

# 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, Responsible Stewardship,

#### Peace and Justice, Reconciliation

- **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:** Marian University students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors.
- **Respect:** Marian University students show positive regard for each other, for property and for the community.
- **Responsibility:** Marian University students are given and accept a high level of responsibility to self, to others and to the community.

Marian University students are responsible for knowing the information, policies and procedures outlined in this document as well as all other printed university policies (Student Athlete Handbook, Housing and Residence Life policies, IT Acceptable Use Policy, for example). The university reserves the right to make changes to this code as necessary, and once those changes are posted online, they are in effect. Students are encouraged to check online [[www.marian.edu/studentrights](http://www.marian.edu/studentrights)] for the updated versions of all policies and procedures.

## Section 1: Mission, Vision and Philosophy

The Marian University mission *is to be a Catholic university dedicated to excellent teaching and learning in the Franciscan and liberal arts tradition.*

Our vision is *to provide an education that profoundly transforms lives, society, and the world.*

The Marian University community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study and discourse. The student conduct procedure is committed to an educational and developmental process that balances the interests of individual students with the interests of the university community.

A community exists on the basis of shared values and principles. At the university, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the *Code of Student Rights and Responsibilities*. These standards are embodied within a set of core values that include integrity, social justice, respect, community and responsibility.

These core values are based on our Franciscan sponsorship values: *dignity of the individual, responsible stewardship, peace and justice and reconciliation*.

Each member of the university community bears responsibility for their conduct and assumes reasonable responsibility for the behavior of others. When members of the community fail to exemplify these five values by engaging in violation of the rules below, student conduct procedures are used to assert and uphold the *Code of Student Rights and Responsibilities*. Our campus welcomes students of all faiths who seek an educational experience that emphasizes a Franciscan understanding of these values.

The student conduct process at Marian University exists to protect the interests of the community and to challenge those whose behaviors are not consistent with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help them bring their behavior into accord with our community expectations. Students are encouraged to take responsibility for their actions, reconcile with the community and move forward in their personal and academic pursuits. When a student is unable to conform their behavior to community expectations, the student conduct process may determine that the student should no longer share in the privilege of participating in this community.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in the student conduct process are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Due process, as defined within these procedures, assures written notice and a hearing before an objective decision-maker. No student will be found in violation of university policy without information showing that it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

## **Section 2: Jurisdiction**

Students at Marian University are provided a copy of the *Code of Student Rights and Responsibilities* annually in the form of a link on the university's website and a hard copy in the Student Planner. Additional hard copies are available upon request from the Office of the Dean of Students. Students are responsible for reading and abiding by the provisions of the *Code of Student Rights and Responsibilities*.

The *Code of Student Rights and Responsibilities* and the conduct process apply to individual Marian University students including undergraduate, graduate, medical and other students participating in academic programs of the university. This code also applies to university-affiliated registered student organizations. For the purposes of student conduct, the university may consider an individual to be a student when an offer of admission has been extended and thereafter as long as the student has a continuing educational interest in the university.

The university retains conduct jurisdiction over students who choose to withdraw or have graduated for any misconduct that occurred prior to the withdrawal or graduation. If sanctioned, a hold may be placed on the student's ability to re-enroll or obtain official transcripts. All sanctions must be satisfied prior to re-enrollment eligibility or the degree may be revoked.

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 Google+, Facebook, Instagram and 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. A true threat defined as “a threat a reasonable person would interpret as a serious expression of intent to 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 witness statements and to make determinations regarding alleged violations. Though anonymous reports are permitted, doing so may limit the university’s ability to investigate and respond to a report. Those who are aware of misconduct are encouraged to report it as quickly as possible to university officials including the Dean of Students Office, and University Police.

Marian University email is the university’s primary means of communication with students. Students are responsible for all communication delivered to their university email address.

### **Section 3: 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 or report. 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 until such time as it can conduct an internal investigation or obtain sufficient information from law enforcement upon which to proceed. In cases governed by Title IX, this delay will be no longer than 10 business days from notice of the incident.

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 responding party must comply with all campus investigative efforts that will not prejudice their defense in the criminal trial;
2. The responding party must comply with all interim actions or restrictions imposed during the leave of absence; and
3. The responding party 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 4: 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 *Marian University 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;

10. **Conduct inconsistent with university mission and values.** Conduct which is inconsistent with the Franciscan goals and values that are an integral part of Marian University's Catholic and Franciscan educational mission;
11. **Riots.** Causing, inciting or participating in any disturbance that presents a clear and present danger to self or others, causes physical harm to others or destruction of property;
12. **Unauthorized Entry.** Misuse of access privileges to university premises or unauthorized entry to or use of buildings, including trespassing, propping or unauthorized use of alarmed doors for entry into or exit from a university building;
13. **Trademark.** Unauthorized use (including misuse) of university or organizational names and images;
14. **Damage and Destruction.** Intentional and unauthorized damage to or destruction of university property or the personal property of another;
15. **IT and Acceptable Use.** Violating the university's Acceptable Use Policy;
16. **Gambling.** Gambling as prohibited by the laws of the State of Indiana (may include raffles, lotteries, sports pools and online betting activities);
17. **Weapons.** Possession, use or distribution of explosives (including fireworks and ammunition), firearms (including air guns, BB guns, paintball, Tasers, facsimile weapons and pellet guns) except as permitted by law, or other weapons or dangerous objects such as arrows, axes, machetes, nun chucks, throwing stars or knives, including the storage of any item that falls within the category of a weapon in a vehicle parked on university property;
18. **Tobacco.** Smoking or tobacco use, including electronic cigarettes and similar devices, in any area of campus;
19. **Fire Safety.** Violation of local, state, federal or campus fire policies including, but not limited to:
  - a. Intentionally or recklessly causing a fire which damages university or personal property or which causes injury;
  - b. Failure to evacuate a university-controlled building during a fire alarm;
  - c. Improper use of university fire safety equipment; or
  - d. Tampering with or improperly engaging a fire alarm or fire detection/control equipment while on university property. Such action may result in a local fine in addition to university sanctions;
20. **Ineligible Affiliation.** Students must be in good academic standing to be eligible to join a university-affiliated registered student organization. Additionally, students are not permitted to join a social Greek organization without permission of Marian University and prior to completion of 12 credit hours taken on a full time basis (dual credit, AP credit and CLEP credit do not count toward this requirement). Last semester grades are based on full time status. Some organizations may require a higher GPA;
21. **Animals.** Animals, with the exception of service animals and those listed in the Housing and Residence Life policies/contracts, are not permitted on campus;
22. **Wheeled Devices.** The use of skateboards, roller blades, roller skates, bicycles and similar wheeled devices inside university buildings, residence halls or on tennis courts is not permitted. Additionally, skateboards and other wheeled items may not be ridden on railings, curbs, benches or any such fixtures, which may be damaged by these activities. Hover-boards are not permitted anywhere on campus. Individuals may be liable for damage to university property caused by these activities. Bicycles may be stored in a students assigned residence hall room.

***Social Justice: Marian University students are just and equitable in their treatment of all members of the community and act to discourage and/or intervene to prevent unjust and inequitable behaviors. Conduct that violates this value includes, but is not limited to:***

23. **Discrimination.** Any act or failure to act that is based upon actual or perceived status (sex, gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, sexual orientation, pregnancy status, religion or other protected status) that is sufficiently severe that it limits or denies the ability to participate in or benefit from the university's educational program or activities;

- 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 in or benefit from the university's educational program or activities;
- 24. **Retaliatory Discrimination or Harassment.** Any intentional, adverse action taken by a responding party 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. Attempting to discourage an individual's proper participation in, or use of, the student conduct process;
  - d. Harassment (verbal or physical) or intimidation of a member of a student conduct investigation or hearing committee prior to, during, or following a student conduct proceeding;
  - e. Failure to comply with the sanction(s) imposed by the student conduct process; or
  - f. Influencing, or attempting to influence, another person to commit an abuse of the student conduct process.

