

**UNIVERSITY OF MASSACHUSETTS
CODE OF STUDENT CONDUCT**

DARTMOUTH

I. GENERAL

Presumably, students working toward degrees are mature, responsible, and committed to preparing themselves for their professions. One manifestation of that maturity is a highly-developed sense of self-respect coupled with an equally high regard for the rights and privileges of others and for the rules that regulate society.

It is hoped that students realize the extent to which personal growth depends upon the development of self-discipline and the exercise of it in getting along well with others and maintaining high standards of honesty and moral conduct.

Therefore, although minimal rules exist so as to create the atmosphere for a truly liberal education, all students are expected to act in a way that does not infringe upon the rights of others or upon the educational process.

The university respects the laws and ordinances of the civil jurisdiction within which it lies. The university does not stand in loco parentis for its students, nor is the campus to be considered a sanctuary from civil law.

II. UNACCEPTABLE CONDUCT

Students found guilty of unacceptable conduct will be subject to the complete range of sanctions and penalties provided in the Student Judiciary Policies and Procedures. Conduct, occurring on or off campus, that violates generally accepted standards of good behavior and is adverse to the University's purpose or interests or presents a danger to the health and safety of the University community may be subject to discipline. The University has special concern for incidents in which students are subject to physical assault or harassment because of membership in a particular racial, religion, gender, ethnic, cultural or sexual orientation group. Unacceptable conduct includes, but is not limited to:

1. Violation of alcohol regulations (see specific guidelines in Alcohol Policy.)
2. Use, possession, or distribution of illegal and/or dangerous drugs.
3. Endangering the safety of others or violating their rights.
4. Acts of harassment, physical violence or assault against others.

This includes stalking. Harassment includes but is not limited to physical assault which includes but is not limited to physical attack upon or physical interference with a person (including hitting, kicking, spitting or biting) that prevents the person from conducting his or her customary or usual affairs, puts the person in fear for his or her physical safety, or causes the person to suffer actual physical injury. Also included is conduct less than a physical attack or physical interference that is directed at a person and that unreasonably interferes with that person in the conduct of his or her customary or usual affairs, such as the posting of threatening letters directed to the person, the use of threatening language directed at another, threatening telephone calls, or the vandalism of a person's room or property.

5. Engaging in sexual conduct with another person without the consent of that person. Any unwanted sexual contact including unwanted touching of the breasts, genitals or buttocks, forced vaginal intercourse (rape), forced oral sex, forced anal sex, and forced digital penetration or fingering, violates the UMD Code of Conduct. Also, situations in which persons cannot make free and informed decisions to engage in sexual behavior such as unconsciousness, being asleep or disabled by drugs/alcohol constitute sexual conduct without consent.
6. Engaging in sexual harassment. Sexual harassment in regard to students of the university covered by Title IX, of the 1972 Amendments to the Higher Education Act, is defined as follows: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when the conduct is sufficiently severe, persistent, or pervasive to limit a student's ability to participate or benefit from the education program, or to create a hostile or abusive educational environment.
7. Theft.
8. Violation of Hazing Act (see Section IV).
9. Hate crimes. A hate crime is any criminal act coupled with over actions motivated by bigotry and bias including, but not limited to a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation prejudice, or which otherwise deprives another person of his constitutional rights by threats, intimidation or coercion, which seek to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation (Chapter 22c, Section 32 of the Massachusetts General Laws).
10. Violation of civil law.
11. Unauthorized removal or mutilation of library materials.
12. Vandalism.
13. The deliberate destruction of the property of another individual or the property of the university on or off campus.

14. Gambling: The laws of the Commonwealth of Massachusetts are very strict concerning gambling on state property. Under no circumstances are students to gamble on the campus.
15. Altered Licenses: Anyone found in possession of an altered driver's license, or anyone altering a valid driver's license, or anyone altering a valid driver's license of another person, shall be dealt with as follows: said license shall be forwarded to the Registry of Motor Vehicles, a hearing will be held; proof of the charges shall result in loss of license for 90 days. Under Massachusetts General law any of the above mentioned offenses are felonies. Further disciplinary action will be taken against students in the university.
16. Violation of residence halls rules and regulations (see Section III).
17. Irresponsible, unethical or illegal use of University computer hardware, software or facilities.
18. Aiding or abetting any conduct described above.

