



# Division of Student Affairs

## STUDENT JUDICIAL

## HANDBOOK

*Conduct Standards, Policies and Procedures*

*Office of Student Judicial Affairs*

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## Student Judicial Affairs Handbook

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# CONDUCT STANDARDS, POLICIES AND PROCEDURES

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## Preamble

Attending an institution of higher learning is a privilege that many people cannot enjoy. Students are expected to respect this privilege while attending Delaware State University and engage in responsible behavior. Students must conduct themselves with propriety, conforming to the high standards of the University, and respect the rights and opinions of others. Students are expected to abide by the University's policies, regulations, and rules. This means that students must comply with this handbook and all other current and future policies, regulations, and rules issued by the University or face disciplinary measures, up to, and including suspension or expulsion from the University and other university premises. In appropriate cases, the University may refer a matter to the authorities for criminal prosecution.

## Coverage

The Student Code of Conduct and other policies and rules described in this handbook or adopted by the University, are not limited to the main campus and apply to all of the following (collectively defined as "University premises and activities"):

**University Premises:** Students must comply with all university rules and regulations when they are on the main campus, on any land, other property leased, owned, used, or controlled by the University, or at which the University provides programs or services. This includes, but is not limited to: residence halls, University Village; and the University Courtyard Apartments.

**University Activities and Representation of Delaware State University:** Students must comply with all university rules and regulations when attending any University activities. University activities are defined as any activity, whether on or off-campus, that is sponsored by and/or funded by the University or its affiliates, or by a student organization, or by any University-recognized or supported organization. University activities also include any event, regardless of sponsor, where students are representing the University or a sponsored organization (see Definitions).

**Off-Campus Offenses:** The University has the jurisdiction to discipline students for engaging in conduct that occurs off-campus, study abroad, and outside of University premises and university activities, if such conduct adversely affects the vital interests of the University. This includes, but is not limited to: behavior that is disruptive of the education process; behavior that potentially harms the institutional educational interests of the University; behavior that involves another member of the University community; a behavior that threatens or poses a substantial risk to the safety or well-being of students, employees or other members of the University community.

The University also has a vital interest in the character of its students, and regards off-campus/study abroad behavior as a reflection of a student's character and his/her fitness to be a member of the student body, even if the student does not pose a direct risk to the University community. Therefore, off-campus behavior that indicates disregard for the health and safety of people or their property, including, but not limited to, criminal conduct, may be subject to disciplinary action by the University.

## **GENERAL STANDARDS OF CONDUCT**

### **Student Responsibilities**

1. Students are responsible for informing themselves of their responsibilities as described throughout this student handbook and in other university publications, and of their rights under the student judicial system.
2. Students have the responsibility to comply with the university's policies, regulations, and rules that apply to students and student conduct.
3. Students are expected to conduct themselves with propriety and uphold the reputation and high standards of the university.
4. Students must respect the rights and opinions of others.
5. Students are expected to preserve healthful, wholesome physical and hygienic conditions.
6. Students have the responsibility to attend classes punctually and regularly and to devote themselves earnestly to their studies in order to learn.
7. Students have the responsibility to assist and take pride in the maintenance and preservation of university property.
8. Students have the responsibility to adopt positive patterns of behavior and values in order to develop a wider understanding of themselves and society.
9. Students are expected to use their varied abilities to make their years at Delaware State University a meaningful experience.

### **Decorum**

1. Students are expected to conform to recognized university standards of conduct, behave with decency, and dress appropriately (including, but not limited to: revealing undergarments and saggy pants) while on university premises and during University activities, including academic settings, social events, extracurricular activities, and other public functions.
2. Male students are required to remove hats and any other form of headwear or covering when the Alma Mater is being sung or played, or prior to entering any University premises, including the dining hall, library, classrooms, and any other campus buildings, with the exception of the student center and student housing when head coverings are worn for religious or medical reasons.
3. All students are expected to stand when the Alma Mater is being sung or played.
4. Students are expected to refrain from using four-letter words, obscenities, and non-verbal behavior that is not acceptable under Delaware State University's standards of decency when communicating (verbally, nonverbally, or in writing) with parents, students, visitors, professional staff, and others on university premises or during University activities. This policy does not extend to private conversations where no one present is offended by the language, but does include any communication in public where others may overhear and be offended by the conduct or behavior. Nor does this policy extend to any communications protected by the First Amendment. Violations may be subject to

judicial action under the category of verbal abuse and, where applicable, insubordination (see Violations for details).

- 5. No Cellular Telephone Usage in Classroom** – Because of the Emergency Alert System, students should put their cellular telephones on vibration whenever they are in class. **Students should not respond to or make telephone calls in class or go outside the class to respond to or make telephone calls. Students should not text whenever they are in class.** A student will be ordered out of the class and suspended from the class for one week if he or she is caught violating these rules for the first time. During the suspension period, a suspended student will not be allowed to take part in any class activities including examinations, quizzes, papers, assignments, presentations, and other class activities. A student who violates the above telephone usage rules for the second time will be expelled from the class.

## **Integrity**

Integrity must be practiced in all endeavors and relationships on University premises and during university activities. Students found to have engaged in acts of dishonesty, such as: cheating on tests or examinations; plagiarism, alteration or misuse of University documents, records or identification cards; forgery, misrepresentation or any other form of deceit, may lead to dismissal from Delaware State University.

## **Violence and Criminal Behavior**

Students who commit criminal behavior, acts of violence, threats, or conduct that demonstrates lack of respect for the property of others, may lose the privilege of attending Delaware State University, or be subject to other disciplinary measures. In addition to the specific infractions of community life and criminal law proscribed in this handbook, shoplifting, drug violations, violent acts, use of a weapon on or off-campus, conveying bomb threats, or other obvious violations of criminal law, may be dealt with through both the criminal court system and the University's disciplinary system.

Students are expected to report all off-campus arrests to the Office of the Vice President for Student Affairs. Failure to do so will be considered a violation of University policy. The University does not assume responsibility for posting bail or bond for students who are arrested. The University will notify parents or guardians of students who are arrested.

## **MOST SEVERE VIOLATIONS AND SANCTIONS**

The University will not tolerate and prohibits all illegal or unauthorized possession and/or use of weapons, drugs, fighting or other forms of assault and battery on university premises or during University activities. In addition, the University may take action when such conduct occurs outside of university premises or during University activities if it adversely affects the vital interests of the University. Under normal circumstances, policy violations will result in a **minimum sanction of one year of suspension** however, the judicial council may consider special mitigating circumstances and recommend a lesser sanction. This recommendation must be unanimous and accompanied by a detailed justification.

### **Normal Process for Dealing with the Most Severe Violations:**

- Speedy adjudication by the General Judiciary Council when the infraction(s) are received by the Office of Student Judicial Affairs;
- A minimum sanction of one (1) year suspension up to expulsion;
- Immediate dismissal from the University should the violator be deemed dangerous or a threat to self or to others.

### **The Most Severe Violation Policy Applies To:**

- **Drugs** (possession, consumption or distribution)
- **Assault & Battery**
- **Hazing/Illegal Pledging**
- **Sexual Assault and Rape**
- **Weapons/Firearms**
- **Explosives** (possession or use)
- **Other Criminal Acts** (including, but not limited to: burglary, robbery, arson, identity theft, and forgery).

Any student charged with these violations will be referred to the student judicial system for severe disciplinary sanctions, and possible criminal prosecution by state or federal authorities.

### **Assault and Battery**

Assault and battery or other altercations involving physical contact endanger the health and safety of members of the university community. Prohibited behavior includes, but is not limited to; beatings; muggings; physical torture; or any bodily injuries inflicted upon a person. Students who violate this policy will be referred to the judicial system. **If found responsible, students may be suspended from the University for a minimum of one (1) year.**

### **Pledging and Hazing Policy**

The University believes that true fraternalism is nurtured in an atmosphere of social and moral responsibility, with respect for duly constituted authority, and loyalty to the principles of higher education.

While social behavior cannot be legislated, an organization without morally-sound precepts and practices is not a constructive influence upon university students. Fraternity and sorority organizations not sanctioned by the university, extension groups, and any other unofficial affiliates unrecognized by the University are prohibited, regardless of whether they operate on University premises. Any student soliciting the services of another under guise/pretenses of such an organization, or any person participating in such a group, will be subject to disciplinary action by the Student Judicial System.

Fraternities and sororities are permitted to have intake systems and a process for selecting new members. However, every organization has a solemn obligation in the development of its prospective members. Although much progress has been made, one of the most damaging instruments is a pledging system. Pledging is the employment of a program that may include hazing. The University believes that this unproductive and hazardous custom has no rightful place in an organization intake system. Therefore, pledging and all forms of hazing are strictly prohibited.

The University defines hazing as any action taken or situation created, recklessly or intentionally, to produce mental and/or physical discomfort, embarrassment, harassment or ridicule. Hazing includes any action taken, or situation created, that endangers the mental or physical health or safety of a student, or that willfully destroys or removes public or private property for the purpose of initiation, admission into, or affiliation with, as a condition for continued membership in any student organization.

Activities and situations that will be considered hazing include, but are not limited to: any activities that are expressly or impliedly required as a condition of membership or admission to the organization; initiated, condoned or ratified by the organization or its members, that involve creation of excessive fatigue, physical and psychological shock; subject the individual to extreme mental stress, such as sleep deprivation or forced exclusion from social contact; require public wearing of apparel which is conspicuous and not normally in good taste; engaging in public stunts and buffoonery; morally degrading or humiliating games and activities; and other activities intended or reasonably expected to result in extreme embarrassment. Hazing also includes any brutality of a physical nature, such as: paddling; whipping; beating; branding; forced calisthenics; exposure to the elements; or any other physical activity that could adversely affect the physical health and safety of the individual.

# TITLE IX

## TITLE IX Information:

- Sexual assault is a traumatic event for every victim/survivor, and may leave him/her in **psychological distress resulting in confusion about the event, fear, guilt, shame, or many other problems**. The office of Title IX persons at Delaware State University (DSU) often serves as the official place to file your title IX complaint against the alleged respondent for students in crisis resulting from a sexual assault. Following is the protocol to be followed when responding to such an event.
  - Title IX Offices and the ERP will provide the victim/survivor with support: crisis intervention, advocacy and referral information for police, counseling resources, student conduct and legal resources.
- 1) First ensure that the victim/survivor is safe. If he/she is in danger contact Campus Security at (302)857-7911 immediately for assistance to ensure the safety of the victim/survivor.
  - 2) Acknowledge the psychological distress and confusion and assure the victim/survivor that DSU has services in place to help him/her to overcome most of his/her problems.
  - 3) You will receive and be told to **Read** the “**One Policy One Process**” document.
  - 4) You may request the assistance of a sexual assault “**advocate**” from our counseling services.
  - 5) You need to **know** your rights.
  - 6) You will meet with the office of Title IX to review the process.
  - 7) You may ask the office of Title IX about “**advisors**” to assist you in this process.
  - 8) You will review your police report or complaint for **clarity and factual** information.
  - 9) You will need to preserve any **evidence** that will help you in reviewing your case.
  - 10) You will be able to **prepare** your opening and closing statements for your hearing procedures.
  - 11) You will need to **Read** all emails and materials that you receive from the office of Title IX.
  - 12) You will need to understand the **deadlines** and meet all deadlines.