**Respect: Marian University students show positive regard for each other, for property and for the community. Behavior that violates this value includes, but is not limited to:**

- 27. **Harm to Persons.** Intentionally or recklessly causing physical harm or endangering the health or safety of any person;
- 28. **Threatening Behaviors:**
  - a. **Threat.** Written or verbal conduct that causes a reasonable expectation of injury to the health or safety of any person or damage to any property;
  - b. **Intimidation.** Intimidation defined as implied threats or acts that cause a reasonable fear of harm in another person;
- 29. **Bullying and Cyber-bullying.** Bullying and cyber-bullying are repeated and/or severe aggressive behaviors that intimidate or intentionally harm or control another person physically or emotionally, and are not protected by freedom of expression;
- 30. **Hazing.** Defined as an act that endangers the mental or physical health or safety of a student, or that 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;
  - a. Participation or cooperation by the person(s) being hazed does not excuse the violation;
  - b. Failing to intervene to prevent, discourage or report those acts may also violate this policy;
  - c. Includes any act that violates state or federal hazing statutes;
- 31. **Domestic Violence.** Acts of violence by a current or former spouse of the reporting party, by a person with whom the reporting party shared a child in common, by a person who is cohabitating with or has

cohabitated with the reporting party as a spouse, by a person similarly situated to a spouse of the reporting party, or by any other person against an adult or youth reporting party who is protected from that person's acts under law;

32. **Dating/Intimate Partner/Relationship Violence.** Intimate Partner Violence is defined as the use of physical violence, coercion, threats, intimidation, isolation, stalking or other forms of emotional, sexual or economic abuse directed towards a partner who is or has been in a dating relationship of a romantic or intimate nature;
33. **Stalking.** Stalking is a course of conduct directed at a specific person that is unwelcome and would cause a reasonable person to fear for their safety or the safety of others; or suffer substantial emotional distress;
34. **Sexual Misconduct.** Includes, but is not limited to, sexual harassment, non-consensual sexual contact, non-consensual sexual intercourse, or sexual exploitation (see Appendix D and E, Sexual Harassment and Sexual Misconduct Policy for further information);
35. **Public Exposure.** Includes deliberately and publicly exposing one's intimate body parts, public urination, defecation and public sex acts.

**Responsibility: Marian University students are given and accept a high level of responsibility to self, to others and to the community. Behavior that violates this value includes, but is not limited to:**

36. **Alcohol.** Use, possession or distribution of alcoholic beverages or paraphernalia except as expressly permitted by law and university policy (see Appendix A);
37. **Drugs.** Use, possession or distribution of illegal drugs and other controlled substances or drug paraphernalia except as expressly permitted by law and the university's drug policy (see Appendix B);
38. **Prescription Medications.** Abuse, misuse, sale or distribution of prescription or over-the-counter medications;
39. **Failure to Comply.** Failure to comply with the directives of university officials or law enforcement officers during the performance of their duties or failure to identify oneself to these persons when requested to do so;
40. **Financial Responsibilities.** Failure to promptly meet financial responsibilities to the institution, including, but not limited to; knowingly passing a worthless check or money order in payment to the institution or to a member of the institution acting in an official capacity;
41. **Arrest.** Failure of any student to report an arrest (including non-custodial or field arrests) by any law enforcement agency within seventy-two (72) hours of release regarding the allegations and charges to the Dean of Students;
42. **Health and Safety.** Creation of health or safety hazards (dangerous pranks, hanging out of or climbing from/on/in windows, balconies, roofs, etc.), to include failure to comply with university medical records or immunization policies;
43. **Violations of Law.** Evidence of violation of local, state or federal laws, when substantiated through the university's student conduct process;
44. **Other Policies.** Violating other published university policies or rules, including all Housing and Residence Life policies.

## Section 5: Overview of the Conduct Process

This overview gives a general idea of how the university's conduct proceedings work, but it should be noted that not all situations are of the same severity or complexity. Thus, these procedures are flexible, and are not exactly the same in every situation, though consistency in similar situations is a priority. The student conduct

process and all applicable timelines commence with notice to an administrator of a potential violation of university rules.<sup>1</sup> Definition of terms used in the student conduct process are as follows:

1. Responding party – the person who is reported to have violated the code;
  2. Reporting party – may be a student, employee, visitor or guest who reports that another member of the university community violated the code. This person may have witnessed the violation or the violation happened to them;
  3. Witness – person who may offer information regarding the alleged policy violation;
  4. Educational conference – initial meeting of a responding party with an investigator or administrative hearing officer. This meeting includes an overview of the student conduct process and an initial investigation into the alleged policy violation;
  5. Investigator – Marian University staff member whose role is to look into policy violations by interviewing the parties involved. This person then presents the allegations and shares the information that the university has obtained regarding the investigations;
  6. Administrative hearing – An informal hearing, where a hearing officer invokes procedures to determine and administer appropriate sanctions without a formal hearing;
  7. Administrative hearing officer – Marian University staff member who hears reports and determines the findings and sanctions for administrative, or informal, hearings;
  8. Formal hearing – In cases where the alleged policy violation is contested by the responding party, a hearing may be held before a student conduct hearing panel or the Dean of Students or designee;
  9. Student conduct hearing panel – A representative group of students, faculty, and staff who have been trained to review certain serious or continued incidents of reported student misconduct on behalf of the university. The pool is comprised of at least 4 students, 3 faculty, and 3 staff/administrative members appointed and trained annually by the Dean of Students or designee.
- A. Notice.** Once notice is received from any source (reporting party, resident assistant, third party, online, etc.), the university may proceed with a preliminary investigation and/or may schedule an initial educational conference with the responding party to explain the conduct process to the responding party and gather information.
- B. Preliminary Inquiry and/or Educational Conference.** The university conducts a preliminary inquiry into the nature of the incident, report or notice, the evidence available and the parties involved. The preliminary inquiry may lead to:
1. A determination that there is insufficient evidence to pursue the investigation because the behavior alleged, even if proven, would not violate the Code of Student Rights and Responsibilities, (e.g.: for reasons such as mistaken identity or allegations of behavior that falls outside the code);
  2. A more comprehensive investigation when it is clear more information must be gathered;
  3. A formal report of a violation and/or an educational conference with the responding party.

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 responding party is not responsible for

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<sup>1</sup> In Title IX related issues, the “administrator” is any “responsible employee” as defined under Title IX and/or campus policy.



violating the code, the process will end. **[The reporting party may request that the Dean of Students or designee and/or the Title IX Coordinator/Deputy Coordinators reopen the investigation and/or grant a hearing. This decision shall be in the sole discretion of the Dean of Students or designee and the Title IX Coordinator and will only be granted for extraordinary cause].** If the university finding is that the responding party is in violation, and the responding party accepts this finding within three days, the university considers this an “uncontested allegation.” The administrator conducting the initial educational conference will then determine the sanction(s) for the misconduct, which the responding party may accept or reject. If accepted, the process ends<sup>2</sup>.

If 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.

If the administrator conducting the educational conference determines that it is more likely than not that the responding party is in violation, and the responding party rejects that finding in whole or in part, then it is considered a contested allegation and the process moves to Step 2.

- C. **Formal Hearing.** In a contested allegation, additional investigations may then commence and/or a hearing may be held when there is reasonable cause to believe that a policy or policies have been violated. A formal notice of the report will be issued, and a hearing will be held before a student conduct hearing panel, or Dean of Students or designee. A finding will be determined and is final except in cases that involve Title IX or other discrimination allegations. In those cases, the hearing results serve as a recommendation to the Dean of Students or designee and, where appropriate, the Title IX Coordinator or Deputy Title IX Coordinators who review and finalize the finding.<sup>3</sup> If the finding is that the responding party is not responsible, the process ends. Applicable appeals options are described below.
- D. **Review and Finalize Sanction(s).** If the responding party is found in violation, sanctions will be recommended by the student conduct hearing panel or hearing officer to the Dean of Students or designee **[and Title IX Coordinator or Deputy Coordinators when applicable]**, who will review and finalize the sanctions, subject to the university appeals process by any party to the report.

## **Section 6: Student Conduct Authority**

- A. **Authority.** The authority to enact and enforce policies of the university is vested in the President of the university by the Board of Trustees. The responsibility for enforcing these policies may be delegated to any university official the President designates. The Dean of Students is the principal officer for all non-academic conduct.

At Marian University, the Dean of Students works collaboratively with the Office of Housing and Residence Life to oversee and manage day-to-day operations of the student conduct process. The Dean of Students may appoint administrative, investigative, hearing and appeals officers as deemed necessary to efficiently and effectively supervise the student conduct process. Academic Deans are the principal officers for all academic discipline.

- B. **Gatekeeping.** No report will be forwarded for a hearing unless there is reasonable cause to believe a policy has been violated. Reasonable cause is defined as some credible information to support each element of the

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<sup>2</sup> In cases of minor misconduct, both steps in this paragraph can be accomplished in one meeting.

<sup>3</sup> The findings of the hearing should only be overturned or modified when necessary to conform to Title IX and/or to repair error that would result in appeal.

offense, even if that information is merely a credible witness or a reporting party's statement. A report wholly unsupported by any information will not be forwarded for a hearing.

**C. Conflict Resolution Options.** The Dean of Students or designee has discretion to refer a report for mediation or other forms of appropriate conflict resolution. All parties must agree to mediation and to be bound by the decision with no review/appeal. Any unsuccessful mediation can be forwarded for formal processing and hearing; however, at no time will reports of physical sexual misconduct or violence be mediated as the sole institutional response. The Dean of Students or designee may also suggest that reports that do not involve a violation of the *Code of Student Rights and Responsibilities* be referred for mediation or other appropriate conflict resolution.

