

CODE OF STUDENT RIGHTS AND RESPONSIBILITIES

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The Marian University *Code of Student Rights and Responsibilities* is adapted from the NCHERM Group Model Developmental Code of Student Conduct and is used here with permission.

PREFACE

Core Values of Student Conduct at Marian University

Based on the Franciscan Sponsorship Values:

Dignity of the Individual, Peace and Justice,
Reconciliation, and Responsible Stewardship.

Integrity: Marian University students exemplify honesty, honor, and a respect for the truth in all of their dealings.

Community: Marian University students are invited to build and enhance their community.

Social Justice

The *Code of Student Rights and Responsibilities* applies to behaviors that take place on the campus, at university-sponsored events and may also apply off-campus when the dean of students or designee determines that the off-campus conduct affects a substantial university interest. A substantial university interest is defined to include:

1. Any situation where it appears that the student may present a danger or threat to the health or safety of self or others;
2. Any situation that significantly impinges upon the rights, property, or achievements of self or others, or significantly breaches the peace or causes social disorder; or
3. Any situation that is detrimental to the educational mission or interests of the university.

The *Code of Student Rights and Responsibilities* may be applied to behavior conducted online, such as chat room harassment or bullying via email. Students must also be aware that blogs, web page entries on sites such as Facebook, Instagram, Twitter, and other similar online postings are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. Marian University does not regularly search for this information, but may take action if and when such information is brought to the attention of university officials. However, most online speech by students will be protected as free expression and not subject to this code, with two notable exceptions:

1. inflict bodily harm upon specific individuals;
2. Disparaging speech posted online about the university or its community members that causes a significant on-campus disruption to university operations or mission.

The *Code of Student Rights and Responsibilities* applies to guests of community members whose hosts may be held accountable for the misconduct of their guests. The code may also be applied to resident non-students, campers, and high school bridge/extension/partner/dual-credit and continuing education programs by contractual agreements. Visitors to and guests of the university may seek resolution of violations of the *Code of Student Rights and Responsibilities* committed against them by members of the university community.

There is no time limit on reporting violations of the *Code of Student Rights and Responsibilities*; however, the longer someone waits to report an offense, the harder it becomes for university officials to obtain information and to make determinations regarding alleged violations. Though anonymous reports are permitted, doing so report. Those who are aware of misconduct are encouraged to report it as quickly as possible to university officials including the Office of the Dean of Students and university police.

Marian University email is the u responsible for all communication delivered to their university email address.

Section Three: Violations of the Law

Alleged violations of federal, state, and local laws may be investigated and addressed under the *Code of Student Rights and Responsibilities*. When an offense occurs over which the university has jurisdiction, the university conduct process will usually go forward notwithstanding any criminal report that may arise from the same incident.

Marian University reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation. When criminal charges are pending, the university may be delayed or prevented from conducting its own investigation and moving forward with a campus hearing. When this happens, the university will delay its hearing se ch thl

Students accused of crimes may request to withdraw from Marian University until the criminal charges are resolved. In such situations, the University Tuition and Refund Schedule applies and the university procedure for voluntary withdrawals is subject to the following conditions:

1. The respondent must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial;
2. The respondent must comply with all interim actions or restrictions imposed during the leave of absence; and
3. The respondent must agree that, in order to be reinstated to active student status, they must first be subject to, and fully cooperate with, the student conduct process and must comply with all sanctions that are imposed.

Section Four: Expectations and Rules

Marian University considers the behavior described in the following sections as inappropriate for the university community, in opposition to the core values set forth in this document, and not in support of the university mission statement. These expectations and rules apply to all students, whether undergraduate, graduate, doctoral, or other students participating in academic programs of the university. This code also applies to university-affiliated registered student organizations. Furthermore, Marian University encourages community members to report to university officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in Section 7: Formal Conduct Procedures.

Integrity: Marian University students exemplify honesty, honor, and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to:

1. **Falsification.** Knowingly furnishing or possessing false, falsified, or forged materials such as falsification or misuse of documents, accounts, records, identification, or financial instruments;
2. **Academic Dishonesty.** Acts of academic dishonesty as outlined in the *Academic Conduct Procedures*;
3. **Unauthorized Access.** Unauthorized possession, duplication, or use of means of access to any university building (i.e. keys, cards, passwords, etc.) or failing to timely report a lost university identification card, key or other means of access;
4. **Collusion.** Action or inaction with another or others to violate the *Code of Student Rights and Responsibilities*;
5. **Trust.** Violations of positions of trust within the community;
6. **Election Tampering.** Tampering with the election of any university-affiliated registered student organization;
7. **Taking of Property.** Intentional and unauthorized taking of university property or the personal property of another;
8. **Stolen Property.** Knowingly taking or maintaining possession of stolen property.