## Title IX Violations:

1. **Sexual assault** - is defined as any unwanted touching of a sexual nature or any other conduct that would be defined as assault or rape under Delaware law. This includes, but is not limited, to:
  - Unwanted kissing, touching or fondling;
  - Penetration with a finger or a foreign object;
  - Rape (vaginal or anal intercourse, oral-genital contact).

These acts constitute sexual assault when they are attempted or committed through force, threat, or intimidation; when the perpetrator has been informed that his/her actions are unwanted; or by taking advantage of the victim’s incapacity or helplessness caused by **alcohol or other drugs**.



2. **Rape** is defined as “unlawful sexual intercourse by force or deception.” A person is guilty of rape in the first degree when he/she intentionally engages in sexual intercourse with another person without consent. “Rape” can occur in many forms, including:
  - **Stranger Rape** - The sexual assault of an individual by someone the victim does not know.
  - **Date Acquaintance Rape** - The sexual assault of an individual by someone the victim knows, usually an acquaintance or a date. Date rape is the most common type of rape occurring on college or university campuses, but the least frequently reported.
  - **Group/Gang Rape** - The sexual assault of an individual by multiple perpetrators. Many gang rapes on college campuses occur in residence halls, fraternity houses or at off-campus parties and in vehicles.
  - **Statutory Rape** - Sexual intercourse with or penetration of an individual under the age of 16; intercourse with an individual under the age of 18 by a person 30 years of age or older; or intercourse with or penetration of an individual under the age of 18 by a person who is in a position of authority over the minor.
3. **Hazing** - Defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization (see Pledging and Hazing Policy for details and examples).
4. **Harassment** – by any means, of any member of the University community (see Harassment Policy for details). Harassment is not limited to Equal Opportunity violations such as discriminatory references to a person’s race, ethnicity, nationality, religion, gender, or sexual orientation – but also includes any other form of coercion or personal abuse.
5. **Domestic/Relationship Violence** – assault and battery to a person who is a relative, spouse, boyfriend, girlfriend or other intimate of the student.
6. **Sexual Misconduct** - violations include, domestic violence, sexual assault, rape, sexual harassment, stalking, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation including sexual voyeurism, taking pictures or video or audio recordings of another in a sexual act, or any other private activity without consent of all involved in the activity, prostitution, sexual exploitation also include knowingly transmitting (HIV) or (STD) to another person without informing them, and further includes administering alcohol, or drugs (date rape drugs) to another person without his or her knowledge or consent.

### **Hearing Process:**

- 1) Notification of a hearing will be sent to you approximately 2-3 business days before the hearing takes place.
- 2) The Equity Resolution Panelist (3) along with the Chairperson of the committee will be identified to you prior to the hearing.
- 3) Please submit all evidence prior to the hearing, or bring additional copies of new evidence to the hearing for all members of the ERP.
- 4) Your “advisor” may attend the hearing process; however they will not be able to speak on your behalf. They can advise you through writing notes, whispering, or leaving the room with you.
- 5) Prepare your opening, questions and closing statements for your hearing procedures.
- 6) You will not be allowed to bring cell phones, iPods, or electronics into the hearing room.
- 7) You will be asked to affirm to tell the truth and will be expected to uphold your affirmation.
- 8) The complainant and the respondent will be in the same hearing during the same time, unless a request is made by the complainant not to be in the same room with the respondent.

9) You will be notified in writing, of the results from your hearing by the Office of Title IX.

10) The hearings are recorded and documented.

### **Student Sanctions:**

- 1) **Warning:** A formal statement that the behavior was unacceptable and a warning that further infractions of any Delaware State University policy, procedure or directive will result in more severe sanctions/responsive actions.
- 2) **Probation:** A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Delaware State University policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- 3) **Suspension:** Termination of student status for a definite period of time not to exceed three years, and/or until specific criteria is met. Students who return from suspension are automatically placed on probation through the remainder of their tenure at Delaware State University. This sanction may be noted as a Conduct Suspension on the student's official transcript.
- 4) **Expulsion:** Permanent termination of student status, revocation of rights to be on campus for any reason or attend Delaware State University-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- 5) **Withholding Diploma:** Delaware State University may withhold a student's diploma for a specified period of time and/or deny student participation in commencement activities if the student has a complaint pending or as a sanction if the student is found responsible for an alleged violation.
- 6) **Revocation of Degree:** Delaware State University reserves the right to revoke a degree awarded from Delaware State University for fraud, misrepresentation or other violation of Delaware State University policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- 7) **Organizational Sanctions:** Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
- 8) **Other Actions:** In addition to or in place of the above sanctions, Delaware State University may assign any other sanctions as deemed appropriate.

#### *Helpful numbers:*

DSU Counseling Office (Mon-Fri, 8:30-4:30) 302-857-7381

**DSU Sexual Assault Hotline 302-420-5751**

Call DSU Police at (302) 857-7911 (after hours) for DSU On-call Counselor

Delaware CONTACTLIFELINE 1-800-262-9800

National Sexual Assault Hotline 1-800-656-HOPE

DSU office of Title IX 302-857-7698

<http://www.desu.edu/student-affairs/sexual-misconduct-harassment-and-sex-discrimination-title-ix>

## **Weapons/Firearms/Explosives**

The use, possession and/or storage of firearms, ammunition, explosives, fireworks or other lethal weapons of any kind in motor vehicles, buildings or elsewhere on University premises or during University activities are prohibited. Students who violate this policy will be referred to the Judicial System. **The penalty for possession of weapons may be expulsion** (for further examples, see Violations under Student Judicial System).

## **SMOKING POLICY**

### **Smoking**

As of August 2015, Delaware State University implemented its totally tobacco-free policy. Smoking includes drug paraphernalia, cigarettes, e-cigarettes and vapor pens. Students are prohibited from smoke in cars, buildings, and residential housing or on any property of Delaware State University. All individuals found smoking on Delaware State University property and adjacent properties will be found in violation of the Student Code of Conduct and sanctioned accordingly.

### **Other Serious Criminal Conduct**

Other serious crimes that occur on University premises or during University activities will also be treated under the most serious sanctions policies. An exhaustive list is not possible, but would include crimes against persons (such as robbery or extortion), and property (vandalism, arson, theft, burglary, identity theft, computer crimes, and forgery). The executive director of Student Life (or designee) will determine if a crime is of sufficient severity to be subject to this most severe sanction process.

## **DRUGS**

### **Drug Policy**

The University will uphold the federal and state laws concerning the illegal use, possession, consumption, sale, trafficking, manufacturing, dispersing, and/or distribution of drugs, narcotics, controlled or counterfeit substances and drug paraphernalia. The illegal use, possession, sale, distribution, or consumption of drugs, narcotics, or other controlled or synthetic substances on University premises or during University activities is prohibited. Students will be held accountable for any drug paraphernalia that tests positive for illegal drugs as result of the ongoing field testing. Individual drug testing of any accused student is voluntary. Students who take this option do so at their own expense, and must complete the test within 24 hours of the alleged violation for consideration by a campus judicial body. Any student found in violation of this policy will be referred to the judicial system.

### **Violations and Possible Sanctions:**

#### **Violation**

- Sale, trafficking, manufacturing, dispersing, and/or distribution of drugs

#### **Possible Sanctions**

- Disciplinary suspension from the University for a Minimum of one (1) year, possible expulsion depending on severity.
- Automatic expulsion

## **Violation**

- Illegal use, possession, consumption of drugs

## **Possible Sanctions**

- Disciplinary probation with privileges
- Disciplinary probation without privileges
- Community Service
- Substance abuse counseling
- Minimum \$200 fine
- Parental notification (if under 21)
- Disciplinary suspension from the University for a Minimum of one (1) year
- Expulsion from Delaware State University.

*Note: Sanctions may be altered based on the severity of the behavior. Offenses are accumulative throughout matriculation at Delaware State University.*

## **ALCOHOL**

### **Alcohol Policy**

Although the legal drinking age in Delaware is 21, university regulations prohibit any student from possessing or consuming alcohol (including empty containers) on University premises or at University activities. Any student found in violation of this policy will be subject to University disciplinary and, where applicable, criminal action. Further, the parents of any students violating this policy who is under 21 will be notified of the violation.

### **Violations and Possible Sanctions:**

#### **Violations**

- Under age 21 possession and/or consumption
- Open container of alcohol in public
- Hosting a party involving the use of alcohol
- Dispensing alcohol to minors
- Intoxication
- Constitution of a public nuisance by being offensive to public order or decency

#### **Possible Sanctions**

- Disciplinary probation with privileges for one (1) year
- Alcohol education
- Minimum \$100 fine
- Disciplinary probation without privileges for one (1) year
- Possible suspension from residence halls for one year

- Substance abuse referral
- Parental notification (if under 21)
- Suspension from the University for One (1) year. The student will be held responsible for the full cost of the residence hall for the remainder of the academic year.
- Community Service

*Note: Sanctions may be altered based on the severity of the behavior. Offenses are accumulative throughout matriculation at Delaware State University.*

### **Alcohol Education On-Line Course**

In addition to other sanctions, all alcohol violators are required to take the Alcohol Education on-line course required of incoming freshmen. Any student who has taken (or re-taken) the Alcohol Education course as a sanction for a first offense, and is later found to have committed further violations of the alcohol policy, may be subject to more severe sanctions.

Students who fail to complete the Alcohol Education on-line course by the sanctioned time will be fined \$200.00 as an additional penalty for the violation. If the student fails to complete the course, the fine will be doubled (\$400), and additional sanctions imposed, including suspension from living in the residence hall and a hold placed on the student's registration for the next semester.

### **OTHER UNIVERSITY POLICIES**

The following are some specific policies that are not subject to the most severe sanctions, but will nevertheless draw disciplinary action from the University. A student who commits one or more of the following offenses is subject to discipline under the standard procedures of the student judicial system. To the extent that any of the following acts directly contribute to the emotional or physical detriment of members of the University community, or constitute serious criminal conduct under federal or state law, the Vice President for Student Affairs has the discretion to impose the most severe sanctions.

#### **Individual or Group Protest Action Policy**

Students are free to support causes by orderly means that do not disrupt the regular and essential operation of the University.