III. RESIDENT STUDENT CONDUCT

General regulations governing the personal conduct of all students are set forth above. All residents must comply with such regulations as well as those set forth by the Office of Housing and Residential Life which includes the following:

1. Conduct that is made a crime by the criminal law of the State of Massachusetts or of the United States of American and that takes place on University property or in the course of University activity.
2. Intentional or reckless damage to or destruction of University property or of property on University premises belonging to others.
3. Occupation of all or part of any University building, obstructing or coercing any persons, or threats of violence to persons for the purpose or with the effect of: a. hampering or preventing the discharge of any University function; b. limiting the freedom of anyone to go about in a lawful manner; or c. compelling or preventing specific activities related to the University.
4. Intentional or reckless interference with any class, other University function, or campus activity by means of noise, projectiles, or other form of disturbance or disruption.
5. Intentionally false reporting of a fire; intentionally false reporting of a bomb or other explosive having been placed in any University building or elsewhere on University property; tampering with fire-fighting or fire alert equipment.
6. Refusal to vacate a building, street, sidewalk, driveway or other facility of the University when directed to do so by an authorized officer of the University having just cause to order the evacuation; failure to evacuate for a fire alarm or re-entry prior to return signal.

7. Possession of firearms or other dangerous weapons on University property, except in the course of an authorized University activity.
8. Intentional possession or use on University property of a dangerous article or substance as a potential weapon, or of any article or substance that could injure or discomfort any person; possession and/or use of fireworks.
9. Falsifying information submitted to any University office or agency; offering a false statement in any University disciplinary proceeding.
10. Rioting, or aiding, abetting, encouraging, or participating in a riot or rioting, or inciting a riot, including food fights, when conduct occurs on University property or in the course of a University activity.
11. Acting with violence, or aiding, abetting, encouraging or participating in the commission of any act of violence, when the conduct takes place on University property or in the course of a University activity.
12. Using, or attempting to use, University property in a manner inconsistent with its designated purpose.
13. Forgery, alteration or misuse of a University identification card; failure to show an ID to an identified official or employee of the University upon proper request; falsely identifying oneself to a University official.
14. Physical abuse, direct threat of violence or intimidation of another person.
15. Deliberate disobedience or resistance of an identified University official acting in the line of duty.
16. Theft, accessory to theft, and/or possession of stolen property.
17. Any reckless behavior which endangers person or property.
18. Trespassing or unauthorized entry.
19. Individual or group activities that intentionally or recklessly cause serious disturbance or distress to others.
20. Actions that deprive others of their rights and freedoms.
21. Violation of Alcohol Policy.
22. Possession and/or use of marijuana and/or other illegal drugs; possession of illegal drug-related paraphernalia.

IV. HAZING

Conduct that is in violation of the Hazing Statute is prohibited by this Code of Conduct.

Massachusetts General laws, Chapter 269, Sections 17 & 18, contain the following:

Section 17. Whoever is a principal organizer or participant in the crime of hazing, as defined herein, shall be punished by a fine of not more than three thousand dollars or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment.

The term "hazing" as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which willfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Notwithstanding any other provisions of this section to the contrary, consent shall not be available as a defense to any prosecution under this action.

Section 18. Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such a crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such a crime shall be punished by a fine of not more than one thousand dollars.

V. LOUNGE USE

Students, faculty, and visitors are welcome to relax in the lounge areas of every building. Out of consideration for the learning process, however, the playing of music during class time is prohibited.

VI. PETS

To safeguard all persons on campus and protect their freedom of movement, dogs, cats, and other pets are not allowed in any of the University's buildings, including student housing. Guide dogs accompanying blind or deaf persons are exceptions to this rule.

Furthermore, any pets brought on school grounds must be leashed.

These regulations will be strictly enforced and any pets found on campus in violation will be impounded at the owner's expense.

THE UNIVERSITY OF MASSACHUSETTS DARTMOUTH

**STUDENT JUDICIARY
POLICIES AND PROCEDURES**

1. PREAMBLE

Underlying discipline lies a reason and a right to discipline, and underlying that, a function to serve and a responsibility to perform. The charters of our public and private colleges and universities have broadly authorized these duties to the institution of higher learning. While the law protects this authorization, it limits it as well.

As a citizen of the academic community, a student remains no less a citizen of the larger community. Those guarantees of a democratic society which guard the civil rights of all its members do not cease at the confines of the campus. Institutions too are as subject in their actions to constitutional restraint as are individuals. Equal protection, freedom from arbitrary action, academic freedom, and due process are not privileges to be conferred at will, but are principles which are basic to the very purposes of university's existence. It is upon these principles that the case for a campus judicial procedure rests. It is from these concepts that such a system can draw strength to lend credence to those goals of the institution that lead to the development of higher values and sounder citizenship among its students. The history of liberty has largely been the history of procedural safeguards. The university is no place to impede the progress of liberty.

2. INTRODUCTION

The judicial system of the University of Massachusetts Dartmouth as herein defined is designed to encourage the ideal of student self-government and student self-discipline. Its purpose is to provide due process and to ensure that any student or university affiliated student organization, defendant to an action for which discipline has been recommended, is afforded the opportunity to have their cases reviewed and the right to appeal cases, as defined in section 5.3-1, to a "higher" board or judicial entity. A higher University judicial entity may, in reviewing a case, dismiss, reduce, uphold, or increase the sanction of a lower judicial entity for further consideration.