Community: Marian University students are invited to build and enhance their community. Behavior that violates this value includes, but is not limited to:

9. **Disruptive Behavior.** Disruption of university operations including but not limited to teaching, research, administration, residential housing, other university activities, or other authorized non-university activities which occur on campus;

- a. **Discriminatory Harassment.** Any unwelcome conduct based on actual or perceived status (gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion or other protected status) that is sufficiently severe, pervasive, or persistent and objectively offensive that it unreasonably interferes with, limits or denies the ability to participate
24. **Retaliatory Discrimination or Harassment.** Any intentional, adverse action taken by a respondent or allied third party, absent legitimate nondiscriminatory purposes, as reprisal against a participant in any proceeding under this code;
25. **Bystander Intervention – Failure to Intervene.**
- a. Complicity with or failure of any student to appropriately address known or obvious violations of the *Code of Student Rights and Responsibilities* or law;
 - b. Complicity with or failure of any organized group to appropriately address known or obvious violations of the *Code of Student Rights and Responsibilities* or law by its members;
26. **Abuse of Conduct Process.** Abuse, interference, or failure to comply with university processes, including academic conduct hearings including, but not limited to:
- a. Falsification, distortion, or misrepresentation of information;
 - b. Failure to provide, destroying, or concealing information during an investigation of an alleged policy violation;
 - c. student conduct
process;
 - d. [REDACTED] (al) or intimidation of a member of a student conduct investigation rmination during in

31. **Domestic Violence.** Acts of violence by a current or former spouse of the complainant, by a person with whom the complainant shared a child in common, by a person who is cohabitating with or has cohabitated with the complainant

- c. Parents
- d. Any university community member or other individual who is directly involved in, observes, or

1. Initial Assessment

- a. The Title IX coordinator or designee reviews all reports of sexual harassment under this policy for an initial assessment of the reported information. The available resolution options will be guided by the availability of information or evidence suggesting that a policy violation may have

services, legal assistance, immigration assistance, disability services;

(iii) Academic support including extensions of time and other course-related adjustments;

(iv) Mo

1. No member of the university community may:
 - a. Obstruct, prohibit, exert improper influence over, or interfere with any individual making a report, participating in a process, or carrying out a responsibility covered by this policy;
 - b. Make, in bad faith, materially false statements in or related to a process covered by this policy;
 - c. Disrupt or interfere with the orderly conduct of any proceeding conducted under this policy; or
 - d. Fail to comply with any directive, sanction, or corrective action issued pursuant to this policy.

M. Training.

1. All employees are required to take sexual harassment and Title IX training as directed by the university.

Procedure

A. Initial Assessment.

1. Upon receiving a report, the Title IX coordinator or designee will provide information to the complainant on the availability of supportive measures, the right to file a formal complaint, and how to file a formal complaint.
2. The Title IX coordinator or designee reviews all reports of sexual harassment under this policy for an initial assessment of the reported information. Available resolution options will be guided by the availability of information and evidence suggesting that a policy violation may have occurred; the address the effects of the prohibited conduct; and the availability or desire of the complainant to participate in an investigation or other resolution.
3. Upon completion of an initial assessment, the Title IX coordinator or designee will determine the available options for resolution and will communicate these options to the parties.
4. If the complainant or the university elects to file a formal complaint, the Title IX coordinator will provide written notice to the respondent within ten days including:
 - a. The actual allegations of facts that constitute sexual harassment and any evidence that supports this;
 - b. That there is a presumption of innocence in their favor;
 - c. That all parties are entitled to an advisor of their choice;
 - d. That all parties can inspect and review evidence; and,
 - e. Information regarding any code of conduct provisions that prohibit false statements made in bad faith.