1. All students who wish to organize a group protest, whether or not they are members of a recognized student organization, must follow the same procedures as student organizations to request access to facilities or a location on University premises. The University reserves the right to set limits on the appropriate time, place and manner of the protest.
2. Students may be subject to disciplinary action if they:
  - initiate or participate in a demonstration or any form of protest on campus without following the above procedures; or participate in any activity during an authorized demonstration that obstructs the academic process, interferes with the rights of others on campus, or results in physical violence or property damage.

## **Search and Seizure Policy**

Delaware State University, as a state-related institution of higher education, recognizes that there must be a balance between its responsibility to maintain and protect an orderly educational environment and the privacy rights of members of the University community. 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. Searches conducted primarily for law enforcement purposes will be subject to different procedures.

### **Search during Public Events**

The University has the discretion to conduct mandatory bag checks and/or pat down checks of persons entering any University activities, such as football games or concerts. Prohibited items will be confiscated, and those individuals may be referred for discipline. It is the student's responsibility to obtain information on what items are prohibited. Individuals refusing to allow such searches will be prohibited from entering the event, and no refunds will be provided.

### **Reasonable Suspicion and Administrative Search Warrants**

Searches can be conducted of persons with either an administrative search warrant or based on reasonable suspicion.

The Vice President for Student Affairs or designee through an administrative search warrant must approve all searches including those conducted by University police officers.

In circumstances where any University Public Safety officer has "reasonable suspicion" to believe that a person on University premises or during University activities is in possession of objects in violation of federal, state, or local law or University policy, and there are exigent circumstances that make it infeasible to secure an administrative search warrant, that officer or authorized person has authority to conduct a search of persons or property. Exigent circumstances include any situation in which the person poses a risk to members of the University community, or where delay would likely cause damage to or loss of the property of members of the University community. In such cases, the officer shall promptly notify the Vice President for Student Affairs or designee.

"Reasonable suspicion" is defined as facts and/or circumstances or information sufficiently strong to warrant a reasonable person to believe that the person, property or location contains materials in violation of law or University policy. Examples of situations that would justify issuance of an administrative search warrant or a warrantless search, include possession of drugs or alcohol, possession of weapons, possession of stolen property (including documents), or possession of evidence of a crime or of a violation of University policies.

When an employee of the University, including University Public Safety officers, believes reasonable suspicion exists, a search authorization form must be completed specifying the name of the applicant(s), date, person or location(s) to be searched, facts and circumstances constituting reasonable suspicion, material to be seized, and name of the staff member(s) who will accompany the University Public Safety officer conducting the search. This information will then be presented to the Vice President for Student Affairs or designee for approval or disapproval. If approved, an administrative search warrant will be issued. The University Department of Public Safety will carry out all room searches, and at least one professional member of the Student Affairs staff will serve as a witness to the procedures followed.

**In conducting a search, the individual (if present) should be:**

- Informed that any material found may be used as evidence in a University judicial hearing;
- Presented a copy of the administrative search warrant; and
- Given the reason for the search and materials to be seized. If the occupants are not present, the search may still be conducted. Copies of the administrative search warrant and signed inventory of items confiscated or observed should be provided to the individual or left at the residence.
- 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.
- Should the search for specified material uncover other material indicating a violation of university regulations, it may also be seized.
- When the search is completed, the University Public Safety Officer(s), should complete an after search form specifying the place searched, name of occupants, present staff member(s), University Public Safety Officer(s) conducting the search, and a detailed explanation of material seized and possible ownership. These forms should be given to the Vice President for Student Affairs or designee-

Any member of the University community who wishes to challenge the appropriateness of a search or seizure of his or her person or property must do so by filing a challenge with the Vice President for Student Affairs or designee within ten (10) days after the search is conducted or, if not present at the search, within ten (10) days of receiving notice of the search. The matter will then be referred to University General Counsel who shall determine whether the search was appropriate. Searches or seizures that the Vice President for Student Affairs determines have been made in violation of this policy may not be used in any University disciplinary proceeding (contraband and property not properly belonging to the student will not be returned).

**Other Searches of University Premises**

The University reserves the right to enter and search any office, locker or room on University premises, including but not limited to any office for which a student, employee or student organization has been given a key. All property within such premises is subject to search, including locked drawers or cabinets. These offices are University property, and no person has a reasonable expectation of privacy in the contents of those offices.

**Solicitation and Sales Policy**

Soliciting and selling are not allowed on the university campus except by administrative approval, which may be obtained by completing the appropriate forms at the Office of Student Leadership and Activities.

Only student organizations in residence halls may solicit within the residence halls. A Student Event Form should be obtained from the Office of Student Leadership and Activities and taken through the proper channels for approval.

**Trespassing Policy**

No students or visitors are permitted on any University premises without official authorization. Unauthorized persons will be treated as trespassers and may be banned from all University premises. Students who have unauthorized persons in their rooms are subject to disciplinary sanctions, up to and including expulsion from campus housing.

## Federal and State Law Regarding Drugs and Alcohol

### **Drug-Free Schools and Communities Act Of 1989**

The Drug-Free Schools and Communities Act Amendments of 1989 require an institution of higher education, as a condition of receiving funds or any other form of financial assistance under any federal program, to certify that it has adopted and implemented a program to prevent the unlawful possession, use or distribution of illicit drugs and alcohol by students.

As a part of its substance abuse programs, Delaware State University annually distributes to its students in writing the following information:

- Standards of conduct that clearly prohibit the unlawful possession, use or distribution of illicit drugs and alcohol on school property or as part of any school activities;
- A clear statement of the disciplinary sanctions that the University will impose on students who violate the standards of conduct;
- A description of the applicable legal sanctions under local, state, or federal law for the unlawful possession or distribution of illicit drugs and alcohol;
- A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;
- A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students.

The University conducts a biennial review of its substance abuse program to determine its effectiveness, implement need for changes and ensure that disciplinary sanctions are consistently enforced.

### **Federal Legal Sanctions**

Federal law penalizes the manufacture, distribution, possession with intent to manufacture or distribute and simple possession of drugs (“controlled substances”). Controlled Substances Act, 21 U.S.C. §§ 841, 843(b), 844, 845, 846, 859 (2003). The following is a list of punishments prescribed for each crime/offense:

#### **Crime/Offense/Jail Time/Fine (\$)**

1st Degree/10-20 years/Max \$100,000

2nd Degree/10 years/Max \$100,000

3rd Degree/5 years/Max \$7,500

4th Degree/up to 18 months/Max \$7,500

Disorderly Persons (offense)/up to 6 months/Max \$1,000

Petty Disorderly (offense)/up to 30 days/Max \$500

### **Controlled Substances**

Controlled dangerous substances are classified into five different schedules (I-V):

**Schedule I includes:**



- Opiates (Heroin, Morphine, Dimepheptanol, Hydroxypethidine, Normethadone)
- Narcotics (Acetylcodone, Bensylmorphine, Nicocodeine)
- Hallucinogenic (LSD, Marijuana, Hashish, Mescaline, Peyote, Psilocybin)
- Methamphetamine

**Schedule II includes:**

- Oxycodone (Percodan)
- Fentanyl (Sublimaze)
- Methadone (Dolophine)
- Meperidine (Demerol)

**Schedule III includes:**

- Amphetamine (Biphphetamine)
- Phenmetrazine
- Glutethimide (Doriden)
- Phencyclidine

**Schedule IV includes:**

- Barbitol
- Meprobamate (Equanil, Miltown)
- Chloral hydrate
- Phenobarbital (Donnatal, Bellergal)

**Schedule V includes:**

- Codeine
- Codeine Phosphate (Robitussin)
- Diphenoxylate (Lomotil)

**Summary of State Of Delaware Drug Laws**

The sections of the Delaware Criminal Code dealing with drug laws are extensive. The following outline is an effort to provide a general summary of portions of the law. Students with specific questions about the law should contact Public Safety and not rely on the following summary for complete information. The law divides illegal drugs into five schedules (or categories):

**Schedule I** – Certain opiates, opium derivatives (including heroin) and hallucinogenic substances, including Phencyclidine (PCP), marijuana, LSD, mescaline, and psilocybin.

**Schedule II** – Opium and opiates, and derivatives; coca leaves and derivatives; certain central nervous system stimulants, such as amphetamines, phenmetrazines and methamphetamines; and certain central nervous system depressants, including methaqualones and certain barbiturates.

**Schedule III** – Any stimulant drug; certain barbiturates with short-term effects; and certain narcotic compounds and combinations; all having less potential for abuse than Schedule I and II.

**Schedule IV** – Certain barbiturates and other central nervous system depressants having lower potential for abuse than Schedule III. This schedule now includes dextropropoxyphene (Darvon).

**Schedule V** – Drug substances with a lower potential for abuse than Schedule IV. (These substances may contain narcotic drugs, but certain sufficient quantities of non-narcotic drugs with medicinal qualities must be present.)

## **Offenses**

Offenses are divided into two basic categories:

I. Illegal delivery (sale); possession with intent to deliver, manufacture, or intent to manufacture.

II. Illegal possession, use, or consumption (misdemeanor).

Hypodermic needles or syringes are also controlled under Delaware law. Illegal possession or use is punishable by a fine of not more than \$100, or imprisonment not to exceed one year or both. Illegal delivery or disposal is punishable by a fine of not more than \$3,000, or imprisonment not to exceed ten years, or both.

## **Penalties**

Delaware law prescribes ranges of permissible penalties upon conviction of any of the above offenses. The penalties are more severe for delivery (or possession with intent to deliver) than for possession. A jail sentence may be imposed for any of these offenses. Under Delaware law, the judge, at his or her discretion, may impose any sentence within the range allowed by the law. Some examples are:

## **Felonies**

I. Illegal manufacture, delivery, or possession with intent to manufacture or deliver a substance classified in Schedule I or II that is classified as a narcotic drug. Fine: Not less than \$5,000 or more than \$100,000 and, Imprisonment: Up to 30 years.

II. Illegal manufacture, delivery or possession with intent to manufacture or deliver a substance classified in Schedules I-V that is not a narcotic drug. Fine: Not less than \$1,000 or more than \$10,000, and, Imprisonment: Not more than 10 years.

## **Misdemeanors**

I. Illegal possession, use, or consumption of any substance in Schedules I or II that is a narcotic drug. Fine: not more than \$3,000 and imprisonment: Not more than 5 years.

II. Illegal possession, use, or consumption of any substance in Schedule I-V that is not a narcotic drug. Fine: not more than \$500, and imprisonment; not more than 2 years.

There are numerous exceptions and variations in possible penalties, including:

I. More severe penalties for anyone delivering or attempting to deliver to a person under 18, and more severe penalties for repeat offenders. For second offenders, for delivery or possession with intent to deliver a narcotic drug, a mandatory jail sentence is not subject to probation, parole, or suspension.

