely on a preponderance of the evidence presented during the hearing.

Procedures for Conducting a Hearing

Rules of common courtesy and decency shall be observed at all times during a judicial hearing, and 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.

1. An introduction of persons assembled in the hearing room.
2. Confirmation of receipt of charges.
3. Charges will be read into the record.
4. Accused student will be asked to enter a plea.
5. The Judicial Chairperson will direct the line of questioning to include: the complainant, victim, accused and witnesses.
6. Closing statements by the complainant, victim and accused.
7. The complainant, victim, accused, witnesses and advocates will be dismissed from the hearing room that the Judicial Board may begin its deliberations.

Following the Hearing

After deliberating, the Board will promptly notify the Judicial Administrator of its findings and 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 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 may be retrieved by the student, or delivered to the student by a member of the Office of Public Safety, or mailed to the student via first class, or certified mail. 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 Judicial Administrator 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, or continuing enrollment at the university, withholding or recording 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 against the student including, but not limited to the filing charges (judicial, civil, or criminal prosecution) against them at a later date.

Appeals Procedures

The Judicial Administrator serves as the appellate officer. The Judicial Administrator shall make an initial determination as to whether or not sufficient grounds exist for an appeal, based upon the standard outlined in the Code. Appeals that do not allege sufficient grounds shall be denied consideration and shall be dismissed. Appeals that do allege sufficient grounds shall be accepted for consideration.

It is not the function of the appeals process to permit a rehearing of the factual issues presented to the judicial body, but rather it is to ensure that the disciplinary procedure has been implemented fairly and consistently with this Code. If it is found, during the appeals process that disciplinary procedure were not implemented fairly and consistently with this Code, a stay in the sanction will be ordered and appeals officer may apply one of the five conditions under the section; "Remedies for Appeal." 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," or waived their right to a hearing, forfeit the right to appeal the decision/sanction of their hearing.*

How to File an Appeal

To file an appeal, the accused student must deliver to the Judicial Administrator a typed letter addressed to the Vice President for Student Affairs and Enrollment Management, in the Office of Student Affairs and Enrollment Management, located in suite 2165 in the Student Services Center, within **three (3) business days** subsequent to receiving notice of the decision/sanction

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 and Enrollment Management, with a suggestion on acceptability. The Judicial Administrator can be reached by dialing: 410-651-8440.

The Vice President for Student Affairs and Enrollment Management, or his/her designee, will review the notice of charges, the appeal letter, the hearing record, and the Judicial Board's recommendation(s), 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 and Enrollment Management 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.

Appeals which do not provide sufficient written grounds based on the requirements for filing an appeal shall be denied consideration and dismissed. ***The only basis for considering an appeal is the presentation of facts by the accused which support to show:***

1. There was a substantial departure from, or the denial of rights or procedures under the Student Code of Conduct, which effectively precluded a fundamentally 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.

Remedies for Appeal

The following actions may be taken by the Vice President for Student Affairs and Enrollment Management 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 issued, unless the Judicial Administrator affixes a different sanction and/or date.

Notification Following an Appeal

The Vice President for Student Affairs and Enrollment Management, 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 and Enrollment Management, or his/her designate, is final and binding.

Parental Notification

If a student under the age of 21 is found to be responsible for the use and/or possession of drugs or drug paraphernalia, the resultant sanction will include notification of the parent/guardian by the Office of the Judicial Administrator and/or the Vice President for Student Affairs and Enrollment Management. In the event of a first or second violation of the alcohol policy by a student, the resultant sanction may include, but is not limited to, probation, developmental and alcohol counseling, a fine and/or community service. In addition to the aforementioned sanctions, a third violation of the alcohol policy by a student under the age of 21 will result in the notification of the parent/guardian by the Office of the Judicial Administrator and/or the Vice President for Student Affairs and Enrollment Management. In addition, the parent/guardian may 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.

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 and Enrollment Management. 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

The President, or his or her designee, may summarily suspend a student from the University for a period of up to ten (10) 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- business 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 judicial board has not convened by the 10th business day to hear the charges against the student, on the 11th business day, the student may return to the university, under the following limited conditions: they may return to and reside in university housing, eat in university dining facilities and return to class, noting that charges are still outstanding, and that a judicial hearing date is pending. 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. In the event that the changed student is incarnated, the summary suspension shall remain in effect, until such time as the student has been released and a judicial hearing scheduled.