There shall exist the following judicial levels and administrative hearing officer/entities exercising judicial authority: A) at the original level depending upon the jurisdiction involved - the Director of Housing and Residential Life or his/her designee; the Dean of Students or his/her designee; the Academic Matters Judicial Board or the designee of the Vice Chancellor for Academic Affairs B) at the appellate level - the university Appellate Board or the Vice Chancellor for Student Services or Academic Affairs or their respective designees, as appropriate.

The judicial process for students of UMASS Dartmouth exists within the legal framework of the University that gives to the Board of Trustees the ultimate and final authority to govern the University. Authority possessed by the various judicial entities set forth in this document comes from the power of the Board of Trustees to so delegate such authority.

3. VIOLATION OF PUBLIC LAWS BY STUDENTS

3.1 The University shall take such prescribed action that is mandatory under Federal, State or municipal laws. However, it is not the University's desire to assume the regulatory and police functions of government. Students who violate the law may incur penalties prescribed by civil authorities, but institutional authority should never be used merely to duplicate the function of general laws. Only where the University's interests are distinct and clearly involved should the

special authority of the University be asserted to discipline/educate its students. Students are citizens with not only rights but responsibilities to abide by the law.

3.2 Student conduct in violation of public law may be treated by the University as serious student misconduct when:

3.2-1 The person, property or activity involved is that of another student, an employee of the University, a guest of the University, or the interests of the University itself, or

3.2-2 The conduct takes place on University owned or controlled property, or at a function under the supervision of the University.

3.2-3 In cases where a student is subject to both external and internal judicial proceedings arising from a single set of circumstances, the University may initiate and pursue its internal judicial process to conclusion without regard to the status of the external process.

4. ORIGINAL JUDICIAL ENTITIES

4.1 Administrative Hearing Officer shall have original jurisdiction in the following areas:

4.1-1 Residential Areas - Student infractions of non-academic regulations when the alleged violation occurs within a residential building or on the grounds of the residential campus. Residential Campus includes all buildings and grounds under authority of the Office of Housing and Residential Life. The Residents' Dining Area is included.

4.1-1a Any UMASS Dartmouth student, whether resident in on campus housing or not, is subject to Residential Area jurisdiction if the alleged infraction occurs in the area defined in **4.1-1**.

4.1-1b Staff or faculty members empowered to conduct administrative hearings under Residential Area jurisdiction shall be selected by the Director of Housing and Residential Life or designee. The Director or designee may, at his/her discretion, select an individual or a panel of up to three members of the faculty or staff to hear a case.

4.1-2. UMASS Dartmouth Campus - Student infractions of non-academic regulations when the alleged violation occurs within a building or on the grounds of the campus. Campus includes the entire area of the UMASS Dartmouth campus excluding the areas defined in **4.1-1**. Jurisdiction includes:

4.1-2a Alleged violation of student conduct regulations when the alleged infraction occurs in areas defined in 4.1-2 or away from campus while the student is a member of an official University sponsored or approved group or event or when the interests of the University are involved.

4.1-2b Alleged violation of regulations specific to an organization recognized by the Student Senate of UMASS Dartmouth.

4.1-2c Cases involving the alleged violation or interpretation of the Student Government Constitution or the policies or actions of the Student Senate, Board of Governors, or Residence

Halls Congress. Included is judgment of the constitutionality of any action taken by the above-named organizations, their executive agencies or by members thereof.

4.1-2d Cases involving constitutional conflict within any campus organization, or between major governing groups, or between campus organizations and governing groups.

4.1-2e Cases involving the constitutionality of any action taken by a student organization or governing group.

4.1-2f Alleged violations of other regulations when such cases shall be referred by the Office of Student Services.

4.1-2g Staff or faculty members empowered to conduct administrative hearings under Campus jurisdiction shall be selected by the Dean of Students or designee. The Dean may, at his/her discretion, select an individual or a panel of up to three members of the faculty or staff to hear a case.

4.2 Sexual Conduct - Allegations of inappropriate sexual conduct against a student (or students).

4.2-1 Any UMASS Dartmouth student is subject to the jurisdiction of this provision of the judicial document when the substance of the complaint or incident report deals with alleged sexual misconduct. Specifically included herein are allegations of sexual harassment, sexual conduct without expressed consent, use of force or coercion during sexual conduct, and rape.

4.2-2 Upon receipt of an incident report or complaint, the complainant will be invited to carry the matter to mediation under the auspices of the University Sexual Harassment Officer. Should the offer of mediation be accepted, the matter will be brought forward through the mediation process. Upon completion of the mediation process, if both parties agree with and accept the conclusions derived therefrom, the matter will be considered resolved.

4.2-3 Should the complainant reject the offer of mediation or should the mediation process fail to find an outcome acceptable to both parties, the matter will be subject to the provisions of this document governing resolution of conduct-related issues.