II. Reduced penalties under certain circumstances, the most important of which allows the court, at its discretion, to put a first offender (on a charge of possession) on probation for a period of not less than

three (3) years without a finding of guilt. If that person complies with the terms of probation, the charge is dismissed, and no conviction is recorded.

### **Alcohol Violations**

Delaware Code, Title 4, Section 904 makes it unlawful to purchase alcoholic liquor for or to give it to a person under 21 years of age, and also makes it unlawful for persons under 21 years of age to consume alcoholic liquor or to have it in their possession. It is also unlawful to be intoxicated in public.

## **OTHER INFORMATION ON DRUGS AND ALCOHOL**

### **Health Risks Associated With Alcohol and Drug Use**

Drug and alcohol abuse are problems of overwhelming proportions in our society today. While alcoholism may develop in anyone, it tends to first appear between the ages of 20 and 40 and may be more prevalent in persons with a family history of alcoholism.

Generally, drugs and alcohol impair how your brain takes in and sorts out information. Users may feel they are at their best when in reality they are performing poorly. Use can also motivate crime to finance the use and can leave a criminal record behind, which impairs future activities.

Alcohol abuse is usually characterized by one of three different patterns: (1) regular daily intoxication, (2) consumption of large amounts of alcohol at specific times (binge drinking), or (3) periods of heavy daily drinking.

Repeated use of alcohol can lead to dependence. Sudden cessation of alcohol intake is likely to produce withdrawal symptoms, including severe anxiety, tremors, hallucinations and convulsions. Chronic alcohol abuse can produce irreversible changes, including dementia, sexual impotence, cirrhosis of the liver and heart disease. [Death can occur either as a complication of one of these chronic problems; acutely, as a result of alcohol intoxication by poisoning or aspiration of vomiting; and as the result of an automobile accident while driving intoxicated.]

### **Counseling and Rehabilitation Programs**

Counseling and referral services are available on campus. Please contact the Counseling Center at 857-7381 or Health Services at 857-6393.

For more information on the Drug-Free Schools and Communities Act Amendments of 1989, please contact:

The Office of Student Judicial Affairs

Martin Luther King, Jr. Student Center, Room 129

(302) 857-6470

(302) 857-6472 (Fax)

# STUDENT JUDICIAL SYSTEM

## PURPOSE AND PHILOSOPHY

The aim of a judicial system, serving an educational institution, is to 1) increase student responsibility, 2) provide for a fair method of adjudicating alleged violations of University policies and rules, and to 3) provide due process prior to imposing sanctions. The Student Judicial System at Delaware State University also provides an opportunity for students to participate in the governance of their own lives within the educational community. To that end, students have significant responsibility for the formulation and maintenance of standards of behavior and for sharing responsibility with the faculty and administration. To safeguard the rights of an individual who comes before the judiciary system, the rights of the individual must be clearly stated and the principles of procedural due process clearly explained. To protect that individual against possible errors in judgment that may occur in any judicial system, a right of appeal to a higher judicial body should be provided.

## PARALLEL CRIMINAL OR CIVIL PROCEEDINGS

The Student Judicial System of this university is designed to process alleged violations of University regulations governing student conduct. This will be completely separate from any other civil or criminal proceedings. The University will not, except for extraordinary circumstances, defer taking its own action simply because criminal or civil charges have been made, or may arise out of a student's conduct. During civil or criminal proceedings, students will have certain additional rights, including the right to counsel, that are not provided in University student disciplinary procedures.

**NOTE: Students at Delaware State University are responsible for knowing and are bound by local, state and federal laws.**

## ENFORCEMENT AND INTERPRETATIONS

The president of the University shall have the final authority on all matters of student discipline. However, any question of interpretation regarding the rules, regulations, policies, or procedures of the Student Judicial System shall be referred to the Vice President for Student Affairs or designee for final determination. The Vice President for Student Affairs will administratively address any issue not covered in the Judicial System.

The Student Judicial System shall be reviewed at least every three (3) years under the direction of the director of Student Judicial Affairs. Members of the University community will have an opportunity for input prior to any substantial changes in the Student Judicial System.

## CONFIDENTIALITY OF STUDENT JUDICIAL SYSTEM RECORDS

1. In accordance with the Family Educational Rights and Privacy Act (FERPA), a student may inspect and review his/her judicial file upon request to the director of Student Judicial Affairs. Student disciplinary records are for internal use only, and may not be released to any party outside the judicial system except when records are officially subpoenaed.

Upon request, a student may **view** his/her disciplinary file in the Office of Student Judicial Affairs to **prepare** his/her case for a particular University judicial hearing.

2. A student's disciplinary records will be retained for no less than five (5) years after the student has left the University due to graduation, transfer or permanent academic dismissal.

### Confidentiality of Records

Before information in any student file is released to anyone, the student must give prior written consent. The only exception is when the Vice President for Student Affairs or designee determines that one of the exceptions to FERPA applies, and that release of the records is appropriate. The types of disclosures that can be made without the student's consent include:

- a. To administrators, faculty and staff for legitimate educational purposes;
- b. To accrediting organizations to carry out their functions;
- c. To appropriate personnel to protect the health and safety of the University community or the public in emergencies;
- d. Pursuant to a subpoena or other legal process;
- e. Parental notification of alcohol and drug violations.

## OUTLINE OF PROCEDURES

**The following is a summary of the steps of the Student Judicial System:**

1. Filing a report.
2. Referral of the matter to a hearing officer.
3. An administrative meeting with a hearing officer where the accused student will have an opportunity to discuss the charges and review the evidence. At the student's discretion, the accused student may accept responsibility and take a sanction for the violation, or request a formal hearing
4. A formal hearing takes place before a hearing council, with findings of fact, conclusion and recommended sanctions. At this hearing, the reporting party and the accused student will have an opportunity to present testimony, witnesses, evidence and arguments.
5. The director of Student Judicial Affairs forwards the findings and proposed sanctions to the student. Upon receipt of the findings and sanctions, the student will have two (2) academic days to file a written and personally signed appeal. If there is no appeal filed by the end of the second academic day, the student will be considered to have accepted the proposed outcome of the hearing and the sanction.
6. If the student files an appeal with the Office of Student Judicial Affairs, the request for appeal will be evaluated by the **Appeal Review Committee**, who will determine if the appeal will be granted. Appeals of serious violations, results in the suspension or dismissal from the University, are automatically sent to an appeals hearing.
7. If an appeal hearing is granted, the Office of Student Judicial Affairs will schedule the hearing before the Appeals Council. The Council will notify the student of date and time. The Council will

recommend to the Vice President for Student Affairs that the sanction be upheld, modified or overturned. If the appeal is not granted, the decision will stand and the sanction will be imposed.

## **JUDICIARY ORGANIZATION**

### **A. Duties of the Director of Office of Student Judicial Affairs**

1. Handles all preparation for hearings and the conduct of hearings.
2. May conduct administrative hearing.
3. Prior to hearings, the director of Office of Student Judicial Affairs assists in ensuring that students are aware of their rights and arrange for the hearing.
4. When the director of Office of Student Judicial Affairs is present at hearings conducted by councils, they do not serve as advocates for the University, but rather serve to ensure that the councils have all the information they need to conduct hearings fairly. It is the responsibility of the director of Office of Student Judicial Affairs to ensure that all witnesses are present, that proper procedures are followed, and to answer any policy or procedural questions posed by council members, the accused student, or other involved in the hearing process.
5. When the director of Student Judicial Affairs conducts administrative hearings, they act as adjudicators, make findings of fact, conclusions, and recommend sanctions for any violations.

### **B. Duties of Administrative Hearing Officers**

1. An administrative hearing is any hearing that is conducted by a single hearing officer.
2. An administrative hearing officer may be the director of Student Judicial Affairs, any chairperson, or non-student member of the judicial council. A hearing officer cannot be the reporting party of the alleged violation.
3. Administrative hearings are empowered to hear any violations other than the most serious violations. However, an administrative hearing officer(s) may adjudicate all violations occurring during the summer months, including zero tolerance violations.
4. When needed, the director of the Office of Student Judicial Affairs may act in the role of an administrative officer. If the student requests a hearing before a council during semester breaks, there may be a delay until the start of the next semester before a hearing may be held.

### **C. General Judiciary Council**

1. The General Judiciary Council will adjudicate all non-housing related violations. Residential education will hear all housing violations. The Office of Student Judicial Affairs reserves the right to gain control of any violation at the discretion of the director of Student Judicial Affairs.
2. The Council becomes active on the 15th day of August each year.

### **D. Membership**

1. The General Judiciary Council is composed of a panel of four (4) students, six (6) faculty members and three (3) administrative staff of the University. The chair shall be a faculty member.
2. Faculty members are elected by the Faculty Senate.
3. The Student Government Association, according to its bylaws (see Student Government section), and those of the Faculty Senate, choose student members. At least two full-time students must be selected to serve on this Council. Choices are subject to approval by the director of Student Judicial Affairs. Students who have been found to commit any violation within the past year, as well as

those who are on academic probation, are ineligible to serve on this council. Student members must have been enrolled at the university as full-time students for a minimum of one semester and be in good standing with the University.

4. The director of Student Judicial Affairs or the Vice President for Student Affairs selects staff members.
5. Each hearing will be conducted by a panel of at least three (3) members of the Council (one student and one faculty and one staff), with the chair being the faculty member.

#### **E. Duties**

1. The Council members conduct hearings on the charges submitted to the Council by the director of Student Judicial Affairs in accordance with the procedures for hearings.

#### **F. Appeal Review Officers**

1. The director of Student Judicial Affairs selects faculty/staff members to serve as appeal review officers. Officers review requests to appeal and determine whether the criteria as defined in the appeal procedures have been met. They may recommend that the appeal be granted or denied.

#### **G. Student Disciplinary Appeals Council**

1. The Student Disciplinary Appeals Council will hear those appeals that the Appeal Review Officers deem appropriate for further evidentiary hearing.
2. Membership
  - a. The Student Disciplinary Appeals Council is composed of six (6) faculty members elected by the Faculty Senate according to its bylaws. The Chair of the Council will be the faculty member with the greatest seniority with the University.
  - b. The Student Government Association, according to its bylaws (see Student Government section), and those of the Faculty Senate, choose student members. At least two full-time students must be selected to serve on this Council. Choices are subject to approval by the director of Student Judicial Affairs. Students who have been found to commit any violation within the past year, as well as those who are on academic probation, are ineligible to serve on this Council. Student members must have been enrolled at the university as full-time students for a minimum of one semester and be in good standing with the University.
  - c. A panel of two (2) faculties and one (1) student, with the chair the most senior faculty member, will hear each appeal.