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 and Enrollment Management, he/she shall be sited 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, Refunds and Grades

Students who are suspended or expelled from the University for Disciplinary Reasons shall not be entitled to any refund of tuition or fees. Students, who are suspended, and/or expelled from the University prior to examinations, will receive the grade of “W” for all classes attempted. Similarly, students whose housing or boarding contracts are terminated for disciplinary reasons shall not be eligible for refunds.

Procedures for Reinstatement Following Judicial Suspension

Students, who are suspended from the University for Judicial Code violations, must apply to the Judicial Administrator in writing for reinstatement. Each written request for reinstatement must be accompanied by an “Application for Reinstatement.” The Application for Reinstatement may be obtained by writing or calling the Office of the Registrar.

Please note that all conditions/sanctions associated with a judicial suspension, must be successfully satisfied prior to reinstatement being granted. Suspended students will only be considered for reinstatement after filing the Application for Reinstatement, submitted with all supporting documents, i.e., medical clearance form/release, counseling/treatment certifications, etc., as stipulated in the suspension/decision letter. *NOTE: Sanctions must be completed (served) in their entirety, as ordered, affirmed, or modified on appeal. Students, who have been suspended from the University, will not be granted an early return to the university, prior to the successful completion of their judicial/disciplinary sanction.*

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 or reinstated 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 and transcript, which will prevent selection of classes, registration, re-admittance, reinstatement or transfer to another institution until the case has been adjudicated.

Search and Seizure Policy

The purpose of this policy is to address the rules for searches and seizures that are needed to protect the safety and operation of the University, and enforcement of University policies and procedures. Authorization to conduct a search may be obtained from the Vice President for Student Affairs and Enrollment Management, the Vice President for Administrative Affairs, or their designees, through the issuing of an Administrative Search Notice. Any search by University Police, local police, or other civic employees must be conducted with a search warrant issued through a court having competent jurisdiction. An administrative search notice

will only be authorized upon a showing of reasonable grounds to believe that the search will reveal evidence of a Code of Conduct, health or safety violation. A request for an Administrative Search Notice must include the following information: (a) the violation(s) suspected; (b) the basis for suspicion and the particular item(s) for which the search is being conducted; (c) the room area, or vehicle to be searched and the occupant(s) name(s); and (d) the date and approximate time of the search. The Administrative Search Notice authorizes only University employees (non-police employees) to search a room, vehicle, or items in the possession of a student. A copy of the Administrative Search Notice will be provided to the student(s) whose room or property is being searched.

Authorized employees who need to enter a room during the performance of conducting a search, 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, persons, purses, briefcases, backpacks, workstations, or any other space occupied by a student on a University sponsored trip or activity.

In conducting a search, attempts will be made to have the occupant(s) of the room present. If present, the occupant(s) shall be (a) informed that any material found may be used in a University judicial hearing; (b) presented a copy of the judicial search notice; and (c) the reason for the search and material to be seized. If the occupant(s) is (are) not present, the search may be conducted, with presentation of the judicial search notice presented at a later time. In the event that an item of personal property is locked and cannot be searched, it may be confiscated and held until the item is opened for inspection.

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. A detailed description of materials/items confiscated (seized), and possible ownership will be given to the Judicial Administrator, and used as evidence in a judicial hearing. A receipt listing the materials/items confiscated will also be given the student who possessed the property.

Social Networking Policy

The University of Maryland Eastern Shore may use Facebook, and/or other social networking websites and communities, to keep in touch with and to inform our campus community about events, programs, contest, etc. It is not our policy to monitor these social networking websites and communities; nor does UMES prohibit or encourage faculty, staff, or students from joining, or from participating in these websites and communities. However, any behavior when using these websites that violates the Student Code of Conduct, Human Resource, Academic or Computer Use Policies, brought to the attention of a University official, may result in disciplinary action, to include, but not limited to judicial sanctions. Violations of the University's Computer Use Policy will result at a minimum, in the suspension of the violator's access to University's computing resources.

PSYCHOLOGICAL EMERGENCIES

A student who experiences a psychological emergency, including attempts to harm himself/herself, may be required to leave campus and will be required to have a psychological evaluation, prior to returning and/or continuing as a student. If the psychological emergency involves a community disturbance, disrupts the orderly functioning of the university, or requires more supervision than the university can reasonably provide, or jeopardizes in any way the safety of the student or others, the student may be required to remain off campus or be administratively withdrawn from the university.