4.2-4 The complainant in a matter involving allegation of sexual misconduct that is adjudicated under this document shall have the option to request that discussion of the complainant's past sexual conduct be kept out of consideration in the matter before the judiciary.

4.3 Academic Matters - Allegations of academic misconduct including plagiarism and cheating. Also, cases involving the recommendation of a faculty member and/or appropriate Academic Dean for action other than or in addition to a failing grade in a course when said grade is assigned on the basis of a charge of academic misconduct. Student may elect an Administrative or Academic Matters Judicial Board Hearing.

4.3-1 If a student elects an Administrative Hearing, faculty or staff members empowered to conduct the administrative hearing shall be designated by the Vice Chancellor for Academic Affairs or designee.

4.3-2 Academic Matters Judicial Board (AMJB)

4.3-2a Composition - the membership of the AMJB shall be composed of twelve (12) justices as follows:

five (5) faculty, five (5) students, two (2) administrative staff. The twelve justices shall comprise a pool from which a seven (7) member hearing board shall be selected. The hearing board shall consist of three faculty, three students, and one administrator. The seven members of the hearing panel shall designate a chairperson by vote of the seven to guide the sessions. The chairperson shall vote on a case only in the event of a tie.

Appointments to the twelve member AMJB shall be the joint responsibility of the following campus governance groups: faculty shall be appointed by the Faculty Senate; students shall be appointed by the Student Senate upon recommendation of the Senate's Judiciary Screening Committee; administrative staff shall be appointed by the Vice Chancellor for Student Services. Appointment shall be for one calendar year from October to October. For student justices, a minimum 2.00 grade point average (cumulative) is required for appointment to the AMJB. All appointments are renewable subject to the recommendation of the appropriate appointing agencies.

4.3-2b An Academic Matters Judicial Board Hearing shall be conducted in academic matters when the accused student elects the judicial board hearing option and contingent upon the availability of the board.

5. APPELLATE JUDICIAL ENTITIES

Students may elect to have appeals heard by the University Appellate Board or an Administrative Hearing Officer. See Section 11 for specific information on the appeal procedure.

5.1 University Appellate Board (UAB)

5.1-1 Composition - the membership of the UAB shall be composed of fifteen (15) justices as follows: six (6) faculty, six (6) students, three (3) administrative staff. The fifteen justices shall comprise a pool from which a nine (9) member hearing board shall be selected. The hearing board shall consist of four (4) faculty, four (4) students and one (1) administrator. A chairperson shall be elected from among the UAB membership by a simple majority vote of the membership. The chairperson shall serve for one year from date of election. Faculty members of the UAB shall serve for two years from the date of first appointment. Student members of the UAB shall serve for one year from date of first appointment. Administrative staff members of the UAB shall serve for two years from the date of first appointment.

5.1-2 Appointment-Appointment to the UAB shall be the joint responsibility of the following campus governance groups: faculty shall be appointed by the Faculty Senate; students shall be appointed by the Student Senate in the Spring for the succeeding year based on the recommendation of the Senate's Judicial Screening Committee; administrative staff shall be appointed by the Vice Chancellor for Student Services. All appointments to the UAB shall begin and end in October and are renewable subject to the recommendation of the specified appointing agencies.

5.2 Administrative Hearing Officer The Vice Chancellor for Student Services and the Vice Chancellor for Academic Affairs or their respective designees serve as Hearing Officers in the appellate process for appeals arising in their respective jurisdictions.

5.3 Jurisdiction - Appellate Entities shall have jurisdiction in the following areas:

5.3-1 Appeal of conduct-related judgments of a lower judicial entity involving sanctions specified in sections 13.1 through 13.7 inclusive. Such cases will be heard by the UAB only upon consideration of the written grounds for appeal as submitted by a party to the original proceeding and agreement by a minimum of 3 UAB members voting to hear the complete appeal.

5.3-2 Appeal of cases involving the imposition of a failing grade given on the basis of a charge of academic dishonesty or cases of imposition of action other than or in addition to a failing grade given on the basis of a charge of academic dishonesty.

5.3-3 Cases involving request for re admission to the University from Suspension for non-academic reasons after a student has been suspended or denied re admission by an administrative office.

5.3-4 Petitions from the accused in cases of discipline arising from extraordinary or emergency conditions requiring the action of immediate suspension by the Chancellor of the University, or his/her designee, of a student or group of students who act, or refuse to act, the result of said conduct is to interfere with the rights of others and is non-peaceful or is disruptive or said conduct constitutes a clear and present danger to the health, safety, or property of others. Upon receipt of a petition requesting a hearing in a case of interim suspension, the hearing on the charges should occur within three (3) consecutive school days following receipt of petition. A request by the accused student for an extension of time may be granted by a majority vote of the UAB membership.