**D. The University Student Conduct Hearing Panel.** The university Student Conduct Hearing Panel is a representative group of students, faculty, and staff who have been trained to review certain serious or continued incidents of reported student misconduct on behalf of the university. The pool is comprised of at least 4 students, 3 faculty, and 3 staff/administrative members appointed and trained annually by the Dean of Students or designee.

For each report, a panel will be chosen from the available pool, and is usually comprised of at least one student, one faculty member, and one staff member or administrator. In reports involving discrimination, sexual misconduct, or other sensitive issues, the committee will usually consist of three staff or administrative members. The Dean of Students or designee serves as the non-voting chair of the committee and assures that university procedures are followed throughout the hearing.

To serve in the panel pool, students must:

1. Be in academic good standing and have completed 15 hours of academic credit at Marian University;
2. Hold a prior-semester and cumulative GPA of at least 2.5; and
3. Be in conduct good standing throughout the semester in which they serve. Conduct good standing is defined as having no record of misconduct during the semester(s) in which a student wishes to serve on the panel. Any history of misconduct could disqualify a student for service.

**E. Administrative Hearing Officers.** Administrative Hearing Officers (AHO) are chosen from a pool of trained administrators or staff members selected by the Dean of Students or designee.

**F. Appeals Panels Membership.** Three-member Appeals Panels are drawn from the University Student Conduct Hearing Panel pool, with the only requirement being that they did not serve on the panel for the initial hearing. Appeals Panels review appeals requested by any party to a report.

Decisions made and sanctions recommended by the panel or an Administrative Hearing Officer (AHO) will be final and implemented, pending the normal review process. At the discretion of the Dean of Students or designee, implementation of sanctions may be stayed pending review.

The Dean of Students or designee will have final authority to approve all those serving on the panel. In the event of a resignation from the panel, the Dean of Students or designee will solicit a replacement.

**G. Interpretation and Revision of the Code of Student Rights and Responsibilities.** The Dean of Students will develop procedural rules for the administration of hearings that are consistent with provisions of the *Code of Student Rights and Responsibilities*. Material deviation from these rules will, generally, only be made as necessary and will include advance notice to the parties involved. The Dean may vary procedures with notice upon determining that changes to law or regulation require policy or procedural alterations not reflected in this code. The Dean may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party. Any question of interpretation of the *Code of Student Rights and Responsibilities* will be referred to the Dean of Students.

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 3-5 years.

## Section 7: 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 responding party is the person who is reported to have violated the code. The reporting party, who may be a student, employee, visitor or guest, may choose to be present and participate in the process as fully as the responding party. 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. have received the consent or encouragement of the organization or of the organization's leaders or 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: Indiana Lifeline Law Appendix C)

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 (where a risk of serious harm exists, merely leaving will not be appropriate).

At the discretion of the Dean of Students or designee, and in keeping with Indiana Lifeline law, amnesty may also be extended on a case-by-case basis to the person receiving assistance. Educational options will be explored, but no conduct proceedings will result.

**3. For Those Who Report Serious Violations**

Students who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the university may be offered amnesty for their minor violations. Educational options will be explored, but if offered amnesty, no conduct proceedings will result.

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 by the student, 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.

#### **D. Reporting of Alleged Violation(s).** Any member of the Marian University community, visitor or guest may report a policy violation(s) by any student for misconduct under this code to the Dean of Students, University Police, Housing and Residence Life, or the university's Title IX Coordinator or Deputy Title IX Coordinators.

*Marian University employees must promptly report an alleged student violation of the university's discrimination or sexual harassment policy to the Title IX Coordinator. Marian University mental and health care providers and clergy acting in their professional capacities are exempt from this requirement.*

*Additionally, to meet the university's obligation under federal law, if the violation of policy includes crimes that must be reported under the Clery Act reportable crimes, the employee and Title IX Coordinator must immediately notify the University Police to determine whether a Timely Warning is necessary or required.*

The university, through the Dean of Students or designee, may act on reports of a potential violation whether a formal report is made or not. All reports can be submitted by a reporting party or a third party, and should be submitted as soon as possible after the event occurs. The university has the right to pursue an allegation or report of misconduct on its own behalf and to serve as convener of the subsequent conduct process.

Once a determination is made that reasonable cause exists for the designated conduct administrator to refer a report for a conduct meeting, notice will be given to the responding party. Notice will be in writing and may be delivered by one or more of the following methods: in person by the designated conduct administrator; mailed to the local or permanent address of the student as indicated in official university records; or emailed to the student's university-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

1. Include the alleged violation and notification of where to locate the *Code of Student Rights and Responsibilities* and university procedures for resolution of the report; and
2. Direct the responding party to contact the conduct administrator or designee within a specified period of time to respond to the report. This time period will generally be no less than two business days from the date of delivery of the letter of notice.

A meeting with the Dean of Students, Director of Housing and Residence Life or designee may be arranged to explain the nature of the report and the conduct process. At this meeting, the responding party may indicate, either verbally or in writing, to the Dean of Students, Director of Housing and Residence Life or designee, whether they admit or deny the allegations of the report.

The Dean of Students or designee will assume responsibility for the investigation of the alleged violation as described in the section below.

- E. Investigation.** The Dean of Students or designee will appoint an investigator(s) for allegations under this code.<sup>4</sup> The investigator(s) will take the following steps, if not already completed by the Dean of Students or designee:
1. Initiate any necessary remedial actions on behalf of the reporting party (if any);
  2. Determine the identity and contact information of the reporting party, whether that person is the initiator of the report, the alleged victim, or a university proxy or representative;
  3. Conduct an immediate preliminary investigation to identify an initial list of all policies that may have been violated and to review the history of the parties, the context of the incident(s), any potential patterns and the nature of the report;
    - a. If the reporting party is reluctant to pursue the report, determine whether the report should still be pursued and whether sufficient independent evidence could support the report without the participation of the reporting party;
    - b. Notify the reporting party of whether the university intends to pursue the report regardless of their involvement, and inform the reporting party of their rights in the process and option to become involved if they so choose;
    - c. Preliminary investigation usually takes between 1-7 business days to complete;
  4. If indicated by the preliminary investigation and authorized by the Coordinator or Dean of Students or designee, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding party violated university policy, and to determine what specific policy violations should serve as the basis for the report;
    - a. If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action;
    - b. A comprehensive investigation usually takes between one day and two weeks;
  5. Meet with the reporting party to finalize the reporting party's statement, which will be drawn up by the investigator or designee as a result of this meeting;
  6. Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who may be given notice of the interview prior to or at the time of the interview;
    - a. Prepare the notice of alleged policy violation(s) on the basis of the reasonable cause determination, which may be delivered prior to, during or after the responding party is interviewed, at the discretion of the investigator(s);
  7. Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy;
  8. Obtain all documentary evidence and information that is available;
  9. Obtain all physical evidence that is available;
  10. Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline;
  11. Make a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
  12. Present the investigation report and findings to the responding party, who may:
    - a. accept the findings,

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<sup>4</sup> For any report that falls under Title IX (e.g. sexual misconduct) or involves any other form of discrimination, the Conduct Administrator/designee will work under the direction of the Title IX Coordinator.

- b. accept the findings in part and reject them in part, or
- c. may reject all findings;

13. Share the findings and update the reporting party on the status of the investigation and the outcome.

**F. Findings.** The following options (1-3) describe how to proceed depending on whether the responding party is found responsible and whether the responding party accepts or rejects the findings and/or the sanctions either in whole or in part.

1. **The Responding Party is Found Not Responsible.** Where the responding party is found not responsible for the alleged violation(s), the investigation will be closed. The reporting party, if any, may request that the Dean of Students and/or Title IX Coordinator or designee, as applicable, review the investigation file to possibly re-open the investigation or convene a hearing. The decision to re-open an investigation or convene a hearing rests solely in the discretion of the Title IX Coordinator, the Dean of Students or designee in these cases, and is granted only on the basis of extraordinary cause.

2. **The Responding Party Accepts a Finding of Responsible.**

a. **The Responding Party Accepts a Finding of Responsible and Accepts the Recommended Sanctions.** Should the responding party accept the finding that they violated university policy, the investigator will recommend appropriate sanctions for the violation, having consulted with the Dean of Students or designee and/or Title IX Coordinator, as appropriate. In cases involving discrimination, recommended sanctions will act to end the discrimination, prevent its recurrence and remedy its effects on the reporting party and the university community. If the responding party accepts these recommended sanctions, the sanctions are implemented by the Dean of Students or designee and the process ends. **There will be a three-day period for review between the date of acceptance and when the resolution becomes final. Should the responding party decide to reject the sanctions within that time period, Option 2B, below, will apply.** This outcome is not subject to appeal after the three-day period for review.

b. **The Responding Party Accepts a Finding of Responsible and Rejects the Sanctions Recommended.** If the responding party accepts the finding of responsible, but rejects the recommended sanctions, there will be an administrative hearing on the sanction, only. Administrative hearing procedures are detailed below.