B. Dismissal of a Complaint.

1. In the event that prior to, or in the course of, an investigation, the university determines that the allegations fail to meet the definition of sexual harassment or did not occur while in the United States tional program or activity, the investigation and formal complaint will be dismissed. Formal complaints may still be resolved through an informal resolution process as outlined above or according to procedures set forth in the Code of Student Rights and Responsibilities.
2. The university reserves the right to dismiss the formal complaint and stop the investigation if:

- a. The complainant notifies the Title IX coordinator in writing that they wish to withdraw their formal complaint;
 - b. The respondent is no longer enrolled in or employed by the university; or
 - c. Specific circumstances prevent the school from gathering sufficient evidence to reach a determination about allegations (e.g. lack of participation in the investigative process by parties or witnesses).
3. If the university dismisses the formal complaint for any reason, either party may appeal the decision

C. Informal Resolution.

1. Informal resolution may be utilized in some circumstances if a formal complaint is filed.
2. The usage of an informal resolution process is limited in a number of ways:
 - a. Informal resolution is unavailable if the respondent is an employee of the school.
 - b. Informal resolution may only be used if any and all parties to an investigation agree to it.

2. Investigation

- a. Following the filing of a formal complaint, an investigator will be assigned to the case by the Title IX coordinator. During the investigation, the investigator will seek to meet separately with the complainant, respondent, and any relevant witnesses who may have information relevant to the incident. The investigator may also gather or request other relevant information or evidence when available and appropriate. Both the complainant and respondent will be asked to identify witnesses and provide other relevant information in a timely manner to facilitate prompt resolution of the case.
- b. Although both the complainant and respondent are advised to participate in the investigation process to enable a fair and equitable resolution to any case, neither the complainant nor the respondent are required to participate in the investigation process.
- c. Formal complaints of sexual harassment may be consolidated where the allegations arise out of the same facts or circumstances.
- d. During the investigation process, parties have an equitable right to:
 - (i) Receive notice of the allegations before participating in an interview with sufficient time to prepare for meaningful participation;
 - (ii) A process with reasonably prompt timeframes, with extensions for good cause, as described in the procedure section below;
 - (iii) Present relevant information to the investigator, including evidence and witnesses;
 - (iv) Receive timely and equal access to any relevant information, documentation, and evidence gathered during the investigation;

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3. Hearings

- a. All hearings are overseen by a decision maker(s). All decision maker(s) have received special training on how to be impartial and are assigned to cases by the Title IX coordinator to avoid any bias and present an objective analysis of the evidence. In no case is the investigator for a given case also the decision maker(s).
- b. The respondent is presumed not responsible for the alleged conduct until a determination regarding responsibility is made at the end of the investigation and hearings.
- c. The decision maker(s) will not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding the privilege has waived it.
- d. Credibility determinations may not be based on the testimony of a respondent, or witness.
- e. Hearings are not legal proceedings and do not follow courtroom procedure or the formal rules of evidence. During any hearings, each party must have an advisor present to ask questions to the other party. This advisor does not need to be licensed to practice law and may be a person of the party's choice. If a party does not have an advisor, the university will provide an advisor for them. Parties need to disclose the name, profession, and their relationship to the advisor at least two weeks prior to any hearing.
- f. Questioning and Cross-Examinations
 - (i) The decision maker(s) may question individual parties and witnesses.
 - (ii) Parties will have the opportunity to cross-examine the party or witness. Parties may never ask questions directly, and questions must be asked to the other party through the use of a questioner. Questions that are determined not to be relevant by the decision maker(s) are not required to be answered.
 - (iii) If a party or witness is absent from the live hearing or refuses to answer cross-examination or other questions, the decision maker(s) may not rely on any statement of that person in reaching a determination of responsibility. The decision maker(s) may not draw an inference from a party's or witness's failure to answer cross-examination or other questions.
- g. If, at any point during the hearing, the decision maker(s) determines that unresolved issues exist that could be clarified through additional investigation time, the decision maker(s) may suspend the hearing and reconvene it in a timely manner that accommodates further investigation.
- h. However, if either the complainant or respondent asks to be in separate rooms, the university must grant this request and provide appropriate technology to allow for simultaneous participation.
- i. All hearings will be memorialized through an audio or audiovisual record or transcript of the live hearing. The recording or transcript will be made available for parties to inspect and review following their completion.

4. Resolution

- a. The decision maker(s) will communicate their decision to both parties, concurrently. The decision maker(s) will communicate the decision in writing and orally as soon as possible after the hearing. In all cases, the decision maker(s) will send the parties a final outcome letter within

When an initial educational conference is held, the possible outcomes include:

1. A decision not to pursue the allegation based on a lack of or insufficient evidence. The matter should be closed and records should so indicate;
2. A decision on the allegation, also known as an informal or administrative resolution to an uncontested allegation (see immediately below);
3. A decision to proceed with additional investigation and/or referral for a formal resolution.