5.3-5 Appeal of cases involving the violation or interpretation of the Student Government Constitution or the policies or actions of the Student Senate, Board of Governors, or Residence Hall Congress. The UAB or Administrative Hearing Officer shall judge the constitutionality of any action taken by the above-named organizations, their executive agencies or by members thereof.

5.3-6 Appeal of cases involving constitutional conflict within any campus organization, or between major governing groups or between campus organizations and governing groups.

5.3-7 Appeal of cases involving the constitutionality of any action taken by a student organization or governing group.

5.3-8 Upon petition from the involved parties standing for elective office on campus, and following due consideration of the dispute by such boards or agencies empowered to consider election disputes, the UAB or Administrative Hearing Officer shall consider unresolved disputed elections.

5.4 Procedural Compliance Any lower judicial entity found by the University Appellate Board to be consistently violating the provisions of this document may be subject to review of its judicial authority and/or assumption of its jurisdiction by the University Appellate Board.

6. FILING A COMPLAINT

Anyone directly associated with the University (student or employee) may file a complaint or incident report alleging an infraction of the Code of Student Conduct, Residence Hall regulations, laws, or such other regulations as may exist or be established, except parking and traffic regulations, within 1 year of the incident. All complaints or reported incidents of student misconduct will be referred to the Office of Student Services. The Office of Student Services is defined for purposes of this document to include the offices of the Vice Chancellor for Student Services, Dean of Students, and Housing and Residential Life. The Office of Student Services may, at its discretion, conduct an investigation of each complaint or incident report. Upon completion of any investigation, the Office of Student Services may dismiss the complaint or may refer the matter to the campus judicial entity having jurisdiction. The Office of Student Services may, at its discretion, immediately refer a complaint or incident report to the campus judicial entity having jurisdiction. When the Office of Student Services refers a case it shall direct the case to the appropriate entity and may in no way contradict the procedures set forth in this document.

7. RIGHT TO AN ADVISOR

A student, party to an action being heard before a judicial entity herein defined, may elect to be accompanied at all formal proceedings of the judicial entity by an advisor of his/her choice. The advisor must be a member of the faculty, staff or student body of the University EXCEPT that legal counsel may accompany a student, at the student's discretion, when a criminal charge arising from the matter before the judiciary is pending or is considered likely. Any student who elects to be accompanied by an attorney in cases involving criminal charges or the likelihood of such charges, is required to give advance notice of at least 48 hours to the hearing entity. Absent a pending criminal charge or the bona fide likelihood thereof, the advisor must be drawn from within the University community.

The role of the advisor in ALL cases, whether the advisor is a member of the University community or legal counsel, is limited to advising the student during the judicial proceeding. The advisor may not speak on behalf of the student, or examine or cross examine witnesses, or address the judicial entity publicly during formal judicial proceedings.

The University is a community that prizes teaching and learning and promotes the educational value of all its internal processes, including the judicial process. As the student in the classroom is expected to present his/her own work, free from plagiarism, so the student engaged in a judicial proceeding is expected to carry on his/her own dialogue within a judicial proceedings, presenting his/her ideas and thoughts and not merely repeating verbatim the advisor's language. During a hearing, if it becomes apparent to the judicial entity that a student, in presenting testimony or responding to questions, is merely repeating the thoughts or ideas of the advisor verbatim, the judicial entity will inform the student of its preference that the student present his or her personal thoughts in his or her own words. If the practice continues, the judicial entity shall use its discretion in determining the validity of or the amount of weight to be given to the testimony of the student.

8. PRE-HEARING PROCEDURAL GUIDELINES

8.1 The accused student shall be notified in writing by an appropriate University official that he/she is alleged to have violated a University regulation. The notification shall include a requirement that the student attend a preliminary meeting, to be held no sooner than three (3) consecutive academic days following date of the original notice. At the preliminary meeting the accused student will elect, in writing, one of two options:

8.1-1 The student may request that the administrative officer schedule a hearing no sooner than five (5) academic days from the date of the preliminary meeting.

OR

8.1-2 The student may elect that the administrative officer give the matter immediate consideration and take whatever action is deemed appropriate. The five-day waiting period and the ability to question the complainant are waived under this option.

NOTE: Under either **8.1-1** or **8.1-2**, the student shall be entitled to appeal the administrative officer's decision via the provisions of the appellate procedures delineated elsewhere in this document. (See **Section 11**) Pursuant to an administrative hearing held under 8.1-2, the proceeding will be less formal than that described in Section 9. Normally such a hearing will involve only the accused student and the administrative hearing officer. By electing hearing option 8.1-2, the accused student receives the benefit of an immediate resolution of the pending disciplinary charge(s). However, the less formal hearing precludes certain procedural guidelines as delineated in Section 9.