3. **Responding Party Rejects the Findings Completely or In-part**

a. **Responding Party Rejects the Findings Completely.** Where the responding party rejects the finding that they violated university policy, a formal hearing will be convened within seven business days, barring exigent circumstances.

At the hearing, the investigator(s) will present their report to the panel, the panel will hear from the parties, and any necessary witnesses. The investigation report will be considered by the panel, which renders an independent and objective finding. Full panel procedures are detailed below.

If the panel finds the responding party not responsible for all violations, the Dean of Students or designee will timely inform the parties of this determination and the rationale for the decision in writing. This determination is subject to appeal by any party to the report. Appeal review procedures are outlined below.

If the panel finds a violation, it will recommend a sanction to the Dean of Students or designee, who will confer with the Title IX Coordinator or Deputy Coordinators as

necessary, and render a decision within seven (7) days of the hearing and timely notify the parties orally, as well as in writing. An appeal of sanction(s) may be filed by any party to the report as detailed below.

- b. Responding Party Accepts the Findings in Part and Rejects in Part.** Where the responding party rejects in part the finding that they violated university policy, there will be a panel hearing solely on the disputed allegations within seven (7) days, barring exigent circumstances. For all findings holding a responding party responsible for a violation, the university will follow the sanctioning process detailed below. If the panel finds the responding party not responsible on any of the contested allegations, the process will move to the sanctioning phase on only the uncontested allegations, as detailed below.

- G. Interim Suspension.** Under the *Code of Student Rights and Responsibilities*, the Dean of Students or designee may impose restrictions, including separating a student from the community, pending the scheduling of a hearing on alleged violation(s) of the *Code of Student Rights and Responsibilities* when a student represents a threat of serious harm to others, is facing allegations of serious criminal activity, to preserve the integrity of an investigation, to preserve university property or to prevent disruption of, or interference with, the normal operations of the university. A student who receives an interim suspension may request a meeting with the Dean of Students or designee to demonstrate why an interim suspension is not merited. Regardless of the outcome of this meeting, the university may still proceed with the scheduling of a hearing.

During an interim suspension, a student may be denied access to university housing, the university campus, facilities, or events. As determined appropriate by the Dean of Students or designee this restriction may include classes or all other university activities or privileges for which the student might otherwise be eligible. At the discretion of the Dean of Students or designee and with the approval of, and in collaboration with, the appropriate Academic Dean(s), alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

- H. Notice of Hearing.** Once a determination is made that reasonable cause exists for the Dean of Students or designee to refer a report for a hearing, notice will be given to the responding party. Notice will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students or designee; mailed to the local or permanent address of the student as indicated in official university records; or emailed to the student's university issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered. The letter of notice will:

1. Include the alleged violation and notification of where to locate the *Code of Student Rights and Responsibilities* and university procedures for resolution of the report; and
2. Direct the responding party to contact the Dean of Students or designee within a specified period of time to respond to the report. This time period will generally be no less than two days<sup>5</sup> from the date of delivery of the letter of notice.

A meeting with the Dean of Students or designee may be arranged to explain the nature of the report and the conduct process. At this meeting, the responding party may indicate, either verbally or in writing, whether they admit to or deny the allegations of the report.

- I. Hearing Options and Preparation.** The following sections describe the university's conduct hearing processes. Except in a report involving failure to comply with the summons of the Dean of Students or designee, no student may be found to have violated the *Code of Student Rights and Responsibilities* solely as a result of the student's failure to appear for a hearing. In all such instances, conduct hearings will proceed as scheduled and the information in support of the report will be presented to,

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<sup>5</sup> "Day", used throughout this document, refers to normal business days when the university is in operation.

and considered by, the Dean of Students or designee, Administrative Hearing Officer or panel presiding over the hearing.

Where the responding party admits to violating the *Code of Student Rights and Responsibilities*, the Dean of Students, designee or Administrative Hearing Officer may invoke administrative hearing procedures to determine and administer appropriate sanctions without a formal hearing. This process is also known as an *administrative hearing*. In administrative hearings, reports will be heard and determinations will be made by an Administrative Hearing Officer.

Where the responding party denies violating the *Code of Student Rights and Responsibilities*, the Dean of Students or designee has the discretion to arrange either an administrative or a formal hearing to resolve any misconduct allegation.

The formal hearing process is known as a student conduct panel hearing. At the discretion of the Dean of Students or designee, a request by one or more of the parties to the report for an administrative hearing may also be considered. Students who deny a violation for which a panel hearing will be held will be given a minimum of five (5) business days to prepare for a formal hearing unless all parties wish to proceed more quickly. Preparation for a formal hearing is summarized in the following guidelines:

1. Notice of the time, date and location of the hearing will be in writing and may be delivered by one or more of the following methods: in person by the Dean of Students or designee; mailed to the local or permanent address of the student as indicated in official university records; or emailed to the student's university-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
2. If there is a reporting party of the conduct in question, the initial reporting party may serve as the reporting party at the hearing or may elect to have the university administration serve as reporting party. Where there is no reporting party, the university administration will serve as reporting party.
3. If a responding party fails to respond to notice from the Dean of Students or designee, the Dean of Students or designee may initiate a report against the student for failure to comply with the directives of a university official and give notice of this offense. Unless the student responds to this notice within two (2) university business days by answering the original notice, an administrative hearing may be scheduled and held on the student's behalf and the student may be administratively withdrawn from attending classes or a disciplinary hold may be placed on their university account, deeming them ineligible to register for courses or university housing until such time as the student responds to the initial report.
4. At least three (3) business days before any scheduled formal hearing, the following will occur:
  - a. If requested, the responding party will deliver to the Dean of Students or designee a written response to the report;
  - b. The responding party will deliver to the Dean of Students or designee a written list of all witnesses they wish the university to call at the hearing;
  - c. The responding party will deliver to the Dean of Students or designee all physical evidence they intend to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known;
  - d. The reporting party will deliver to the Dean of Students or designee a written list of all witnesses they wish the university to call at the hearing;
  - e. The reporting party will deliver to the Dean of Students or designee all items of physical evidence they intend to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known; and
  - f. The reporting party and the responding party will notify the Dean of Students or designee of the names of any advisors/advocates who may be accompanying the parties at the hearing.



- i. The Dean of Students or designee will ensure that the hearing information and any other available written documentation is shared with the reporting party and the responding party at least two (2) business days before any scheduled hearing. In addition, the parties will be given a list of the names of all the panelists in advance. Should either party object to any panelist, they must raise all objections, in writing, to the Dean of Students or designee immediately. Hearing officers will only be unseated if the Dean of Students or designee concludes that their bias precludes an impartial hearing of the report. Additionally, any panel or Administrative Hearing Officer who feels they cannot make an objective determination must recuse themselves from the proceedings.

**J. Special Hearing Provisions for Sexual Misconduct, Discrimination and Other Reports of a Sensitive Nature.** All hearings under this section will be conducted by a three member administrative panel drawn from the Equity Dispute Resolution Panel (EDRP) pool. For sexual misconduct, discrimination and other reports of a sensitive nature, whether the initial reporting party is serving as the reporting party to the hearing or as a witness, alternative testimony options may be provided, such as placing a privacy screen in the hearing room or allowing the reporting party to testify from another room via Skype, a closed circuit television or similar technology. While these options are intended to help make the reporting party more comfortable, they are not intended to work to the disadvantage of the responding party.

The past sexual history or sexual character of a party will not be admissible by the other parties in hearings unless such information is determined to be highly relevant by the panel chair. All such information sought to be admitted by a party or the university will be presumed irrelevant until a showing of relevance is made, in advance of the hearing, to the chair. Demonstration of pattern, repeat or predatory behavior by the responding party will always be relevant. The parties will be notified in advance if any such information is deemed relevant and will be admitted in the hearing.

The reporting party in any report alleging sexual misconduct will be notified in writing of the outcome of a hearing, any sanctions assigned and the rationale for the decision; have the right to a review if the appeal criteria is met; and be kept apprised of the status of the investigation and any appeal requests by the responding party.

**K. Hearing Procedures.** The Dean of Students or designee may serve as a non-voting chair of the panel or appoint one panelist as the chair for the hearing. The reporting party and the responding party have the right to be present at the hearing; however, they do not have the right to be present during deliberations. If a party cannot attend the hearing, it is that party's responsibility to notify the Dean of Students or designee no less than three (3) days prior to the scheduled hearing to arrange for another date, time and location.

1. Except in cases of grave or unforeseen circumstances, if the responding party fails to give the required minimum three (3) day notice, or if the responding party fails to appear, the hearing will proceed as scheduled. If the reporting party fails to appear, the report may be dropped unless the university chooses to pursue the allegation on its own behalf, as determined by the Dean of Students or designee.