If a decision on the allegation is made, and the finding is that the respondent is not responsible for violating the code, the process will end. If the university finding is that the respondent is in violation, and the respondent accepts this finding within three days, the u
The administrator conducting the initial educational conference will then determine the sanction(s) for the misconduct, which the respondent may accept or reject. If accepted, the process ends.²

If the student accepts the findings, but rejects the sanction, the university will conduct an administrative hearing on the sanctions only, conducted by a student conduct hearing panel or hearing officer, which recommends a sanction to the dean of students or designee. The sanction is then reviewed and finalized by the dean of students or designee and is subject to appeal (see *Appeal Review Procedures* in Section O) by any party to the misconduct. Once the appeal is decided, the process ends.

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The *Code of Student Rights and Responsibilities* will be updated annually under the direction of the dean of students and will undergo a comprehensive revision process every three to five years.

Section Eight: Formal Conduct Procedures

A. University as Convener. Marian University is the convener of every action under this code. Within that action, there are several roles. The respondent is the person who is reported to have violated the code. The complainant, who may be a student, employee, visitor, or guest, may choose to be present and participate in the process as fully as the respondent. There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the information that the university has obtained regarding the allegations.

B. Group Violations. A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its member(s) take place at organization-sponsored or co-sponsored events, whether sponsorship is formal or tacit; and:

1. officers; or
2. were known or should have been known to the membership or its officers.

Investigations and reviews of a reported student group or organization misconduct follow the same general student conduct procedures. In any such action, individual determinations of responsibility will be made and sanctions may be assigned collectively and/or individually. These sanctions will be proportionate to the involvement of each individual and the organization.

C. Amnesty:

1. For Reporting Parties

The university provides amnesty to reporting parties who may be hesitant to report to university officials because they fear that they themselves may be accused of policy violations, such as underage drinking, at the time of the incident.

2. For Those Who Offer Assistance

A bystander is a witness or participant to an act of potential harm or misconduct who acts to stop, intervene, or protect in the situation. Members of the Marian University community are encouraged to find ways to successfully intervene to support and help each other. To encourage students to offer help and assistance to others, Marian University pursues a policy of amnesty for minor violations when students offer help to others in need (see Appendix C: Lifeline-Good Neighbor Policy).

Appropriate ways for bystanders to address situations may include:

- a. Intervening or confronting the violation in an effort to stop it;
- b. Contacting the appropriate staff members to address the violation; or
- c. Leaving the area where the violation was occurring (

Abuse of amnesty requests can result in a decision by the dean of students or designee not to extend amnesty to the same person repeatedly.

4. **Safe Harbor**

Marian University believes that students who have a drug or addiction problem deserve help. If any university student brings their own use, addiction, or dependency to the attention of university officials outside the threat of drug tests or conduct sanctions and seeks assistance, a conduct proceeding will not be pursued.

A written action plan may be used to track cooperation with the Safe Harbor program, and the student will be expected to sign releases that allow for effective monitoring of compliance. Failure to follow the action plan will nullify the Safe Harbor protection and student conduct processes will be initiated.

G. Interim Suspension. Under the *Code of*

6. Pertinent records, exhibits, and written statements may be accepted as information for consideration by the panel and the dean of students or designee. Formal rules of evidence are not observed. The dean of students or designee may limit the number of character witnesses presented or may accept written affidavits of character instead.
7. All procedural questions are subject to the final decision of the dean of students or designee.
8. After a panel hearing, the panel will deliberate and determine, by majority vote, whether it is more likely than not that the respondent has violated the *Code of Student Rights and Responsibilities*. The dean of students or designee will be present and available as a resource during all deliberations. Once

5. *Loss of Privileges*: The student will be denied specified privileges for a designated period of time.
6. *Confiscation of Prohibited Property*: Items whose presence is in violation of university policy will be confiscated and will become the property of the university. Prohibited items may be returned to the owner at the discretion of the dean of students or designee (or university police when applicable).
7. *Behavioral Requirement*: This includes required activities such as, but not limited to, seeking academic or personal counseling or substance abuse screening, at a cost to the student; writing a letter of apology, etc.
8. *Educational Program*

16. *University Suspension:* The student is separated from the university for a specified period of time, and upon the satisfaction of specific conditions, after which the student is eligible to return. The student is required to vacate the campus, including university housing, within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the dean of students or designee. This sanction may be enforced with a trespass action as necessary.
17. *University Expulsion:* The student is permanently separated from the university. The student is barred -sponsored activity or event is prohibited. This action may be enforced with a trespass action as necessary. Under this sanction, a student is required to vacate university housing within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the dean of students, director of housing and residence life, or designee. This sanction will be noted as a conduct expulsion
18. *Other Sanctions:* Additional or alternate sanctions may be created and designed as deemed appropriate to the offense with the approval of the dean of students or designee.