8.2 Pursuant to an administrative hearing held under **8.1-1**, the student shall be entitled to the following:

8.2-1 Written notification of the time and place of the hearing. Pursuant to an administrative hearing held under **8.1-2**, this requirement is waived.

8.2-2 A written statement of the charge(s) of sufficient particularity to enable the student to prepare a defense.

8.2-3 A copy of the complaint or incident report from which the charges are derived. The identity of the complainant and the substance of the complaint must be made known to the accused to enable him/her to prepare a defense against the charge(s).

EXCEPTION: Where bona fide concern exists that disclosure of the name(s) will subject the complainant(s) to actual harm or the threat of harm, the University may withhold the name(s) of the complainant(s) in this notification.

9. ADMINISTRATIVE HEARING PROCEDURAL GUIDELINES

Pursuant to an administrative hearing held under **8.1-1**, the following are administrative hearing procedural guidelines:

9.1 The hearing is to be held in an expeditious manner. Upon written notification of a hearing date, the accused student or the complainant shall be entitled to one postponement of a scheduled hearing provided that the student petitions the judicial entity for a postponement, in writing, not later than twenty-four (24) hours before the scheduled hearing.

9.2 The purpose of the hearing is to establish the truth regarding the matter before the judiciary. The burden of proof shall rest upon the complainant. The hearing is to determine the facts. The standard of proof shall be the preponderance of the evidence. The administrative judicial entity may question any witness. All questions and witness' testimony shall pertain only to the matter before the judiciary. If heard by a panel, decision may be reached by consensus or majority vote at the panel's discretion.

9.3 All available witnesses and facts must be heard. The number of witnesses is not limited, EXCEPT, if the judicial entity determines that the substance of a witness' testimony has already been presented and would result in simple repetition, the judicial entity may decline to hear the witness. A witness' testimony may be terminated when, in the judgment of the judicial entity, it ceases to be relevant or becomes so rambling or incoherent that it is meaningless. The judicial entity may call witnesses.

9.4 The hearing is to be closed to the public.

9.4-1 In instances where those appearing before a judicial entity repeatedly interrupt and disturb a judicial proceeding, a judicial entity may, after sufficient warning, issue a summary contempt ruling and apply any of the items found under the Sanctions and Penalties section of this document, up to and including suspension from the University. The issuance of University Suspension under a contempt ruling may be appealed directly to the appellate level for review.

9.5 No witness shall be permitted to attend the hearing prior to the delivery of their testimony or remain after the completion of their testimony.

9.6 The judicial entity shall use its discretion in determining the validity of or amount of weight to be given to affidavits and/or tape recordings purporting to represent witness testimony for either the accused student or the complainant.

9.7 A tape recording will be made of all hearings conducted under **8.1-1**. The recording shall be held in custody of the Office of Student Services. Access to the recording shall be limited to: the accused student, the complainant, the judicial entity having original jurisdiction in the case, and, if appealed, the appellate entity having jurisdiction. Electronic copying of the original tape recording shall not be allowed except one back-up tape will be made for use in case original is unusable. Only written excerpts or notes taken by those permitted access to the tape will be allowed. Upon conclusion of a case, either following waiver of appeal or following a final appeal hearing, the tape recording shall be erased.

9.8 The accused student, the complainant, and their respective advisors, if any, may be present during the entire hearing except when confidentiality is required by law.

9.8-1 The complainant may elect to present evidence, and to call and question witnesses or to defer that responsibility to the Office of Student Services. If the responsibility for presenting a case is deferred to an administrator, that person cannot be involved in hearing the case.

9.8-2 The accused student may elect to appear in person, to present a defense to the judicial entity, to call witnesses, and to ask questions of any witness.

9.8-3 The accused student may elect not to appear before the judicial entity. Should the accused elect not to appear, the hearing shall be held in his or her absence. The choice of the accused not to appear in person shall not be taken as an admission of guilt and must be noted without prejudice. If the accused student elects to appear in person, he/she may decline to answer questions posed by the judicial entity.

9.8-4 Eligibility for service as an advisor and the role of the advisor during formal judicial proceedings is defined previously in this document, **Section 7**.

9.8-5 The accused student shall be entitled to receive a written explanation of the decision of the judicial entity within five (5) academic days of the conclusion of the hearing. The complainant may be apprised of the outcome as permitted or required by law.

9.8-6 The accused student shall be notified of the right to appeal the original decision of the judicial entity. Any finding or sanction assessed by the judicial entity shall be held in abeyance until the final appeal as provided for in this document is exhausted.

9.8-7 When the University determines that the complainant is permitted or required by law to be apprised of the outcome of a judicial hearing, the complainant will be so notified. In such instances the complainant also has the right to appeal the decision.

9.9 If an accused student withdraws from the University before a hearing, the University may defer the hearing and re-entry would not be allowed until the process is concluded.