The Dean of Students or designee and the panel will conduct panel hearings according to the following guidelines:

1. Hearings will be closed to the public.
2. Admission to the hearing of persons other than the parties involved will be at the discretion of the panel chair and the Dean of Students or designee.
3. In hearings involving more than one responding party, the standard procedure will be to hear the reports jointly; however, the Dean of Students or designee may permit the hearing pertinent to each

responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

4. The reporting party and responding party have the right to an advisor of their own choosing. Advisors are typically chosen *only* from within the current university community, and any member of the panel pool who is not empaneled in the report, has specific training and experience in the conduct process and is available to serve as an advisor to a party. The Dean of Students or designee can arrange to pair available panelists with the parties on request. [In the rare instance where civil or criminal court proceedings currently involve a party to the report or at the discretion of the Dean of Students or designee, legal counsel may be permitted to serve as an advisor.] This advisor may not make a presentation or represent either party during the hearing.
5. The reporting party, the responding party, the panel and the Dean of Students or designee will have the privilege of questioning all present witnesses and questioning all present parties (directly or through the chair, at the discretion of the chair). Unduly repetitive witnesses can be limited at the discretion of the panel chair or the Dean of Students or designee.
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 responding party 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 a finding is determined, if the finding is that of a policy violation, the panel will determine an appropriate sanction(s). The Dean of Students or designee is responsible for informing the panel of applicable precedent and any previous conduct violations or other relevant pattern information about the responding party. The panel chair will prepare a written deliberation report and deliver it to the Dean of Students or designee, detailing the recommended finding, how each member voted, the information cited by the panel in support of its recommendation, and any information the panel excluded from its consideration and why. This report should conclude with any recommended sanctions. This report should not exceed two pages in length and must be submitted to the Dean of Students or designee within two (2) days of the end of deliberations.
9. The Dean of Students or designee will consider the recommendations of the panel, may make appropriate modifications to the panel's report and will then render a decision and inform the responding party and reporting party (if applicable by law or university policy) of the final determination within seven (7) business days of the hearing. Notification will be made in writing and may be delivered by one or more of the following methods: in person by the Dean of Students or designee; mailed to the local or permanent address of the party as indicated in official university records; or emailed to the party's university-issued email account. Once mailed, emailed and/or received in-person, such notice will be presumptively delivered.
10. There will be a single verbatim record, such as an audio recording, for all panel hearings. Deliberations will not be recorded. The record will be the property of the university and maintained according to the university's record retention policy.

**L. Conduct Sanctions.** One or more of following sanctions may be imposed upon any student for any single violation of the *Code of Student Rights and Responsibilities*. This includes all university policies, e.g. *Housing and Residence Life; Athletic; Academic; IT Acceptable Use, etc.* On inquiry, the Office of the Dean of Students or designee may -- as permitted by law or with consent of the student -- release information regarding conduct records and sanctions to employers, licensing agencies, certifying boards, graduate programs, government background inspectors and transfer institutions.

1. *Warning*: A written notice will be sent to the student(s) who violated university policies or rules. It specifies that inappropriate and unacceptable actions have occurred and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at the university.
2. *Restitution*: Compensation for damage caused to the university or any person's property. This is not a fine but, rather, a repayment for property destroyed, damaged (such as actual repair costs, including labor and materials), consumed or stolen.
3. *Fines*: Reasonable fines may be imposed. Fines may include: Alcohol related activities – fines in increments of \$25 to \$350; Damages – actual repair costs, including labor and materials; Non-compliance with discretionary sanctions - \$25 per hour for service not performed; Failure to return a reserved space to proper condition – labor costs and expenses. See the Office of Student Success and Engagement for additional fine information.
4. *Community/University Service Requirements*: For a student or organization to complete a specific supervised university/community service, for the number of hours specified.
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*: Requirement to attend, present, market/design or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others on campus to aid them in learning about a specific topic or issue related to the violation for which the student or organization was found responsible. Audience may be restricted. A reflection paper regarding the violation/topic may be assigned.
9. *Restriction of Visitation Privileges*: May be levied on residential or non-residential student. The parameters of the restriction will be specified.
10. *University Housing Probation*: The student is put on official notice that, should further violations of Housing and Residence Life or university policies occur during a specified probationary period, the student may immediately be removed from university housing. Regular probationary meetings may also be imposed.
11. *University Housing Reassignment*: The student is assigned to another university housing facility. Housing and Residence Life personnel will decide on the reassignment details.
12. *University Housing Suspension*: The student is removed from university housing for a specified period of time after which the student is eligible to return. Conditions for re-admission to university housing may be specified. 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 Director of Housing and Residence Life. This sanction may be enforced with a trespass action if deemed necessary. Prior to reapplication for university housing, the student must gain permission from the Director of Housing and Residence Life or designee.
13. *University Housing Expulsion*: The student's privilege to live in or visit any university housing structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary.

14. *University Probation*: The student is put on official notice that, should further violations of university policies occur during a specified probationary period, the student may face suspension or expulsion. Regular probationary meetings may also be imposed.
15. *Eligibility Restriction*: The student is deemed “not in disciplinary good standing” with the university for a specified period of time. Specific limitations or exceptions may be granted by the Dean of Students or designee and terms of this conduct sanction may include, but are not limited to, the following:
  - a. Ineligibility to hold any office in any student organization recognized by the university or hold an elected or appointed office at the university; or
  - b. Ineligibility to represent the university to anyone outside the university community in any way including: participating in the study abroad program, attending conferences, or representing the university at an official function, event or intercollegiate competition as a player, manager or student coach, etc.
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 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 from being on campus and the student’s presence at any university-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 Director of Housing and Residence Life. This sanction will be noted as a conduct expulsion on the student’s official academic transcript.
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 Student Rights and Responsibilities*:

1. One or more of the sanctions listed above, or
2. Deactivation, de-recognition, loss of all privileges (including university registration) for a specified period of time.

**M. Notification of Outcomes.** The outcome of a campus hearing is part of the education record of the responding party and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. In accordance with FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or non-forcible sex offense, the university will inform the reporting party (or, if applicable, the next of kin) in writing of the final results of a hearing regardless of whether the university concludes that a violation was committed. Such release of information may only include the responding party’s name, the violation committed and the sanctions assigned (if applicable). In cases of sex offenses, only, the rationale for the outcome will also be shared with all parties to the report.

In cases where the university concludes that a student violated a policy that would constitute a “crime of violence” or forcible or non-forcible sex offense, the university may also release the above information publicly and/or to any third party. FERPA defines “crimes of violence” to include:

1. Arson

2. Assault offenses
3. Burglary
4. Criminal Homicide—manslaughter by negligence
5. Criminal Homicide—murder and non-negligent manslaughter
6. Destruction/damage/vandalism of property
7. Kidnapping/abduction
8. Robbery
9. Forcible sex acts

Students who bring any Title IX-related reports against any member of the campus community will be informed in writing of the outcome of the report and any sanctions or responsive actions implemented.

- N. Parental Notification.** The university reserves the right to notify the parents or guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The university may also notify parents or guardians of non-dependent students who are under the age of 21 of alcohol or other drug violations. The university will attempt to contact the parents or guardians of a student to inform 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 (3) business days of issuance of an Administrative Hearing Officer's or panel's written decision to include recommended 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 the 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 reporting party and responding party.

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 time frame 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 Director of Housing and Residence Life or the Dean of Students or designee. A suspension will only be lifted when compliance with conduct sanctions is satisfactorily achieved. The Dean of Students or designee will make this determination in consultation with the Dean of Students or designee.
- Q. Disciplinary Records.** All conduct records are maintained by the university for seven (7) years from the time of their creation except those that fall under Title IX, which are maintained indefinitely. Other than university expulsion and certain types of suspension, conduct sanctions will not be made a part of the student's permanent academic record, but will become a part of the student's private conduct record. Upon application to, and approval of the Dean of Students or designee, private conduct records may be expunged\* one year after final disposition of reports for which sanctions imposed did not include university housing expulsion, university housing suspension, university suspension, or university expulsion.

\*Expungement is not destruction of the file. A letter is inserted into the file noting that it is expunged. Upon subpoena or an authorized document request asking for expunged records, the file contents could potentially be disclosed, if law permits.

## Section 8: Academic Conduct Procedures

The search for truth, the transmission of knowledge and the facilitation of moral development are the avowed goals of institutions of higher education around the world. These goals cannot be achieved unless those who participate in their achievement are honorable persons with a common desire for the highest level of academic integrity. Members of the Marian University community are expected to maintain the highest level of honesty in every phase of their academic lives and to help create and promote an ethical atmosphere in which the goals of the university can be fully realized. Students must understand that by accepting admission to Marian University, they have agreed to abide by all the provisions of this code. Their willingness to respect and comply with this code should depend less on an expectation of punishment for violations than on their intellectual and moral integrity. The university has a positive obligation to protect this commitment by stating its code of academic integrity clearly and by taking decisive and responsible action when this code is violated. All Marian University students are responsible for knowing and avoiding the following types of academically dishonest behaviors. Student behaviors, as evidence of student intentions, will be used to establish the occurrence of academic dishonesty.