The following sanctions may be imposed upon groups or organizations found to have violated the *Code of*

them of situations in which there is a health or safety risk. The university also reserves the right to designate which university employees have a legitimate educational interest in individual conduct reports pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

- O. Appeal and Final Review.** Responding parties or reporting parties may petition the dean of students or designee for a review of a decision or sanction(s) within three business days of issuance of an administrative hearing officer conduct hearing sanctions. All requests for review must be in writing and delivered to the dean of students or designee. Any student who misses their initial hearing may not request a review of the initial decision.

If the dean of students or designee determines that a request for appeal is eligible to be reviewed, every opportunity will be taken, where possible, to return the report to the original administrative hearing officer or panel for reconsideration; full re-hearings should rarely be needed. The original administrative hearing officer or panel may support or change a decision and/or increase, decrease, or modify a sanction. When the dean of students or designee does not remand for reconsideration, the dean may support or change a decision and/or increase, decrease, or modify a sanction, but will be deferential to the original decision-maker, making changes to the finding only where there is clear error or to a sanction only if a compelling justification to do so exists, and only when a unanimous decision is reached.

In cases where the sanction of separation (suspension or expulsion) is possible or at the discretion of the dean of students or designee, the dean of students or designee will serve as the voting chair of a three-member appeals panel. In all other cases, the dean of students or designee will serve as the non-voting advisor to the panel with responsibility for training the panel, conducting preliminary investigations, and ensuring a fair process for the complainant and respondent.

Reviews will only be considered for one or more of the following purposes:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
2. To consider new information, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions fall outside the range of sanctions, if any, the university has designated for this offense. If no range of sanctions is specified, sanctions may be appealed on the basis that they are disproportionate to the severity of the violation(s).

Except as required to explain the basis of new information unavailable at the time of a hearing, review of a formal hearing will be limited to the verbatim record of the initial hearing and all supporting documents. Review of an informal hearing will be limited to the written record of the hearing and all supporting documents.

- P. Failure to Complete Conduct Sanctions.** All students, as members of the university community, are expected to comply with conduct sanctions within the timeframe specified by the dean of students, designee, or administrative hearing officer. Failure to follow through on conduct sanctions by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanctions, up to and including suspension from the university. In such situations, residential students will be required to vacate university housing within 24 hours of notification by the dean of students or designee, though this deadline may be extended upon application to, and at the discretion of, the dean of students, director of housing and residence life, or designee. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved, a decision t-19(e)44(a)4(l)305.ETb(th)-21160000070(i)38(o)-13ms

exam, informing another student of the contents of an exam before they take it, writing a paper for another student who subsequently submits it for course credit, and/or transmitting a false excuse for another student to a faculty member.

B. Charges, Procedures, and Sanctions. Suspected violations of this

1. **Purpose.** The purpose of the AIP is to determine if a violation occurred, determine the fairness of the original sanction, and/or impose one of the following sanctions:
 - a. *University Suspension.* The student is separated from the university for a specified period of time, and upon the satisfaction of specific conditions, after which the student is eligible to return. The student is required to vacate the campus, including university housing, within 24 hours of notification of the action, though this deadline may be extended upon application to, and at the discretion of, the dean of students or designee. This sanction may be enforced with a trespass action as necessary.
 - b. *University Expulsion.* The student is permanently separated from the university. The student is

The code

authorities and the university for acts that constitute violations of law and university policy. Student conduct action at the university will normally proceed *during* pending criminal proceedings and will not be subject to challenge on the ground that criminal charges involving the same incident have been dismissed or reduced.

Students need to be aware that any student convicted of a state or federal drug violation that occurred while enrolled and while receiving federal financial aid may be declared ineligible for future federal student aid for up to one year. Individuals convicted of both possession and selling may face a longer period of ineligibility. Students should contact the Office of Financial Aid to understand the full policy.

The university will notify parent(s)/legal guardians(s) of drug violations. The university encourages students who are experiencing substance abuse problems to seek assistance from resources a()10(n)-19(o)-19(t)-41(if)11(y)-19()10