NOTE: Pursuant to an administrative hearing held under **8.1-2**, the proceeding will be less formal than that described in **Section 9**. Normally such a hearing will involve only the accused student and the administrative hearing officer. By electing hearing option **8.1-2**, the accused student receives the benefit of an immediate resolution of the pending disciplinary charge(s). However, the less formal hearing precludes certain procedural guidelines as delineated in **Section 9**.

10. POST-HEARING PROCEDURAL GUIDELINES

10.1 If a judicial entity has evidence that any party to a judicial proceeding has offered false testimony, it shall refer the matter to the Office of Student Services for investigation. Charges of student misconduct may be brought against the party if appropriate.

10.2 The Office of Student Services shall maintain the following records pertaining to each disciplinary case:

10.2-1 The original complaint.

10.2-2 All documents, correspondence, forms, statements, etc., pertaining to the matter before the judiciary as initiated by the Office of Student Services, the complainant, the accused student, and witnesses for either party.

10.2-3 A record of the decision including any finding, sanction, and any action recommended or taken.

10.2-4 All case records and materials pertaining to a judicial proceeding shall be kept secure away from public view. Except where confidentiality is further restricted by law, access to such case records or materials shall be limited to the judicial entity hearing the original or appellate case, the complainant, the accused student, and Administrative Officers of the University having direct involvement with the case. Access to judicial case records by anyone other than those expressly named shall be by written authorization of the student in whose name the file is kept. Case records shall be destroyed after seven (7) years, or after the accused party has been granted a degree by the University, whichever occurs earlier. In cases involving University Dismissal, the notice of dismissal will be kept as part of the student's permanent record.

10.3 Rulings of a judicial entity in conduct-related matters shall be enforced by the Office of Student Services. Academic matters shall be enforced by an appropriate academic administrator.

10.3-1 An accused student who is found guilty by a judicial entity, and who is assessed a sanction, and who refuses to comply with the ruling of the judicial entity, may be found in contempt. A finding of contempt shall bear automatic suspension from the University with right of immediate appeal to the appellate level for review.

11. APPEAL PROCEDURE

11.1 When considering matters on appeal, the UAB or the appropriate Vice Chancellor is the final appellate level within the UMD judicial system.

11.2 An accused student or a complainant who has been informed of the outcome of a discipline hearing as provided in section 9.8-7, may submit an appeal, in writing, to the UAB or to the appropriate Vice Chancellor. The written appeal must state the grounds upon which the appeal is based.

11.3 Grounds for appeal are allegations that: **(1)** the sanction administered by the original judicial entity is unjustified in its severity or leniency; **(2)** the weight of evidence did not justify a finding of guilty or innocent; **(3)** the basic tenets of due process provided by this document were omitted, ignored, or violated by the original judicial entity; **(4)** new evidence that is relevant and that was unobtainable at the time of the original hearing is extant; **(5)** a substantive issue pertaining to the interpretation of disciplinary rules or regulations is raised; or **(6)** a substantive miscarriage of justice has occurred.

11.4 The appeal petition must be written by the appellant. Exception: Any student who has been found guilty at a disciplinary hearing and who has been given a penalty of expulsion or suspension from the University for more than ten days shall have the right, at the student's expense, to submit a written statement drafted by an attorney that will be considered by the final appellate entity before a decision is issued.

11.5 The appeal petition must be received in the Office of Student Services not later than five (5) consecutive class days following receipt of the original decision.

11.6 With the exception that the petition must cite appropriate grounds for appeal enumerated above in order to be valid, there is no prescribed form for a petition for appellate review. The

appellant has the responsibility to make the petition sufficiently lucid and detailed so as to allow the appellate entity to understand the nature of the petition. If the appellate entity determines that a petition is improperly drafted or that it is insufficiently detailed, it shall so inform the petitioner and he/she shall have the right to submit an amended appeal within three (3) consecutive school days following said notification.

11.7 The appellate entity shall grant a hearing upon receipt of a petition of appeal whenever the said entity shall determine that the petition raises substantive issues relative to the grounds for appeal enumerated above, and, in the case of the appeal being made to the UAB, a minimum of 3 members of the UAB must vote in favor of granting a hearing. When a hearing takes place at least seven (7) members of the UAB must be present.

11.8 Withdrawal from University: A student party to a disciplinary action who has initiated an appeal to an appellate entity and who subsequently withdraws in good standing from the University while the appeal is pending, may continue the appeal process if he or she so chooses.

11.9 Official Summaries: In each case wherein a petition of appeal has been granted, an official summary of previous action in the case being appealed shall be submitted to the appellate entity. The official summary shall be prepared by responsible Student Services officials and all parties to the appeal shall receive a copy of the summary. The official summary shall contain: a statement of the charges preferred, a summation of the evidence heard, a record of decisions upon the evidence, and a statement of the sanction(s) imposed.