### A. Academically Dishonest Behaviors

1. Plagiarism – representing the words or ideas of another as one's own in any academic exercise. Examples include, but are not limited to, failing to enclose a direct quotation from a reference source within quotation marks and/or paraphrasing the words or ideas of another person without proper citation or documentation.
2. Multiple Submissions – submitting the same assignment in two or more courses without the prior permission of the respective instructors. Examples include, but are not limited to, submitting the same

or essentially the same term paper for credit in two classes without obtaining instructors' permission, and/or giving the same or essentially the same speech for credit in two classes without obtaining both instructors' permission.

3. Fabrication – falsifying or inventing information or citations in an academic exercise. Examples include, but are not limited to, making up fake data for a laboratory assignment, and/or padding a bibliography with references not consulted, cited, or taken into account in the text.
4. Misuse of Materials – abusing or unauthorized possessing of academic materials from the library or any other campus location. Examples include, but are not limited to, taking a book from the library without checking it out, removing pages from a book or magazine in the library, and/or possessing unauthorized exam materials.
5. Misrepresentation – presenting false excuses or using deception to receive a higher grade or to avoid fulfilling the specific requirements of an assignment or course. Examples include, but are not limited to, giving a false excuse to miss a test or assignment, and/or obtaining unauthorized help from another person in the preparation of any graded work.
6. Facilitation of Academic Dishonesty – helping another student to violate any provision of this code. Examples include, but are not limited to, allowing another student to copy from your paper during an 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 code will lead to the following disciplinary procedures that are designed to emphasize fairness, consistency and education. Sanctions resulting from these procedures will be imposed to minimize the occurrence of future violations, produce a better understanding of the value of academic integrity and promote personal development.

1. If a faculty member detects questionable academic behavior that is not a clear violation of the code, corrective action may be taken. If the student complies, the case may be closed.
2. If a faculty member determines that a student has violated the code, the faculty member will consult with the Assistant Provost for records of previous official disciplinary action for violation of the code. If the student has a previous official record of violation of the code, the case is automatically heard by an Academic Integrity Panel (AIP) (see Section C).
3. If no record of previous official disciplinary action exists, the faculty member must notify the student in a written memorandum within one week of discovering the violation. The faculty member may formally impose one of the following sanctions:
  - a. Loss of credit on the assignment, paper, or test; or
  - b. Failure in the course.
4. If the student accepts the sanction, the faculty member then informs the Assistant Provost and the dean of their school of the sanction in a memorandum which becomes the official record of disciplinary action for violation of the code. Included in the memorandum are the name of the violator, the course in which the violation took place, the date of occurrence and discovery of the violation, and the nature, evidence, and copies of documents relevant to the violation. The case is considered closed.
5. If the student disagrees with the sanction, and has no previous record, the student may ask for a review of the sanction. Within one week of the original notification, the student will consult with the instructor concerning the sanction. The student will document the meeting by means of a memorandum of record which contains the date of the meeting, the results, and signatures of the student and the instructor. If, at this meeting, consensus is reached concerning the violation and

sanction, the faculty member then informs the Assistant Provost and the dean of their school as stated in Section B, 4 above. The case is considered closed.

6. If no resolution has been achieved following the meeting between the student and faculty member, the student may file a written appeal with the dean of the school that oversees the course within one week. The appeal must include documentation of the original sanction by the faculty member, the memorandum of record of the meeting between the student and the faculty member, and a statement indicating what is requested concerning the sanction and the rationale behind the request. The dean or designee will attempt to resolve the disputed violation and sanction in a manner acceptable to both parties. If a resolution is reached, the dean or designee will document the resolution in an official record of action as in Section B, 4 above and submit the documentation to the Assistant Provost. The case is considered closed.
7. In the unlikely event that the matter is unresolved, the student may submit a written appeal to the Assistant Provost. In addition to all of the documentation required in the initial appeal, a statement signed by the student, faculty member, and the dean or designee concerning the lack of consensus must also accompany the written appeal. This appeal will be heard by an Academic Integrity Panel as described in Section C below.

### **C. Academic Integrity Panel (AIP) Policies and Procedures**

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 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 barred from being on campus and the student's presence at any university-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 Director of Housing and Residence Life. This sanction will be noted as a conduct expulsion on the student's official academic transcript.
2. Composition – the panel is an ad hoc committee consisting of three faculty members and the Provost or designee. A list of impartial candidates will be presented to both parties by the Assistant Provost.
3. Hearing – The panel will hear the evidence with both the faculty member and the student present. The student may choose to have an authorized advisor present during panel proceedings. Authorized advisors are limited to Marian University employees. The Provost or designee will facilitate the meeting. A recorder will be present to record the deliberations. Both the student and the faculty member are given the opportunity to present their case uninterrupted by the other party. The panel will have access to the student's file and to any witnesses that it wishes to hear and may choose to complete deliberations in more than one meeting. The judgment reached and the sanction(s) imposed by the panel will be determined by majority vote. The sanction will be commensurate with the seriousness of the violation and the student's previous record of academic integrity. The decisions of the AIP are final.

### **D. Records – all reports of violation of the code will be submitted to the Assistant Provost and maintained in a confidential file in that office.**



1. No notation pertaining to academic dishonesty will appear in the student's files elsewhere except:
    - a. When knowledge of the violation may need to be recorded in department files for faculty recommendations for professional credentials; or
    - b. In the Office of Admission in cases where students may re-apply for admission to the university.
  2. Official transcripts will contain no indication of disciplinary action taken as a result of academic dishonesty.
- E. Additional academic policies and procedures regarding scholastic performance, requirements, and graduation can be found in the course catalog at <http://www.marian.edu/academics/course-catalog-and-schedule-of-classes>.**

## **Section 9: Interpretation and Revision**

Any question of interpretation or application of the code shall be referred to the Dean of Students, in consultation with the Provost and Assistant Provost, for final determination.

The code shall be reviewed every year under the direction of the Dean of Students.

The Marian University *Code of Student Rights and Responsibilities* may be modified by the Dean of Students upon request by Student Success and Engagement or Academic Affairs from time to time during the academic year. All modifications will be in consultation with the Provost. Modifications to the code will be made during the academic year to comply with federal, state, or local law. Any modifications of the code during the academic year shall be made in writing, will be made available in the Office of Student Success and Engagement, and on the Marian University website, and shall become effective upon publication.

## **Appendix A: Alcohol Policy**

When students choose to consume alcoholic beverages, Marian University encourages responsible practices and behavior in accordance with campus policies, and the laws of the State of Indiana and the City of Indianapolis. On and off campus violations of university policy and local and state laws related to alcohol will result in disciplinary action.

### **A. General Guidelines**

1. Alcohol is permitted on the Marian University campus only at (a) officially scheduled, catered events which have been scheduled through the Office of Conferences and Events; (b) in designated areas during tailgating events or other campus events as announced by the Chief of University Police; and (c) in designated residential living spaces where all residents of the private room and all present are 21 years of age or older.
2. Any person who is (a) intoxicated; (b) knowingly distributing alcohol to a person under the age of 21 or (c) under the age of 21 and found in possession of or consuming alcohol on campus property may face civil, criminal and/or university disciplinary action.
3. Illegal purchase, consumption or possession of alcoholic beverages by any student under 21 years of age is prohibited wherever it may occur.
4. Adverse behavior as a result of alcohol consumption, including disruption, disorderly conduct and public intoxication shall be a violation of the code.
5. The sale of alcoholic beverages by any person without a license is strictly prohibited.

6. Students hosting parties where (a) minors are allowed to consume alcohol (b) alcohol is provided to minors, (c) provided in excess to others, (d) otherwise distributed in violation of the law are subject to sanctions outlined in the *Code of Student Rights and Responsibilities* up to and including suspension or expulsion from the university.

## **B. Residential Units**

1. With respect to the service, possession or consumption of alcoholic beverages on the Marian University campus, state statutes and city ordinances will be enforced in addition to the following regulations: residents who are of legal age to possess or consume alcoholic beverages, who reside in university-operated employee apartments/houses or university apartment/house units, and their guests of legal age may possess and consume such alcoholic beverages in the privacy of their residences.
2. Alcoholic beverages are prohibited from all substance free living environments, regardless of a student's age. This includes but is not limited to Doyle Hall, Clare Hall, and the Dorothy Day House for Peace and Justice.
3. Consumption and possession of alcohol may be permitted in some residence halls (Drew Hall and University Hall) where residents and their guests are of legal age to possess or consume alcoholic beverages. Such use of alcoholic beverages will not be permitted in the public lounges, study lounges, recreation areas, dining rooms or any area other than the private student rooms.
4. In rooming situations in Drew Hall and University Hall where one resident is over the age of 21 and the other resident is not yet 21 years of age, possession or consumption of alcoholic beverages is prohibited. This applies to student guests in addition to residents.
5. Alcoholic beverages are prohibited in all public areas of the residence halls. All areas in a residence hall except for private rooms are considered public areas. When the door of a private room is propped open, it is to be considered a public area.
6. No student under the age of 21 may be present where possession or consumption of alcoholic beverages is occurring within the residence halls, apartments or houses.
7. Drinking games and other behaviors designed for the purpose of rapid and/or excessive consumption of alcohol are prohibited.
8. Bulk alcohol containers (kegs and other bulk containers, etc.) are prohibited in all university housing units.
9. Alcoholic beverage containers (cans, bottles, kegs, etc.) are not allowed in substance free living environments for any purpose. This includes empty or decorative containers.