#### **H. Additional Qualifications and Removal for Cause for All Council Members**

1. Any student who has a violation(s) pending shall not serve on any judiciary organization council or committee.
2. Student members will be automatically removed from any judiciary council or committee if they have less than a 2.60 grade point average or have been found to have committed a violation.
- d. Any member of a judiciary council or committee may be removed from either a particular matter or from their position for cause, as determined by the Vice President for Student Affairs, in consultation with the University General Counsel.

## PROCEDURAL STEPS AND STUDENT RIGHTS

### Initial Intake of the Infraction Report

1. Any member of the University community may file a written complaint (infraction report) against a student alleging a violation with the director of Student Judicial Affairs. This person is referred to as “the reporting party.”
2. Where no prior investigation has been conducted by any other office, the director of Student Judicial Affairs or designee will do such initial investigation as may be necessary to determine whether the alleged conduct would be a violation, whether there is any need for temporary suspension or other temporary sanctions, and to decide which judicial body should hear the matter.
3. No judicial action shall be taken, nor a case file opened, if an infraction report has not been filed pertaining to an alleged offense.
4. A letter will be sent to the accused student notifying him or her of the date and time of the administrative hearing. If the accused student is not present at the time of the alleged violation, then the reporting party should make a notation of this fact on the infraction report form. Failure of the reporting party to advise the student will not be considered cause for dismissal of the charge.
5. An infraction report must be filed within five (5) business days from the date on which the reporting party became aware of the violation; or official completion of an investigation of the infraction. Except in extraordinary circumstances, the Vice President for Student Affairs may choose not take action on alleged violations that are not reported within sixty (60) days. If the reporting party is undertaking an investigation that may take longer than 60 days, that person should notify the director of Student Judicial Affairs that the infraction report might be delayed.

### Pre-Hearing and All Hearing Procedures

1. The director of Student Judicial Affairs shall make an initial determination of whether the facts alleged in the Infraction Report state a violation. If not, no formal charges will be brought forth.
2. If the director of Student Judicial Affairs determines that the allegations do state a violation, he/she will prepare a formal infraction letter identifying the possible violation(s). The student will have an opportunity to discuss options at the Prehearing hearing.
3. Formal charges must be based upon either a specific violation, or a specific law or university policy or rule. Violations cannot be based on general language in the Student Handbook or other publications.
4. When the infraction is based upon conduct occurring outside of the University premises, infractions shall be based upon University policies.
5. The director of Student Judicial Affairs shall make the determination of whether the matter should be heard by an administrative hearing officer or the General Judiciary Council. The director of Student Judicial Affairs will be guided by the following in exercising his/her discretion:
  - a. All serious violations (for which the possible sanctions could include suspension or expulsion from either campus housing or the University) will normally be referred to the General Judiciary Council.
  - b. A hearing officer may handle all other cases.

**c. The decision to refer a matter to particular council or hearing officer is not subject to review.**
6. The Office of Student Judicial Affairs shall give notice of charges in writing to the accused student. A copy will be sent to the reporting party. The written notice of charges or summons should contain the charged violation, date, time and location of the hearing before the appropriate judicial council or hearing officer, and the name(s) of the relevant council members and/or the hearing officer.



7. The notice of hearing and formal charges should be provided to the accused student at least two (2) academic days prior to the hearing. In the case of the most severe violations, this requirement is waived and the hearing may be scheduled anytime within the 2-5 days required by that policy.
8. Requests for formal hearing continuances or extensions of time should be requested in writing to the director of Student Judicial Affairs. Requests should be at least 24 hours notice and for good reason and will not generally be granted for more than a one-week period. Only one continuance will be granted.
9. If after such notification, the accused student does not appear at the hearing, the case may be heard and a decision will be rendered in his or her absence. Students are responsible for notifying the Office of Student Judicial Affairs of any address change. Failure to have a current mailing or University email address on file with the University shall not disqualify the notice.
10. After formal charges have been filed, the student will be given the opportunity to meet with the director of Student Judicial Affairs, at least three (3) days prior to the hearing (with the exception of the most severe violations). The purpose of this meeting is to determine if any informal resolution can be reached, and to review any questions regarding the process.
  - a. The accused student shall have the right to be informed by the director of Student Judicial Affairs or hearing officer of the identity of known witnesses. The accused student may not contact any listed witness.
  - b. The director of Student Judicial Affairs will ensure that the accused student is provided an opportunity to examine documents, statements, or other evidence that will be presented at the hearing, and to assist the student in procuring any witnesses or evidence within the University's control that the student wishes to present.
  - c. The Office of Student Judicial Affairs may issue administrative summons requesting that any member of the University community appear and present evidence at a hearing. Generally, students are responsible for contacting their witnesses and asking that they appear at a hearing.
  - d. Students should be aware that any attempt to intimidate or contact witnesses or officials by the accused or his/her agent, shall be considered a serious offense and will result in additional charges being filed.
  - e. Failure of student to appear at the administrative hearing will result in a waiver of any challenges that could have been raised in advance of the hearing.

## **Temporary Suspensions**

The purpose of a temporary suspension, and any other interim measure, is to maintain the safety of the University community pending a full hearing on an alleged violation. Temporary suspensions can only be imposed by the Vice President for Student Affairs or designee and is usually recommended by the chief of campus police.

1. Students, whose presence represents a continuing danger to persons or property, or an ongoing threat of disrupting the academic process, may be immediately removed from the University.
2. The Vice President for Student Affairs or designee will conduct the hearing and immediately thereafter make the determination of whether to continue temporary suspensions or other interim sanctions within 1-2 days. The sole purpose of this informational hearing is to determine if the student's presence on University premises or participation in University activities – before his/her full hearing on the actual charges – poses a danger, .i.e. weapons (such as guns), large quantities of drugs usually warrant immediate interim suspension.
3. Where interim sanctions are imposed, a full hearing on the merits should typically be conducted within seven (7) academic days, and a final decision issued within ten (10) academic days. If a final decision cannot be rendered within this time, the Vice President for Student Affairs or designee will

review the appropriateness of continuing interim sanctions. During this time the student can also request that the Vice President for Student Affairs review the imposition of temporary sanctions based upon information not available at the time of the informal hearing.

## **Hearing Procedures**

1. The procedures in the disciplinary process have been established to protect the rights of the student and the University in rendering equitable decisions. As such, any student involved is expected to cooperate fully in order to meet his/her responsibilities in these procedures. Any student who does not cooperate in these proceedings will be subject to immediate disciplinary procedures. Wherever the term “council” is used, it includes the hearing officer in administrative hearings.
2. The Vice President for Student Affairs or designee will conduct the hearing and immediately thereafter make the determination of whether to continue temporary suspensions or other interim sanctions within 1-2 days. The sole purpose of this informational hearing is to determine if the student’s presence on University premises or participation in University activities – before his/her full hearing on the actual charges – poses a danger, .i.e. weapons (such as guns), large quantities of drugs usually warrant immediate interim suspension.
3. Hearings before all University judicial bodies shall be closed. However, the accused student may request to be accompanied by one advisor (defined in the “Definitions” section).
4. Under University policy, attorneys cannot act as advisors. During such hearings, the attorney is only permitted to advise the student how to best protect his/her rights for the parallel criminal proceeding. The attorney is not allowed to make arguments, question witnesses, or otherwise assist the student’s case in the disciplinary hearing.
5. The proceedings of the hearings are tape-recorded by the hearing officer or designee. All tape recordings must be stored in the Office of the Student Judicial Affairs for possible future use. Tapes will be kept in accordance with the file retention policy. In the event of an appeal, the accused student may request to review the tape recording, but he or she may not have a copy.
6. Accused students have the right to present his or her respective position by introducing evidence and witnesses, making statements and cross-examining opposing witnesses.
7. No student will be required to give evidence against himself or herself in any judicial proceeding.
8. The accused student is entitled to a fair and impartial hearing and is presumed not to have committed any violation unless his or her responsibility is proven by the preponderance of evidence (i.e., it is more likely than not that the student committed the offense).
9. In the event an accused student, having received proper notice of the hearing, does not appear at the hearing, a judgment may be entered against the accused student if the hearing officer or council determines that the evidence presented is credible and that a violation is proven by a preponderance of the evidence.
10. The three members of any panel of a council must be present for the entire hearing.
11. One member of each panel of a council will be designated by the director of Student Judicial Affairs or Vice President for Student Affairs as chairperson. The chairperson convenes the council, reviews the charges and conducts the proceedings.
12. Only the reporting party, the accused student, his/her and witnesses may be present during the hearing. The council determines whether it is appropriate to sequester witnesses.
13. Witnesses are sequestered until they are heard.

14. Prior to proceeding, the chairperson or the hearing officer will confirm that there are no further challenges to the council, and no basis for members to excuse themselves.
15. If there is an advisor present, the chairperson explains the role of the advisor in the hearing.
16. The charges are read to the accused student. The chairperson should ask the accused student if he/she understands the charges.
17. The chairperson or the hearing officer shall place anyone giving testimony under oath or affirmation.
18. If the reporting party or a witness is not present, and the hearing officer has been unable to secure his/her attendance at the hearing, any prior written statement may be used if it is signed under the penalty of perjury or if the letter or other statement was made under circumstances that the hearing officer or council consider to be credible. The fact that the accused party does not have an opportunity to cross examine a particular witness is not automatic grounds for reversal of findings, but may be grounds for a postponement of the hearing in order to secure the presence of that witness when possible.
19. The accused student shall then be asked to give appropriate testimony concerning the case. The accused student may refuse to give testimony and such refusal shall not be held against the accused student.
20. Witnesses are to be called first by the reporting party, and then by the accused student. Witnesses must leave after giving testimony.
21. Witnesses should be examined first by the party calling them, and then may be cross-examined by the other party and the hearing officer or council members.
22. If the hearing must be continued to a second day, the hearing council will schedule the next hearing date, time, and place, and forward this information to the director of Student Judicial Affairs. Hearings must be completed within four (4) days of when they are started, except with the consent of all parties or approval of the Vice President for Student Affairs.
23. Hearings are not subject to strict rules of evidence. It is up to the hearing officer and the members of the Council to determine what evidence is relevant and what weight to give to witness statements. The hearing officer and the members of the Council may, if they choose, accept into evidence letters, affidavits and other statements by witnesses.
24. When all evidence has been presented and the accused student and reporting party have given a final statement, the chair explains the administrative review process to the accused student, then closes the hearing and dismisses all those not on the Council.
25. The Council members meet in private to make their decision. The deliberation of this Council is not recorded nor is it available for review.
26. The Council shall determine by majority vote whether the accused student is responsible for the violation cited in the infraction report.
27. If the preponderance of the evidence demonstrates that the student is not responsible for one or more of the violations stated, but some other provision of the Code of Student Conduct, the council has the discretion to find a violation of some other provision, or some lesser included offense, even if not stated in the statement of charges.
28. After reaching a conclusion, the Council (or hearing officer, in administrative hearings) shall prepare a report and recommendations. This report shall include: a summary of the witnesses and evidence presented (findings of fact); any credibility determinations made about the evidence; conclusions as to what violations (if any) were committed by the student; any mitigating factors; and a recommended sanction. This report must be submitted to the director of Student Judicial Affairs immediately following the close of the hearing.