The Director of Counseling Services, Behavioral Assessment Team (or designee) will prepare an evaluation of the student's capacity for remaining enrolled at the university. The Director of Counseling Services and/or the Behavioral Assessment Team will make a recommendation to the Vice President of Student Affairs and Enrollment Management regarding the student's ability to return to the university. If the situation evolves a medical emergency, the Director of Student Health services will assist in preparing the evaluation. The student's parent(s) or guardian may also be notified. Parent(s) or guardian of dependent students must/will be notified.

If the student is allowed to remain enrolled, he/she will be required to sign an Agreement to Return to Campus, which documents conditions for remaining enrolled. This agreement may include outpatient treatment, and the student, the Associate Vice President of Student Affairs and Enrollment Management and the Director of Counseling Services will evaluate it each semester, including the summer term. At any of these times, the agreement may be terminated and the student administratively withdrawn from the university.

Parents may be required to assist the student. In the event of an extreme emergency such as a suicide attempt or any extreme situation where the student's judgment is significantly impaired, until parents or guardians can be contacted the on-call counseling staff and/or the local hospital may assist with initial treatment recommendations. The student or his/her family will be responsible for all off-campus costs including transportation to the hospital, the initial evaluation and any hospitalization costs or any outpatient treatment.

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 twenty-one (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, parking control devices (the boot), or other University equipment so as to endanger oneself or others, or to remove a vehicle is prohibited.

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. Forgery, Fraud, and Dishonesty

Student may not knowingly provide 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.

5. 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**).

6. Public Intoxication

Appearing on University-owned or controlled property, or at a University-sponsored event while under the influence of a controlled substance or any other intoxicating substance is prohibited.

7. Drugs

The possession, use, or manufacture of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), or sale or distribution (trafficking) of any such drug or controlled substance, except for medications prescribed by a licensed physician and in the possession of the student or other person for whom the prescription was written, or medications which have been legally obtained, such as use of over-the-counter drugs, is a violation of this Code. (**The UMES Drug Policy is included in Student Handbook**).

- a. 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, is a violation of the Code;
- b. Use – actively engaged in the consumption of controlled substances is a violation of the Code;
- c. Manufacture – growing and/or making controlled substances for personal use and/or sale is violation of the Code;
- d. Intent to distribute (traffic) – possession of controlled substances in quantities and/or contained in a manner that would lead a responsible person to conclude that the substance was intended for sale and/or distribution, is a violation of the Code.

NOTE: Individuals who remain in the presences of persons who engage in illegal or abusive use of drugs and/or controlled substances, whether actively participating or not, will be subject to the same disciplinary action and sanctions as the offenders.

8. Drug Paraphernalia

Includes, but is not limited to the use or possession of equipment, products, or material which is used or intended for use in manufacturing, growing, selling, using (consuming), or distributing (trafficking) any drug or controlled substance.

9. 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, religion, 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.

10. Violence to Persons

Acts of violence include, but are not limited to, assault, bullying, the unauthorized touching of another person, and/or actions in reckless disregard of human Affairs and safety, which place a person in personal fear or which have the effect of harassing or intimidating a person, or causing reasonable apprehension of such harm.

11. Fighting and Battery

The University will not tolerate acts of fighting/battery by individuals or groups. Fighting and/or battery includes, but is not limited to physically assaulting another person, or recklessly causing physical harm or causing reasonable apprehension of such harm; scuffles, slap-boxing and/or fist-fights.

12. Theft

Theft is a general term that encompasses any incident in which someone takes the property of another with the intent to permanently deprive the true owner of that property, which includes but is not limited to shoplifting, larceny, false pretenses, and receiving stolen property.

13. Vandalism, Destruction and Abuse of Property

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 or damage to property, in addition to other sanctions which might be imposed.

14. Compliance

Failing to comply with the directions of an authorized University official, faculty or staff member acting in the performance of his or her duties, or any other person responsible for a facility or registered function acting in accordance with those responsibilities. It is the responsibility of the University official or person acting on behalf of the University to identify him or herself and to state the reasons for the direction that is given.

A student may be disciplined for:

- a. Failure to comply with a proper order or summons when requested by authorized University officials;
- b. Failure to comply with instructions of University officials acting in performance of their duties;
- c. Failure 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.