Disciplinary actions for any student or guest found in violation of the alcohol policy may result in any of the sanctions noted within the code. The university will notify parent(s)/legal guardians(s) of alcohol violations under certain circumstances.

Student health and well-being is of primary concern to the university. Please see Lifeline-Good Neighbor policy in Appendix C regarding emergency assistance and support.

The university encourages students who are experiencing substance abuse problems to seek assistance from resources available to them on campus, as well as from agencies and self-help groups available in the community. A list of these resources is available from the Office of Health and Wellness and Counseling and Consultation Services located in Clare Hall.

## **Appendix B: Drug Policy**

The illegal or abusive use of alcohol and other drugs by members of the campus community jeopardizes the

safety of the individual and the community and is contrary to the academic learning process. Marian University is committed to having a campus that is free of the illegal or abusive use of alcohol and other drugs. In keeping with this commitment it is the policy of the university that the illegal or abusive use of alcohol and other drugs is prohibited at all times, except as expressly permitted by law. In order to inform all university students of their responsibilities as set forth in the Drug-Free Schools and Communities Act Amendments of 1989, the following information is provided:

1. The use, abuse, possession, sale, distribution, manufacture, or transfer of narcotics, illegal drugs as defined by state or federal law, or any controlled substance is prohibited at all times, except as expressly permitted by law. Controlled substances include, but are not limited to, marijuana, hash oil, hashish, inhalants, and abuse of over-the-counter drugs and prescription drugs, and/or the use of over-the-counter drugs or prescription drugs, or any other immediate precursor to be used to manufacture any other illegal drug, including without limitation, methamphetamine, except as expressly permitted by law.
2. Possession or manufacture of drug paraphernalia which is to be used for any one of the following purposes: (a) to introduce into a person's body a drug, marijuana or any controlled substance, (b) to test the strength, effectiveness or purity of a drug, marijuana or any controlled substance, or (c) enhances, or is perceived to enhance, the physiological effect of a drug, marijuana or any controlled substance, is also a violation of this policy.

Conduct sanctions the university may employ for violations of the university drug and alcohol policies include dismissal, suspension, probation, restitution, suspension from university housing and forfeiture of financial assistance, or such other sanctions as deemed appropriate by the university. Students may be accountable to both civil authorities and the university for acts that constitute violations of law and university policy. Student conduct action at the university will normally proceed *during* the pending of 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 a 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 available to them on campus, as well as from agencies and self-help groups available in the community. A list of these resources is available from the Office of Health and Wellness or Counseling and Consultation Services located in Clare Hall.

## **Appendix C: Lifeline-Good Neighbor Policy**

If someone is injured, contact Campus Safety immediately at 317.955.6789.

Campus Safety officers are trained as medical first responders and are best prepared to assess an injury. If a student contacts Campus Safety in a timely manner in order to assist a person who may require medical treatment, they will not be penalized if they have been drinking or aware of underage drinking. The Indiana Lifeline law was developed to protect those who are attempting to provide needed assistance. Please see the Indiana Lifeline website to further understand this law: <http://indianalifeline.org/>.

In non-emergency settings, if students are concerned about choices a friend is making regarding alcohol or other drugs; or other types of concerning behaviors, please talk to staff that are here to assist you:

Resident Directors in each Residence Hall	317.955.6318
Counselors in Counseling and Consultation Services	317.955.6150
Nurse Practitioner in Health and Wellness	317.955.6154

## Appendix D: Sexual Harassment Policy

Harassment on the basis of sex is a form of illegal sex discrimination. Sexual harassment in employment violates Title VII of the Civil Rights Act of 1964, as well as state law. Student-on-student sexual harassment and sexual harassment directed toward a student by a university employee violates Title IX of the Education Amendments of 1972.

**A. Sexual Harassment Offenses.** Sexual harassment is defined as any unwelcome sexual advance, request for sexual favor or other unwelcome verbal or physical conduct of a sexual nature, whether committed on or off campus, when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or participation in a university-sponsored education program or activity;
2. Submission to or rejection of such conduct by an individual is used as the basis or threatened to be used as the basis for employment/participation, decisions or academic decisions or assessments affecting an individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive, working or educational environment.

Such conduct will typically be directed against a particular individual and will either be abusive or severely humiliating or will persist despite the objection of the person targeted by the speech or conduct.

Sexual harassment includes but is not limited to situations where one person has authority over another. In such situations, sexual harassment is particularly serious because it may unfairly exploit the power inherent in a faculty member's or supervisor's position.

Sexual harassment can be verbal, visual, physical, or communicated in writing or electronically. Some conduct obviously constitutes sexual harassment - such as a threat that a grade or promotion will depend on submission to sexual advances, but whether particular conduct constitutes sexual harassment will often depend upon the specific context of the situation, including the participants' reasonable understanding of the situation, their past dealings with each other, the nature of their professional relationship (e.g., supervisor-subordinate, colleague, etc.) and the specific setting.

Examples of conduct which may constitute sexual harassment include, but are not limited to:

1. Requests for sexual favors;
2. Unwelcome physical contact such as hugging, rubbing, touching, patting, pinching or brushing another's body;
3. Veiled suggestions of sexual activities;
4. Requests for private meetings outside of class or business hours for other than legitimate academic or business-related purposes;
5. Use in the classroom of sexual jokes, stories or images in no way related to the subject of the class;
6. Use in the workplace of sexual jokes, stories or images in no way related to the subject of the work environment;

7. Remarks about a person's body or sexual relationships, activities or experience that are in no way related to the subject of the work or academic environment; or
8. Use of inappropriate body images to advertise events.

**B. Reporting Sexual Harassment.** Members of the university community can expect to be free from sexual harassment and thus all members of the university community should guard against it. The fact that someone did not intend to sexually harass an individual is generally not considered a sufficient defense to a report of sexual harassment, although the reasonableness of the responding party's perceptions may be considered. In most cases, it is the effect and characteristics of the behavior on the report and whether a reasonable person similarly situated would find the conduct offensive that determines whether the behavior constitutes sexual harassment.

The university will not tolerate retaliation or discrimination against persons who report sexual harassment or against those who testify, assist or participate in any investigation, proceeding or hearing involving a report of sexual harassment.

The university can respond to specific reports of harassment only if it is aware of them. The university therefore encourages anyone who believes that they have experienced sexual harassment to come promptly forward (typically within 45 calendar days) with inquiries or reports and to seek assistance from the Vice President of Student Success and Engagement/Title IX Coordinator (students) and the Director of Human Resources (faculty/staff). In addition, any university employee who becomes aware of instances or allegations of sexual harassment by or against a person under their supervisory authority must report them to the appropriate office. It shall be the responsibility of the Title IX Coordinator to respond to allegations and reports of sexual harassment or refer them to other university officials for appropriate response.

**C. Sanctions.** Possible sanctions for a person found engaging in behavior which is in violation of this policy include, but are not limited to:

1. Oral written reprimand, placed in the personnel file or student conduct file;
2. Required attendance at a sexual harassment sensitivity program;
3. An apology to the reporting party;
4. Loss of salary, benefits, or loss of privileges;
5. Transfer or change of job, class, residential assignment or location (i.e. removing the person from being in a position to retaliate or further harass the reporting party);
6. Demotion; or
7. Suspension, probation, termination, dismissal or expulsion.

## **Appendix E: Sexual Misconduct Policy**

Sexual misconduct of any kind is inconsistent with the university's values. All members of this community share responsibility for creating and maintaining an environment which promotes the safety and dignity of each individual. Sexual misconduct in any form (including sexual harassment, sexual assault, rape, etc.) will not be tolerated at Marian University. Federal law views sexual misconduct as forms of sexual harassment prohibited under Title IX. Sexual misconduct also violates state law as well as university policy. Students found responsible for sexual misconduct will ordinarily face disciplinary sanctions up to and including expulsion from the university. In addition to sanctions imposed on students found in violation of this policy, reporting parties can expect the university to respond promptly and effectively and to take the reporting party's wishes into consideration in responding.

The university maintains that no person should bear the effects of sexual misconduct alone. When sexual misconduct occurs, the university's paramount concern is for the safety, health and well-being of those impacted. To support and assist students, the university counseling services provides individual counseling and referrals to community resources.