## **Appeals**

1. The accused student shall have the right to request an appeal of a judicial action.
2. Requests for appeals must be made in writing to the director of Student Judicial Affairs within two (2) academic days of receiving final notification of the hearing results, including any modifications made following administrative review. The request must clearly specify the reason(s) for the appeal as listed below:
  - a. Lack of due process, i.e. when a student can show an error in the hearing or arbitrariness in the finding against the weight of the evidence.
  - b. Lack of substantial evidence.
  - c. The sanction imposed was inconsistent with University sanctioning precedence.
  - d. Evidence that was not considered or available that would subsequently change the nature of the case.
3. Once an appeal is filed, the director of Student Judicial Affairs will refer the appeal to the Appeals Review Committee who will decide whether an appeal is warranted:
  - a. The Appeals Review Committee will decide whether an appeal is warranted.
4. Within ten (10) academic days of receiving an appeal, the director of Student Judicial Affairs will provide a notice to the student stating whether the appeal will be considered and what procedures will be used.
5. In cases of suspension or expulsion, a student is able to remain in classes except in cases of a temporary suspension where the accused student has been suspended pending a hearing and is deemed a threat to himself/herself or others (see Temporary Suspensions for details).
6. The Student Disciplinary Appeals Committee will follow the usual hearing procedures to the extent consistent with this section.
  - a. Unless otherwise directed by the Vice President for Student Affairs, the hearing will be on the record, without additional witnesses or evidence.
  - b. The student will have an opportunity to make a presentation to the Appeals Council concerning the appeal.
  - c. The Student Disciplinary Appeals Council will make a recommendation to the Vice President for Student Affairs whether to uphold or reverse a verdict and whether to uphold, modify or remove any sanction or remand the case back to the original Council.
  - d. The hearing will be completed and the recommendation given within ten (10) academic days of the start of the hearing.
  - e. No transcripts of testimony will be prepared unless a student wishes to do so at his/her own expense. All reviews will be conducted using the tape recordings of the original hearing.
7. The Vice President for Student Affairs may not impose any sanction more serious than the one recommended by the Student Disciplinary Appeals Council as long as the judicial body has followed guidelines and policies governing the judicial process. The decision of the Vice President for Student Affairs is final.

## **Administrative Review**

1. The Vice President for Student Affairs or designee reviews all cases after the final appeal. During administrative review, the Vice President for Student Affairs or designee will take into account any and all information provided by the councils, hearing officers and the director of Student Judicial Affairs, including any challenge or issue raised by the student.
2. The Vice President for Student Affairs or designee will review the procedures, findings and recommended sanctions and penalties of these hearings within 48 hours of the conclusion of the appeal hearing to confirm that University policies or procedures have been followed during the hearing. He/she may reject conclusions of policy or law made at the hearings, but may not reject any findings of fact.
  - a. The Vice President for Student Affairs or designee may uphold or reverse any verdict and uphold, modify, or remove any sanction.
  - b. The Vice President for Student Affairs or designee can also choose to remand the case back to the original Judicial Council or hearing officer if there have been violations of University policy or procedure during the hearing or appeal under review, if he/she determines there has been an error in interpreting University policy or in applying the appropriate sanctions, or if a determination is made that additional evidence should have been considered.
  - c. The Vice President for Student Affairs or designee will notify the accused student of any modifications to the verdict or penalties that his/her review has found necessary, with a copy of this notice going to the director of Student Judicial Affairs.
  - d. In all cases where the Vice President for Student Affairs or designee has modified the verdict, sanctions or penalties in a case, the Vice President for Student Affairs or designee will provide a written justification and explanation for these modifications to the director of Student Judicial Affairs. The decision of the Vice President for Student Affairs shall be final. Students who are suspended or expelled must vacate the premises within 24 hours of notification of the final disposition.

## **VIOLATIONS**

Students will be subject to disciplinary action for committing any of the following violations, and for violating any other policies, rules, or regulations issued by the University. The following list is not exhaustive, merely illustrative of the type of behavior prohibited by the University. If a student is unsure whether certain conduct would be subject to disciplinary action by the University, he/she should contact the Vice President for Student Affairs or designee before engaging in such conduct.

Students may also be found in violation by being an accessory, defined as one who aids, abets commands, conspires with or counsels another in the commission of a violation. Student organizations can be held responsible if they authorize or ratify violations committed by their members as members of that organization, or if the organization is negligent in monitoring the conduct of its members (see Student Organization section).

Some of the following offenses may fall into the most severe policy violations, even where not specifically stated. Additionally, the student judicial system can adjudicate some of the following offense whether committed on- or off-campus, even where not specifically stated (see Coverage section to see when off-campus offenses may be adjudicated).

## **A. Academic Dishonesty and other Academic Violations**

1. Academic dishonesty and cheating includes, but is not limited to: (a) use of any unauthorized assistance in taking quizzes, tests, or examinations; (b) dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; or (c) the acquisition, without permission, of test or other academic material belonging to a member of the University faculty or staff.
2. Plagiarism is a type of academic dishonesty. It includes but is not limited to, the use, by paraphrase or direct quotation, of published or unpublished work of another person without full and clear acknowledgment and indication of direct quotation. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic material. Direct cutting and pasting of material from websites without use of quotation marks and appropriate attribution is a form of plagiarism.
3. Knowing and intentional violation of federal copyright or patent laws, and other laws protecting the intellectual property of others.

## **B. Building Violations**

The following are violations when they occur on any University premises, including housing and buildings owned, leased or operated by the University.

1. Failure to vacate a building immediately following the activation of a fire alarm system or as directed by a University official. All students are required to respond to fire drills whenever they occur. Posted fire regulations require strict compliance. Any violations may result in disciplinary action. In the case of a fire alarm, students are to immediately vacate the building which they occupy and follow directions from the Public Safety Department or the residence life staff.
2. Illegal entry into any building or restricted areas within that building.
3. Illegal possession, duplication or unauthorized use of keys to University buildings, offices or facilities.
4. Participation in a campus demonstration, which disrupts the normal operations of the University, infringes on the rights of other members of the University community, or is in violation of the Individual and Group Protest Action Policy (see Other Policies section for details).
5. Tampering with doors:
  - a. Installing or attaching a device in order to prevent authorized entry.
  - b. Preventing the latching and/or locking of any door so designed to automatically latch, lock, or to be manually latched or locked.
  - c. Tampering with or interfering with any other aspects of University facilities and equipment, including communication and information technology.
  - d. Trespassing: entering a University building that has been officially closed from use. An unauthorized non-student found in a campus building is subject to immediate arrest. An unauthorized Delaware State University student found in a campus building or restricted area is subject to disciplinary action.

### **C. General Violations**

- 1.** Committing perjury: the practice of lying before a council or committee and/or an official of the university.
- 2.** Abuse of the judicial system, including but not limited to:
  - a.** Falsification, distortion, or misrepresentation of information before a judicial body.
  - b.** Disruption or interference with the orderly conduct of a judicial proceeding.
  - c.** Attempting to discourage an individual's proper participation in, or use of, the judicial system.
  - d.** Attempting to influence the impartiality of a member of a judicial body prior to, and/or during the course of the judicial proceeding.
  - e.** Harassment (verbal or physical) and/or intimidation of a member of a judicial body, witness or complainant or reporting party prior to, during, and/or after a judicial proceeding.
  - f.** Influencing or attempting to influence another person to commit an abuse of the judicial system.
  - g.** Failure to cooperate in any proceeding upon request by a judicial officer or other University official.
- 3.** The refusal to accept notification of an official, written, University communication.
- 4.** Insubordination: willful disobedience of any reasonable requests or regulations, intentional interference with teaching or learning at the University, or voicing of disrespect to those in authority. Insubordination includes, but is not limited to, failure to comply with the order of a duly designated University official acting within the scope of employment responsibility, e.g., faculty, administration, staff, campus police officers, and any other employee or contractor working for the University.
- 5.** Failure to provide a correct mailing address. Every Delaware State University student is required to have a current mailing and active University email address on file in the Registrar's Office.
- 6.** Failure to identify one's self when requested to do so by showing student identification card to a University official (e.g. president, executive assistant to the president, vice presidents, faculty and staff, including food service staff).
- 7.** Infraction of University regulations intended for the health, safety and welfare of the University community. These violations include but are not limited to:
  - a.** Setting unauthorized fires.
  - b.** Tampering with fire safety and/or lighting equipment.
  - c.** Triggering a false fire alarm or otherwise making or causing to be made a false report of a fire.
  - d.** Unauthorized blocking or closing up of any passage way in corridors, exits, entrances, walkways, and/or driveways.
  - e.** Propping open the doors of any building on the University campus.
  - f.** Burning incense or candles without authorization by an appropriate University official.
  - g.** Smoking in any University building.

- h.** Obstruction or disruption of research, administration, meetings or other authorized activities of the University, including disciplinary procedures.
- 8.** Gambling in any form on or at University premises/University activities: betting or playing a game of chance for profit (as for money or property). Gambling shall exclude bingo and raffles if approved by the appropriate university official and under proper supervision on the University premises.
- 9.** Failure to comply with the sanction(s) imposed under the Student Judicial System. A student who fails to complete the requirements of any sanction imposed upon her/him within the time limits specified by the judicial system is not eligible to register for classes or obtain any transcripts (official or unofficial) until he/she complies with the terms of the original sanction and any additional sanctions imposed due to the failure to complete the original sanctions in a timely manner.
- 10.** Resisting or obstructing a Public Safety Officer acting in the performance of his/her duties or ignoring citations issued by Public Safety Officers.
- 11.** Violation of University regulations or policies approved by either the board of trustees or the president and published in University publications.