15. 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, witnesses, or complainant 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, witnesses, or complainant 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.

16. 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 from said class, 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 (see fighting/battery);
- c. Recklessly causing physical harm or causing reasonable apprehension of such harm;
- d. Obstructing or disrupting teaching, research, administrative and public service functions;
- e. Obstructing or disrupting disciplinary proceedings or other authorized University activities;
- f. 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;
- g. 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,
- h. Playing loud music, within a residence hall or in a vehicle (moving or parked);

- i. Trespass or unauthorized entry to any University premises, facility, property, or at a University-sponsored event or activity.
- j. Disruptive to others; conduct which is likely to disrupt the activities of a reasonable person going about his/her daily Affairs in the communities surrounding the University or one's home.

17. Possession of Dangerous Weapons, Firearms, or Explosives

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, and at University-sponsored events. Prohibited weapons are those listed in the Maryland Code, including, but not limited to the following: BB guns, marshal 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.

18. 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, to include immediate suspension/termination of housing and a denial of subsequent campus housing.

19. Cellular Telephone and Pagers in the Classroom

The use of cellular phones and pagers is expressly prohibited in academic classrooms and laboratories, unless permitted by said instructor. 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.

20. Ticket Scalping

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

21. 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.

22. Possession of Stolen Property

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

- 23. 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.
- 24. Forcible Entry**
Breaking and entering into any building, structure, or facility on University premises is prohibited.
- 25. 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.
- 26. Falsely Reporting Fires**
Falsely reporting fires or other emergencies, falsely setting off fire alarms or tampering with fire equipment is prohibited.
- 27. 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 is prohibited.
- 28. 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.
- 29. 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.
- 30. 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:

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. has 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.

[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].

31. Sexual Assault

Sexual assault as defined by the laws of the State of Maryland is prohibited.

- 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.

32. Smoking

Smoking is prohibited in all UMES buildings, including residence halls.

33. Identity Theft

Identify is prohibited, 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.

34. Retaliation

Harassment of complainant or other person(s) by a student is prohibited. This includes but is not limited to intimidation, threats or unwanted physical contact.

35. 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 and is prohibited.

36. 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, text messaging, following another person, and acts that threaten or intimidate another person through fear of bodily injury or death.

37. Harboring a Fugitive

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.

38. Illegal Gambling or Wagering

Illegal gambling, including, but not limited to: paying cards, shooting dices, sports betting, contests of chance, illegal lottery for money or something of value; promoting or advancing gambling; gambling using University computing/network facilities; possessing gambling devices or gambling records is prohibited on University premises.

39. Misuse of Keys

Duplication or misuse of University keys or other access devices is prohibited.

40. Violations of State or Federal Laws

Any violation of state or federal laws or regulations prescribing conduct or establishing offenses, which laws and regulations are incorporated herein by reference, also violate the Student Code of Conduct, and are subject to judicial action.

41. CONSPIRACY

Conspiracy is an agreement between two or more persons to commit a crime or Code violation and is prohibited. A student does not have to be physically present during the act of the crime or Code violation to be found guilty of conspiracy.

42. 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).

43. Pornography

Public display of pornographic materials is prohibited at UMES, this includes displays of literature, films, pictures, or other material which an average person applying contemporary community standards would find, (1) taken as a whole, appeals to the prurient interest, (2) depicts or describes sexual conduct in a patently offensive way, and (3) taken as a whole, lacks serious literary, artistic, political, or scientific value.

44. Sirens and Loudspeakers

Unauthorized use of sirens, loudspeakers, and other sound amplification equipment is prohibited.

45. Student Identification Cards

(1) Failure to possess at all times a valid student identification card; (2) failure to surrender ID card to University official upon proper request is prohibited.

46. Graffiti

Damage or defacement of UMES or someone's personal property by painting, chalking, writing, stenciling, or by any other means of application on such property is prohibited.

47. On or Off Campus Event Related Misconduct

On or Off Campus Event Related Misconduct ("Event Related Misconduct") is misconduct by a UMES student that occurs on or off campus that is directly or indirectly related to a University sponsored activity or event, including but not limited to athletic events where the misconduct results in any harm either on or off campus to any person or property, or poses a threat to the stability of the campus, or the campus community, or the community surrounding the campus or the community where the event was located. Event Related Misconduct includes but is not limited to on or off campus acts such as rioting, assault, theft, vandalism, arson, fire setting, breach of the peace or destruction of property that is related either directly or indirectly to a University sponsored activity or event. Campus disciplinary action for Event Related Misconduct may take place regardless of the existence, status or outcome of any criminal charges in a court of law related to the misconduct. Event Related Misconduct does not include offensive related speech by a student at University sponsored events which is covered under other sections of the Student Code.