This policy applies to Marian University students as defined in the *Code of Student Rights and Responsibilities*. The code provides that any person may file a report against a student. Reports of sexual misconduct by an employee should be filed with the Human Resources office or with the Marian University Police by calling 317.955.6789. Reports of sexual misconduct by a third party should be filed with the Marian University Police by calling 317.955.6789.

**A. Sexual Misconduct Offenses.** Sexual misconduct offenses include, but are not limited to:

1. **Non-consensual sexual intercourse** is any sexual intercourse with any object by any person upon another without consent.
2. **Non-consensual sexual contact** is any sexual touching with any object by any person upon another without consent. Sexual touching is contact of a sexual nature, however slight. It includes, but is not limited to, disrobing or exposing another person.

Other forms of sexual misconduct include, but are not limited to:

1. Sexual exhibitionism;
2. Sex-based cyber-harassment;
3. Prostitution or the solicitation of a prostitute;
4. Peeping or other voyeurism; or
5. Going beyond the boundaries of consent, e.g., by allowing others to view consensual sex or the non-consensual video or audiotaping of sexual activity.

Consent is knowing, voluntary and clear. Consent is effective when it is an informed, freely and actively given mutual agreement communicated by clearly understandable words to participate in each form of sexual activity. Consent cannot be inferred from silence, passivity or lack of active resistance. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. By definition, there is no consent when there is a threat of force or violence or any other form of coercion or intimidation, whether physical or psychological. A person who is the object of sexual aggression is not required to physically or otherwise resist the aggressor; the lack of informed, freely given consent to sexual contact constitutes sexual misconduct.

In addition, having sexual activity with someone who one knows to be, or reasonably should know to be incapable of making a rational, reasonable decision about a sexual situation is a violation of this policy. For example, a person who:

1. is incapacitated by alcohol or drug consumption;
2. is unconscious, asleep, or otherwise physically impaired;
3. has a cognitive or emotional impairment; or
4. is incapable of giving effective consent.

Having sex with such a person is a violation of this policy; being intoxicated is not an excuse for failure to obtain consent.

**B. Confidential Resources.** Under Indiana law, if a student wishes the details of an incident to be kept

confidential, they can speak with counselors at the Marian University Office of Counseling and Consultation Services, licensed health professionals at the Office of Health and Wellness, priests, or off-campus rape crisis confidentially; except in cases of imminent danger.

- C. Limits of Confidentiality and Mandated Title IX Investigations.** In all instances and to the extent possible, the university will protect the privacy of all parties to a report of sexual misconduct. That said, under federal law, campus officials (with the exception of those listed under Confidential Resources above) who receive a report of sexual misconduct, whether from the student involved or a third party, must share that information with the appropriate university authorities for investigation and follow-up.

An administrative investigation under Title IX must be initiated if the university has enough information to reasonably determine key facts, e.g., time, date, location and names of parties involved in an alleged incident. Victims who wish to make Jane/John Doe reports that omit these specifics may do so by contacting Counseling and Consultation Services or Health and Wellness to access support and resources without initiating a formal university response. When sufficient details are provided, the administrative investigation will include a review of statements obtained from either party, interviews with both parties, interviews with witnesses as appropriate, and review of relevant documentary evidence, and will be conducted by the Title IX Coordinator or designee.

The university will seek the reporting party's consent prior to beginning the investigation. However, the university is obligated to conduct at least a preliminary investigation, called an administrative investigation, regardless of the reporting party's requests, to determine how best to protect the university community. In the course of the administrative investigation, information will be shared as necessary with people who need to know, such as investigators, witnesses and the responding party while still making every effort to maintain the privacy of the reporting party. At no point will a reporting party be required to participate in the process, which can proceed on the basis of other available information, should they choose not to participate.

As required by Title IX and in accordance with the Marian University *Code of Student Rights and Responsibilities*, the university typically will not wait for criminal investigations or criminal proceedings to conclude or begin before beginning its own administrative investigation. When the university must temporarily delay its investigation in order not to interfere with criminal investigations, it will resume its investigation promptly once notified that police have completed gathering evidence.

- D. Reporting Sexual Misconduct.** To report an incident of sexual misconduct, call Marian University Police at 317.955.6789, available 24 hours a day, 7 days a week. During business hours, persons wishing to report sexual misconduct by a student may also call or email Ruth Rodgers, Vice President of Student Success and Engagement and Title IX Coordinator: [rrodgers@marian.edu](mailto:rrodgers@marian.edu) or 317.955.6318.

The university encourages persons to report all incidents of sexual misconduct including sexual assault, rape, stalking, or relationship violence by students to the Marian University Police, regardless of where the incident occurred.

Incidents of sexual misconduct involving students that are reported to Marian University Police will also be referred to the Title IX Coordinator for follow-up and administrative investigation. Similarly, the Title IX Coordinator or designee will follow-up where appropriate in those instances where the university has a report of an incident of sexual misconduct that has been reported to another law enforcement agency. The administrative investigation conducted by the Title IX Coordinator or designee is separate from any criminal investigation.

- E. Other University Responses to Sexual Misconduct Reports.** Whenever the university receives a report of sexual misconduct, reporting parties who are members of the university community may be referred to an advocate who can serve as a resource person to identify, explain and navigate the reporting party's options and the available support services. This can include but is not limited to referrals to counseling,

educational support, medical treatment and information about university processes, criminal processes and related assistance.

The advocate can also assist the reporting party with working with appropriate offices to make reasonable accommodations such as, but not limited to:

1. Issuing written instructions to the responding party restricting them from making contact with the reporting party;
2. Temporarily moving the reporting party or the responding party or both—if living in university housing—to other living/dining arrangements; or
3. Making alternative instructional arrangements for the reporting party, the responding party or both.

**F. Intimidation or Threats to Inhibit Reporting.** Any actual or threatened retaliatory act of intimidation or other adverse action to prevent or otherwise obstruct the reporting of sexual misconduct or the participation in proceedings relating to sexual misconduct by a responding party or third party is itself prohibited and may result in criminal proceedings, disciplinary proceedings or both. A reporting party or witness who is threatened in any way should immediately report these concerns to the Marian University Police by calling 317.955.6789.

**G. Hearings.** The Dean of Students or designee, having made the determination to charge the responding party with a policy violation, will serve as the official reporting party at the hearing; the initial reporting party will serve as the reporting witness.

Both the initial reporting party and responding party will be notified in writing of the date, time and location of the hearing and their rights at the hearing including being present at the entire hearing, presenting evidence and testimony, presenting witnesses, equal and timely access to information to be presented at the hearing, and the presence of an advisor (who may be an attorney) whose role in the hearing is limited.

Both the initial reporting party and responding party may ask questions of each other and of witnesses through the hearing chairperson (so-called “cross-examination” is not permitted).

The Dean of Students or designee may make arrangements to convene hearings in such a manner that contact between the initial reporting party and responding party is limited but allows effective participation by both parties (e.g., conducting the hearing in separate rooms connected by teleconferencing).

In order to meet its obligations to investigate and address patterns of sexual misconduct, Marian University will admit behavior of previous accusations and violations of law and policy as documentation in hearings on current reports.

**H. Notice of Outcome.** Both the reporting party and the responding party will be notified in writing of the outcome of the informal resolution or formal hearing and any appeal (that is, whether the sexual misconduct policy was found to have been violated). The responding party will also be notified of all sanctions that have been imposed and procedures for appeal. The reporting party will be notified of sanctions imposed against the responding party that are related directly to the reporting party (for example, if the responding party is restricted from making contact with the reporting party) and procedures for appeal.

**I. Sanctions.** The university, following a final determination of a disciplinary proceeding against a student for sexual misconduct, may impose sanctions including but not limited to disciplinary probation, suspension and expulsion (see the Marian University *Code of Student Rights and Responsibilities* for complete list of possible sanctions).

**J. Timely Resolution.** The university will strive to resolve reports in a timely and reasonable timeframe.



Typically, a full investigation will take no longer than 60 calendar days. Resolution through an informal resolution or hearing will typically take place within 14 school business days after completion of the investigation. The notice of outcome will come within 3 school business days after the resolution is completed. Appeal procedures typically will be completed within 7 school business days after appeal is received. If circumstances (for example, a report involving multiple incidents, reporting parties, and/or responding parties) require longer timeframes, these will be documented and the reporting party(s) informed of the need for additional time.

## **Appendix F: Tobacco Free Campus Policy**

Marian University is a tobacco free campus. This includes all tobacco products, as well as all forms of smoking, including e-cigarettes.

Information on smoking cessation programs is available in the Office of Human Resources and the Office of Health and Wellness.

The responsibility for carrying out this policy is placed upon all members of the university community. Each member of the community is responsible to inform visitors and guests of the policy and procedures.

All community members and guests will be treated with dignity and respect, however persistent violators should be reported to Human Resources (faculty, staff or contractors) or the Dean of Students (students). Violations of this policy will be evaluated as an employment performance issue for employees and as a student conduct issue for students.