#### **D. Violations of State or Federal Law**

- 1. Intoxication on University property** - Being under the influence of alcohol or narcotics or any other drug not administered or prescribed to be taken by a physician, that may endanger self or other persons or property or harass persons in the vicinity.
- 2. Possession and/or consumption of alcoholic beverages (including empty containers) on University premises** - Off-campus criminal acts involving possession and/or consumption of alcoholic beverages may also be processed through the University Judicial System.
- 3. Shoplifting** - Students who are charged and convicted for shoplifting on campus or in the surrounding community are also subject to disciplinary action by the University. Such action may result in suspension from the University.
- 4. The illegal use, possession, consumption of drugs, narcotics, or other controlled substances or synthetic substances or drug paraphernalia** - on or at University premises or during University activities will be automatically reported to local authorities and will result in the initiation of appropriate disciplinary procedures (see Most Severe Violation Policy sections for details).
  - a. The illegal possession, sale or distribution of drugs, narcotics, other controlled substances or synthetic or drug paraphernalia** - on or at University premises/University activities will result in the initiation of appropriate disciplinary procedures. Off-campus criminal acts involving the use, possession, consumption of illegal drugs, narcotics or other controlled substances or synthetic substances will also be processed through the University Judicial System (see Most Severe Violation Policy sections for details).
- 5. Suspicion of the use or possession of illegal drugs** - as defined in Section 4.
- 6. The possession, storage, or use of any kind of ammunition, firearms, explosives, fireworks, air rifles, air pistols or lethal weapons of any kind** - on University owned or operated property or student housing is prohibited, unless authorized in writing by the University Director of Public Safety. Off-campus criminal acts involving the use or possession



of weapons may also be processed through the University Judicial System (see Most Severe Violation Policy sections for details).

7. **Off-campus criminal acts involving the use, possession, and/or storage of explosives, firearms or lethal weapons of any kind** - (including but not limited to pistols, rifles, shotguns, BB guns, pellet guns, stun guns, martial arts weapons, knives and ammunition) will also be processed through the University Judicial System (see Most Severe Violation Policy sections for details).
8. **Burglary** – A student who knowingly enters or remains unlawfully in a building with intent to commit a crime therein.
9. **Robbery** – In the course of committing theft (see Property Violations), the student uses or threatens the immediate use of force upon another person with intent to: (1) prevent or overcome resistance to the taking of the property; or (2) compel the owner of the property or another person to deliver up the property or to engage in other conduct which aids in the commission of the theft.
10. **Arson** – When the student intentionally damages a building by starting a fire or causing an explosion and when (1) the student knows that another person is present in the building at the time or (2) the student knows of circumstances, which render the presence of another person therein a reasonable possibility.
11. **Assault and Battery - Any** physical altercation that endangers the health or safety of any member of the University community or any person on University premises or during University activities. Assault and battery includes, but is not limited to, beatings, muggings, physical torture, abusive handling of the torso, touching of intimate parts of a person’s body, or any bodily injuries inflicted upon a person with or without a foreign object. Off-campus criminal acts involving assault and battery upon another person may also be processed through the University Judicial System (see Most Severe Violation Policy sections for details).
12. **Hazing** - Defined as an act which endangers the mental or physical health or safety of a student, or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization (see Pledging and Hazing Policy for details and examples).
13. **Sexual Assault/Rape** - Unlawful touching of a sexual nature which includes, but is not limited to, unwanted kissing, touching or fondling, penetration with a finger or foreign object, vaginal intercourse, oral-genital contact or anal intercourse. Both on-campus and off-campus criminal acts involving touching of a sexual nature will be processed through the University Judicial System.

#### **E. Personal Violations**

1. **Fighting** – Threatening or attempting physical harm to each other, or any intentional display of force that would give each other reason to fear or expect immediate physical harm. It may be committed without actually touching, striking, or doing physical harm to each other.
2. **Disorderly Conduct** – Constituting a public nuisance by being offensive to public order or decency. Disorderly conduct includes, but is not limited to engaging in violent behavior, making unreasonably loud noise, lewd or indecent behavior or an offensive utterance or gesture.
3. **Disruptive Behavior** – Engaging in activity which disturbs any lawful assembly or prevents the accomplishment of any lawful activity, process or function of the University. This includes disruption of the academic process—the acts or words of a student in a classroom or teaching environment which in the reasonable estimation of a faculty member: (a) directs

attention from the academic matters at hand, such as noisy distractions, persistent, disrespectful or abusive interruptions of lecture, exam or academic discussions, or (b) presents danger to the health, safety or well-being of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular on campus. Students shall be required to turn off cell phones, pagers and other electronic devices. Electronic devices may be used with the permission of the teacher or in case of emergency.

4. **Harassment** – by any means, of any member of the University community (see Harassment Policy for details). Harassment is not limited to Equal Opportunity violations such as discriminatory references to a person’s race, ethnicity, nationality, religion, gender, or sexual orientation – but also includes any other form of coercion or personal abuse.
5. **Making threats of violence or intimidation** by any means of communication against any member of the University community, or against the University itself (including threats of violence against University premises or equipment).
6. **Being in the bath/shower areas** of the opposite sex.
7. **Slander, libel, or defamation** of character.
8. **The throwing of snowballs** on University grounds.
9. **The use, possession of water guns, super soakers, etc.** On University premises or during University activities.
10. **Verbal abuse** – the use of harsh, often insulting language to any member of the University community.
11. **The wearing of masks or any other item that conceals the face** or identity of an individual, except for authorized functions or inclement weather; or
12. **Wearing of any item or items with the intention to intimidate, frighten, assault or harass** others on University-owned or controlled property.
13. **Stalking** – Delaware State University identifies stalking as a pattern of repeated unwanted attention, harassment, contact, or conduct directed at a specific person or group that would cause a reasonable person or group to (a) Fear for their safety or the safety of others. (b) Suffer substantial emotional distress. Additionally, Delaware State University utilizes the One Policy One Process to handle all incidents on campus that involve Stalking.
14. **Domestic/Relationship Violence** – assault and battery to a person who is a relative, spouse, boyfriend, girlfriend or other intimate of the student.
15. **Identity Theft** – when the student possesses any tool, instrument, or other things adapted, designed, or commonly used for committing or facilitating the offense of identity theft such as credit card, driver’s license or other documents issued in a name, other than the name of the person who possesses the document.
16. **Residents being undressed** when outside their rooms at any time.

## **F. Property Violations**

1. Knowingly opening or removing mail or email of another person or withholding mail from its true or rightful owner.

2. The moving of University furnishings and/or equipment in a facility from one room to another, from one building to another or from one area/place on the campus to another without permission.
3. The theft of University property or property of any member of the University community.
4. The destruction (including disfiguring, marking or mutilation) of University property or property of any member of the University community.
5. Unauthorized use of another's property or selling, buying or storing stolen goods.
6. Theft or other abuse of computer time, including but not limited to:
  - a. Unauthorized entry into a file, to use, read, or change the contents, or for any other purpose.
  - b. Unauthorized transfer of a file.
  - c. Unauthorized use of another individual's identification and password.
  - d. Use of computing facilities to interfere with the work of another student, faculty member or University official.
  - e. Use of computing facilities to send obscene, pornographic, or abusive messages.
  - f. Use of computing facilities to interfere with normal operation of the University computing system.
  - g. Violations of federal copyright laws and other laws protecting intellectual property, including the unauthorized downloading and sharing of music and video files.

#### **G. False Representation of Authorization Violations**

1. Alteration, falsification, or misuse of University documents, records, parking decals, or identification cards as well as forgery and/or misrepresentation of University documents; making of material misrepresentations or omission of material facts in connection with any University record, document or proceeding. Any intentionally altered or damaged documents/materials will be confiscated and the student will be responsible for obtaining a replacement if necessary (see Falsification of Records Policy).
2. Misrepresentation of oneself or an organization as an agent of the University.
3. Obtaining telecommunication services by use of a false telephone number or unauthorized use of another person's telephone, telephone number, phone card, credit card, etc.
4. Selling and soliciting: selling goods or products on campus without prior permission from a duly authorized University representative.
5. Unauthorized use of the University's name to promote an activity.
6. Bad Checks – A student who issues or passes a check knowing that it will not be honored by the drawer; or (1) the student had no account with the drawer at the time the check was issued; or (2) payment was refused by the drawer upon presentation because the issuer had insufficient funds or credit and the issuer failed to make payment.

## **H. Campus Housing Violations**

Except where expressly permitted under an agreement or separate policy, the following actions are violations in all campus housing, including the residence halls, the University Village, the University Courtyard Apartments, and any other housing owned and/or operated by the University.

### **1. General Violations**

- a.** Engaging in sports/horseplay and any other inappropriate physical activity in the hallways.
- b.** Failure to obey the visitation policies of University housing which are:
  - Visitation hours are Sunday through Thursday from 10:00 a.m. to midnight and Friday and Saturday from 10:00 a.m. to 2:00 a.m. (hours are subject to change).
  - The visitor must have a photo ID.
  - The roommate should agree with having the visitor(s) in the room.
  - The visitor must be 18 years of age or older. If the visitor is under 18, he/she must be accompanied by a parent or guardian.

### **2. Housing Violations**

- a.** Housing unauthorized guest(s).
- b.** Having more than six (6) people in a residence hall room at the same time during inter- dormitory visitation hours.
- c.** Failure to sign in visitors at the front desk.
- d.** Cooking in campus housing rooms (except in the University Village or Courtyard Apartments)
- e.** Failure to care, clean and maintain a residence hall room in a reasonable sanitary and orderly condition.
- f.** Failure to get permission from the resident director before placing articles on the bulletin boards.
- g.** Failure to keep screens in the windows at all times.
- h.** Failure to observe quiet hours during the hours of 9 p.m. – 7 a.m. Sunday-Saturday (hours are subject to change).
- i.** Installing aerials, masts, radio or television antennas, computer wireless routers, or other shortwave transmitting equipment.
- j.** Storing motorcycles, cooking grills, anything with gas or lighter fluid, etc. in the residence halls, Courtyard Apartments, or University Village.
- k.** Throwing articles from windows or hanging articles in windows and storing food or beverages between windows and screens or the outside ledges.
- l.** Any other violations of federal, state or local law, University policy or terms of any contract regarding use of housing.

### **3. Unauthorized Violations**

- a.** Having animals and/or pets in residence hall rooms.

- b. Possession of an unauthorized appliance.
- c. Making an unauthorized room change.
- d. Unauthorized entry or exit of a residence hall through any door or opening other than the main lobby doors.
- e. Unauthorized entry or use of laundry room. Only residents of the building are authorized to enter or use the laundry facilities within that building.

## SANCTIONS

**The following is a non-exclusive list of the types of sanctions that can be imposed under the Student Judicial System:**

**Warning:** The student receives a letter expressing disapproval of the violation committed.

**Official Reprimand:** The student receives a letter expressing the disapproval and severity of the violation committed.

**Community Service:** The student is expected to perform a required number of work hours (a specific task, labor) for the University without pay. If hours are given, there will be a minimum of ten (10) hours, and a maximum of one hundred (100) hours. Failure to fulfill one's community time will result in the hours not worked being charged to the student's account at the current work-study rate plus an additional \$150 penalty for failure to fulfill one's community time.