Event Related Misconduct may vary in its seriousness and degree of harm. However, because of the very seriousness of the impact of any Event Related Misconduct on the University, other students, innocent bystanders, the campus community and the community surrounding the University or the community where the University sponsored event is located, or the potential for Event Related Misconduct to impact the behavior of others, Event Related Misconduct student disciplinary proceedings and sanctions will be as follows:

1. For Event Related Misconduct there is a presumption that if the student is found responsible for Event Related Misconduct by the University, that student will be dismissed from the University. This Presumption of Dismissal means that if the student is found by a preponderance of the evidence during a UMES judicial hearing or appeal, responsible for or to have committed Event Related Misconduct, the sanction for that student will be dismissal from the University - either temporarily through suspension or permanently through expulsion.
2. The student is allowed to present to the Judicial Board during the student conduct hearing evidence of mitigating or extenuating facts or circumstances that a lesser penalty than suspension or expulsion is appropriate.
3. If the Judicial Board imposes a sanction of less than suspension or expulsion from the University, the Judicial Board must issue a written finding of fact to support the lesser sanction. The final decision of the University whether decided on appeal or otherwise that provides for discipline of less than suspension or expulsion from the University must be signed by the Vice President for Student Affairs and Enrollment Management.
4. Students who are suspended under this section of the Student Code shall not be admitted to class or be allowed to be on campus during the term of the suspension at UMES or to be admitted to any other University System of Maryland (USM) institution during the term of the suspension.
5. Students expelled for Event Related Misconduct are not allowed to be readmitted to UMES. Students expelled for Event Related Misconduct shall not be admitted to any other USM institution for at least one year from the effective date of his/her expulsion.
6. Campus disciplinary action may take place regardless of the existence of, status or outcome of any criminal charges in a court of law related to the event related misconduct. In addition to all provisions of the UMES student code, if a UMES student has been charged or convicted of any crime related to a violation of federal, state or local law for on or off-campus behavior arising out of or related to Event Related Misconduct, that student may be disciplined under the Student Code without a judicial hearing when the following occurs:
 - a. the student is found guilty by a court of law or,
 - b. the student pleads guilty or nolo contendere to the charges or
 - c. the case is settled.

If the University exercises its right under Section 6 above against a student, it will only be taken after a limited investigation by the Department of Public Safety and the Judicial Affairs Officer after the student has been offered an informal meeting with both.

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.

Disciplinary sanctions shall be communicated to students in writing. A copy of the letter to the student describing the sanction will be maintained in the Office of the Judicial Administrator and may be used to assist in determining sanctions in subsequent disciplinary cases for which more serious sanctions may be imposed. Letters of dismissal are maintained, with corresponding judicial case files, permanently. All other sanctioning letters and case files are maintained as confidential records for six years after the date of last attendance and thereafter destroyed.

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 or reinstatement 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. Students, who are expelled prior to examinations, will receive the grade of "W" for all classes attempted.

2. **Suspension**

If a student is suspended, he or she is separated from the institution for a stated period of time with conditions for reinstatement stated in the notice of suspension. Any student receiving a sanction of suspension shall be restricted from the campus and all University

sponsored functions during the period of separation unless on official business with the University, approved and verified in writing by the Office of the Vice President for Student Affairs and Enrollment Management or the Office of Public Safety/University Police. Students who have been suspended are not permitted to live or board in University facilities or housing unless otherwise approved or provided by the University. Any student who is suspended shall not be entitled to any tuition or fee refund. Students, who are suspended prior to examinations, will receive the grade of “W” for all classes attempted.

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

A work assignment may be made to perform non-paid 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 and Enrollment Management may request that the Registrar place an Academic Registration Block (flag) on a student's ability to register, obtain a transcript, 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. **Presumptive Dismissal/Dismissal**

Includes any disciplinary separation of a student from the University, whether for a fixed period of time or permanently. As such, it includes both suspensions and expulsions. Moreover, under this provision a student who is suspended may not be admitted to any other University System of Maryland (USM) institution for the term of the suspension. A student who is expelled may not be admitted to another USM institution for at least one year. Presumptive dismissal does not mean automatic dismissal. The policy contemplates that the student will have access to normal campus judicial proceedings and policies. However, in order to avoid dismissal, the student will have to demonstrate specific mitigating or extenuating circumstances that persuade the final decision maker that a lesser penalty is appropriate.

12. **Order to Obtain Counseling**

In cases where the sanction to obtain counseling; 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, licensed professionals. The financial responsibility to pay for counseling is that of the student.

13. **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.

14. 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. The UMES Senate, 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 and Enrollment Management 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 and Enrollment Management, 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 and Enrollment Management submits recommendations to the UMES President for action.

Appendix

University of Maryland Eastern Shore Interpersonal Values Statement

As a member of the University of Maryland Eastern Shore, I am expected to demonstrate *Integrity, High Moral Standards*, and to promote *Good Citizenship*. I understand that I represent the University of Maryland Eastern Shore, both on and off campus, and must uphold the University Code of Conduct and Interpersonal Values, and will encourage my fellow Hawks to do the same with Hawk Pride!

Toward this end: I will ...

- Respect the legacy and the history of UMES
- Respect and show appreciation towards the University faculty, administration, staff, and other students
- Work for the greater good of UMES and the surrounding community
- Work with a commitment to excellence
- Trust and be trustworthy; maintain a strong sense of academic integrity and be open-minded
- Not engage in any physical altercations or verbal abuse with any persons, on or off campus
- Not talk or act inappropriately during the singing/playing of the alma mater or the National Anthem
- Not consume, possess or traffic illegal drugs, alcohol or any other illegal substance, and will never possess a weapon, understanding that a violation warrants suspension
- Practice civility, caring, and encourage others to do the right thing
- Dress in appropriate attire at all times, removing my head attire when entering a room/building, (unless worn for religious reasons)
- View change as a challenge and not a barrier

UNIVERSITY OF MARYLAND EASTERN SHORE

DRESS CODE

The dress code is based on the theory that learning to use socially acceptable manners and selecting attire appropriate to specific occasions and activities are critical factors in the total educational process. Understanding and employing these behaviors not only improves the quality of one's life, but also contributes to optimum morale, as well as embellishes the overall campus image. They also play a major role in instilling a sense of integrity and an appreciation for values and ethics.

The continuous demonstration of appropriate manners and dress insures that the University of Maryland Eastern Shore students meet the very minimum standards of quality achievement in the social, physical, moral and educational aspects of their lives - essential areas of development necessary for propelling students toward successful careers.

Students will be denied admission to various functions if their manner of dress is inappropriate. On this premise students at the University of Maryland Eastern Shore are expected to dress neatly at all times. The following are examples of appropriate dress for various occasions:

- Classroom, Dining Hall, Snack Bar, Student Center and University offices - neat, modest, casual or dressy attire.
- Formal programs in Ella Fitzgerald Center for the Performing Arts Center, the William P. Hytche Athletic Center, Tawes Gymnasium, the Theater and the Chapel - business or dressy attire.
- Interviews - business attire.
- Social/Recreational activities, Residence hall lounges (during visitation hours) - modest, casual or dressy attire.
- Balls, Galas, and Cabarets - formal, semi-formal and dressy attire respectively.

Students may be denied admission to various functions if their manner of dress is inappropriate.

Examples of inappropriate dress and/or appearance include but are not limited to:

- Pajamas, scarves, caps, do-rags, and or hoods in public areas. This policy does not apply to headgear considered as a part of religious or cultural dress.
- Pajamas, midriffs or halters, mesh, netted shirts, tube tops or cutoff tee shirts in classrooms, dining hall, snack bar, student center, and offices.
- Bare feet anywhere on campus except outside or in a student room in a residence hall.
- Short shorts.

- Pajamas, shorts, all jeans of any color at major programs such as Musical Arts, Fall Convocation, Commencement, Career Fair, or other programs dictating professional, dressy, or formal attire.
- Clothing with derogatory, offensive and/or lewd messages either in words or pictures.

All administrative, faculty and support staff members will be expected to monitor student behavior applicable to this dress code and report any such disregard or violations to the Offices of the Vice President for Student Affairs and Enrollment Management.