**Fine:** An amount of money imposed as punishment for an offense. If a fine is imposed, the minimum is \$100. A fine is charged to the student's account.

**Restitution:** Return of all property to the University or the owner of the property, or payment of damages to repair/replace property damaged or taken.

**Compensatory Damages:** Money paid to a complainant or reporting party to reimburse them for any out-of-pocket costs (such as medical or counseling expenses).

**Discretionary Sanctions:** A requirement that the individual fulfill some specified act(s) or correction, including undergoing psychological or substance abuse evaluation or counseling; attending or presenting educational programs; or submitting written assignments.

**Disciplinary Probation:** Probation may be imposed with or without loss of designated privileges for a definite or indefinite period of time. When disciplinary probation involves loss of privileges, it will usually preclude participation in:

1. Varsity or non-varsity intercollegiate events;
2. Debating teams;
3. Plays (unless participation is a course requirement);
4. Any recognized club or organization;
7. Any other University program or activity;
5. Representing the University/holding elective positions or appointment of responsibility;
6. Selection of desired residence hall or room.

Disciplinary probation, when imposed in lieu of more serious sanctions, may also include other conditions such as required counseling sessions, educational workshops and restitution.

**Suspension from University Housing:** The student is suspended from living in any University housing for a minimum of one full semester. The person may remain a student and continue regular matriculation. The student is not entitled to a refund of any University housing fees but may be refunded unused boarding fees.

**University Housing Expulsion:** Permanent separation of the student from any University housing.

**Temporary Suspension from the University:** A suspension made pending full due process to maintain safety (see Temporary Suspensions in Procedures Steps section for details).

**Suspension from the University:** The student is suspended from the University for a period of time not to exceed three years. The student must make a request to return to the University by letter. The University designee will assess a review of the student's educational and personal history prior to returning to the University. The return of the student depends on the outcome of the review. Students must vacate the premises within 24 hours of notification of suspension or final appeal.

**Expulsion** - Students who are expelled from the University cannot withdraw from the institution nor receive any refund, which would be due under normal circumstances. Expelled students may not come on the University grounds unless an emergency warrants their presence on the campus. In such cases, the student must contact the Office of Public Safety prior to arrival and must be escorted on campus. The president of the University or his/her designee may review the case before the decision is final.

## **CODE OF ETHICS FOR JUDICIAL MEMBERS**

**A judicial member is any administrator, faculty, staff or student handling a student judiciary matter.**

- a. The judicial system exists to promote justice and fairness, and thus to serve the individual students, the campus and the public interest.
- b. No case, pending or otherwise, before any committee should be mentioned, commented upon or discussed by any member except when the committee is meeting to consider the case.
- c. No member should hear or entertain the merits or prejudge any case or pending case, except when sitting as a member of the committee to hear or consider the case.
- d. A member should not be swayed by partisan demands, public clamor, consideration of personal popularity or notoriety nor be apprehensive of unjust criticism.
- e. A member should excuse him/herself from a hearing if there is a conflict of interest.
- f. All proceedings should be conducted with proper dignity and decorum and should reflect the importance and seriousness of the hearing.
- g. All judicial hearings are closed, and all testimony, discussion, deliberations and recommendations are to remain confidential.

## DEFINITIONS

**The following definitions apply to all policies and procedures described in this handbook, including the Student Code of Conduct and the Student Judicial System.**

**Academic Day** – Any day in which regularly scheduled classes are in session.

**Accused Student** – An individual who is charged with committing a violation of University policies, rules, or regulations.

**Advisor** – Any member of the faculty, staff or student body of the University can serve as an advisor. The role of the advisor is to give assistance, and he/she may not question nor address anyone other than the advisee. An advisor may not be an attorney, someone who attends law school or a parent or guardian.

**Appeals Hearing** – A hearing before the Student Disciplinary Appeals Council which will render a recommendation whether to uphold, remand, modify or reverse the findings of the original judicial hearing committees.

**Burden of Proof** – The University has the burden of proof by preponderance of the evidence (not beyond a reasonable doubt, as in the courts). Burden of proof by a preponderance of the evidence may similarly be understood as proof that it is more likely than not that the accused student is responsible.

**Charge Letter** – States the alleged violation(s) and gives the accused student a choice of an Administrative or Council Hearing, except in the case of a zero tolerance violation.

**Community Service** – A sanction involving work on a particular task or tasks for a specified number of hours on campus, without pay.

**Complainant (or Reporting Party)** – The party that files a complaint or infraction report against a student.

**Disciplinary File** – The student discipline record maintained by the Office of Student Judicial Affairs.

**Expulsion** – Permanent termination of student status at the University with resultant loss of all student rights and privileges.

**Faculty Member** – Any person hired by the University to conduct classroom activities.

**Formal Hearing** – A hearing before a judicial council or hearing officer in which the reporting party and the accused student have the opportunity to present testimony, evidence and arguments.

**Hearing Chair** – The designated individual who coordinates and convenes the appropriate judicial hearing committee, rules on the admissibility of evidence, and interprets and applies the rules of procedure as they relate to the power and duties of the hearing panel without infringing on the rights of the party.

**Hearing Option or Waiver Form** – The form on which the accused student pleads at fault and accepts the sanction(s) as presented; pleads at fault and requests a hearing on the

appropriateness of the sanction(s); pleads not at fault and requests a full hearing; or pleads no contest and accepts the sanction(s). The accused student receives the hearing option or waiver form along with the charge letter.

**Hearing/Summons** – Written notice of the date, time and place when the appropriate judicial council will meet to hear a case. The accused student must be given a minimum of 48 hours notice prior to the scheduled convening of the hearing, except in the case of zero tolerance violations.

**Infraction Report** – An accusation in written form, which must be signed by an individual indicating that he or she has firsthand knowledge or strong reason to believe that a student has committed an offense.

**Judicial Council** – Any persons authorized by the Dean of Students to determine whether a student has violated University policies, rules, or regulations and to recommend imposition of sanctions.

**May** – Is used in the permissive sense.

**Member of the University Community** – Any person who is a student, faculty member, University official or any other person employed by the University; all visitors to any University premises, including alumni, vendors and guests at student housing; and any member of the public using University facilities or attending University activities.

**Off-Campus Offenses:** The University has jurisdiction to discipline students for engaging in conduct that occurs off campus, study abroad, and outside of University premises and university activities, if such conduct adversely affects the vital interests of the University. This includes, but is not limited to behavior that is disruptive of the education process; behavior that potentially harms the institutional educational interests of the University; behavior that involves another member of the University community; and behavior that threatens or poses a substantial risk to the safety or well-being of students, employees or other members of the University community. The University also has a vital interest in the character of its students, and regards off-campus/study abroad behavior as a reflection of a student’s character and his/her fitness to be a member of the student body, even if the student does not pose a direct risk to the University community. Therefore, off-campus/study abroad behavior that indicates disregard for the health and safety of people or their property, including but not limited to criminal conduct, may be subject to disciplinary action by the University.

**Office of Student Judicial Affairs** – The administrative office of the University that is responsible for the efficient and fair operation of the University Judicial System.

**Policy** – The written regulations of the University as found in, but not limited to, the Student Handbook, the Student Code of Conduct, Residence Life Manual and the University Code.

**Pre-Hearing Conference** – At a pre-hearing conference the accused student will have an opportunity to discuss the charges, review the evidence and accept responsibility and take a sanction for the violation or request a formal hearing.

**Rape** is defined as “unlawful sexual intercourse by force or deception.” A person is guilty of rape in the first degree when he/she intentionally engages in sexual intercourse with another person without consent. “Rape” can occur in many forms, including:

- **Stranger Rape** - The sexual assault of an individual by someone the victim does not know.



- **Date Acquaintance Rape** - The sexual assault of an individual by someone the victim knows, usually an acquaintance or a date. Date rape is the most common type of rape occurring on college or university campuses, but the least frequently reported.
- **Group/Gang Rape** - The sexual assault of an individual by multiple perpetrators. Many gang rapes on college campuses occur in residence halls, fraternity houses or at off-campus parties and in vehicles.
- **Statutory Rape** - Sexual intercourse with or penetration of an individual under the age of 16; intercourse with an individual under the age of 18 by a person 30 years of age or older; or intercourse with or penetration of an individual under the age of 18 by a person who is in a position of authority over the minor.

**Restitution** – Compensation of loss or damage. This may take the form of appropriate service and/or monetary or material replacement.

**Sanction** – A penalty imposed upon a student after he or she either has admitted being at fault or has been found to have committed a violation of University policies, rules, or regulations.

**Self-defense** – In cases of assault and battery, a student will be able to claim his/her actions were in self-defense only in cases where retreat or exit were impossible and all reasonable efforts to remove themselves from the situation have been exhausted. A situation of self-defense will end when a safe retreat or exit become possible.

**Sexual assault** - is defined as any unwanted touching of a sexual nature or any other conduct that would be defined as assault or rape under Delaware law. This includes, but is not limited, to:

- Unwanted kissing, touching or fondling;
- Penetration with a finger or a foreign object;
- Rape (vaginal or anal intercourse, oral-genital contact).

These acts constitute sexual assault when they are attempted or committed through force, threat, or intimidation; when the perpetrator has been informed that his/her actions are unwanted; or by taking advantage of the victim’s incapacity or helplessness caused by **alcohol or other drugs**.

**Sexual Misconduct** - violations include, domestic violence, sexual assault, rape, sexual harassment, stalking, non-consensual sexual intercourse, non-consensual sexual contact, sexual exploitation including sexual voyeurism, taking pictures or video or audio recordings of another in a sexual act, or any other private activity without consent of all involved in the activity, prostitution, sexual exploitation also include knowingly transmitting (HIV) or (STD) to another person without informing them, and further includes administering alcohol, or drugs (date rape drugs) to another person without his or her knowledge or consent.

**Shall** – Is used in the imperative sense.

**Staff member** – Any University employee performing employment responsibilities, excluding faculty and administrative personnel.

**Student** – All persons taking courses at the University, both full-time and part-time, whether they reside on campus or commute. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered “students.”

**Suspension** – The loss of student status for a specified length of time, not to exceed three years, with resultant loss of all student rights and privileges.

**Temporary Sanction** – A sanction imposed for a limited duration by the Dean of Students or designee in an emergency.

**University Official** – Includes any person employed by the University, performing assigned administrative or professional responsibilities.

**University** – Delaware State University.

**University Activities** – Any activity that is sponsored by and/or funded by the University or its affiliates, any student organization, or any other University –recognized or supported organization. University activities also include any event, regardless of sponsor, where students are representing the University or a sponsored University organization.

**University Premises** – The University campus and any land or other property leased, owned, used, or controlled by the University, including the residence halls, the University Village and the University Courtyard Apartments.

**Witness** – any person with information relevant to an alleged violation or a person’s defense.