11.10 The appeal hearing is to be strictly limited to a review of the record of the original hearing. New evidence (i.e. evidence which was not presented at the original hearing) may be considered only if it is relevant and only if it was unobtainable at the time of the original hearing.

11.11 On appeal to the University Appellate Board, the order of the proceedings is as follows:

11.11-1 The Chairperson of the UAB shall read aloud to the other members the written appeal of the appellant.

11.11-2 In cases of appeal from decisions of lower judicial entities, the UAB shall invite a representative of the lower judicial entity to attend. The UAB shall listen to, or read transcripts of, or hear the recording of the pertinent part(s) of the original proceeding(s).

11.11-3 The appellant and the lower judicial entity representative shall each be permitted thirty (30) minutes oral argument.

11.11-4 The members of the UAB may question the appellant.

11.11-5 All persons other than members of the UAB shall retire from the room. The UAB shall reach all decisions by majority vote and, not later than three (3) consecutive class days thereafter, write its opinion.

11.11-6 The appellant is to receive a copy of the decision.

11.11-7 The decision of the UAB may include the following:

11.11-7a Affirm and uphold the decision of lower judicial entity.

11.11-7b Reject and overturn the decision of a lower judicial entity.

11.11-7c The accused may be found not guilty of the original charges.

11.11-7d The accused may be found guilty of the original charges and any of the full range of available items under the Sanction and Penalties section of this document may be applied.

11.11-7e Return the matter to the original judicial entity with instructions.

12. EMERGENCY PROCEDURES

In cases of discipline arising from extraordinary or emergency conditions, the Chancellor or his/her designee may invoke the action of interim suspension of a student or group of students who act, or refuse to act, the result of said conduct is to interfere with the rights of others and is non-peaceful or is disruptive or said conduct constitutes a clear and present danger to the health, safety, or property of others.

13. SANCTIONS AND PENALTIES

13.1 Dismissal is a permanent separation from the University. It is the most severe penalty that can be assessed by the University. The student is not eligible for re admission.

13.2 Suspension prohibits the student from registering for classes or from attending the University while the suspension is in effect. Suspension shall remain in effect for a specified period of time, not to exceed two (2) calendar years from the time of a decision by a judicial entity. At the end of the specified period the student may apply for re-admission. A suspension may provide for automatic reinstatement of an otherwise eligible student.

13.3 Jeopardy (suspended suspension) shall be imposed for time periods similar to that for suspension. During this period a student found guilty of a rule violation by a judicial proceeding may be subject to immediate suspension from the University. A student under the sanction of Jeopardy shall not represent the University as an official delegate, representative, athlete, or as a holder of office or committee chair in University groups of any kind.

13.4 Disciplinary Probation is a conditional continuance of registration at the University. It is a period when actions of the student are subject to particular scrutiny and when conduct violations will cause judicial entities to consider current violations within the context of and with prejudice based on past violations. Previous violations shall not be considered in the determination of guilt for any new violation, but shall be considered in determining a sanction after guilt has been established. Further misconduct during each probationary period may result in Suspension or Dismissal. At the discretion of the judicial entity imposing probation, a student on Disciplinary Probation may lose the right to represent the University as an official delegate, representative, athlete, or as a holder of office or committee chair in University student groups of any kind. Probation shall be imposed for time periods similar to that for Suspension. Probation may be imposed together with such lesser sanctions as may be deemed appropriate.

13.5 Loss of Privilege allows a judicial entity to restrict the activity of the student while he/she is on the University campus. The student may be prohibited from participating in non-academic

or extra-curricular activities and/or from visiting certain specified areas of the University campus and/or from coming into contact with specified individuals while on campus. Loss of Privilege should be related to the offense, or serve to correct the result of the offense, or compensate in some relevant way the offended party(ies). Loss of Privilege may accompany another sanction herein described. In matters pertaining to the University Residences, Loss of Privilege may include but is not limited to the following:

13.5-1 Residence Dismissal is a permanent separation from University Residences. The student is not eligible for re-admission to the Residences.

13.5-2 Residence Suspension prohibits the student from residing in University Residences while the suspension is in effect. Suspension shall remain in effect for a specified period of time not to exceed two (2) calendar years from the time of a decision by a judicial entity. At the end of the specified time period the student may apply for re-admission to Residences. Residence suspension may provide for automatic reinstatement of an otherwise eligible student.

13.5-3 Residence Jeopardy (suspended suspension) shall be imposed for time periods similar to that for Suspension. During this period a student found guilty of a rule violation by a judicial proceeding may be subject to immediate suspension from the Residence. A student under the sanction of Residence Jeopardy shall not represent the Residence as an official delegate, representative, athlete, or as a holder of office or committee chair in Residence groups of any kind.

13.6 Work Requirement permits a judicial entity to recommend and specify certain work requirements or duty obligations when such assignments are related to the offense, serve to correct the result of the offense, or compensate in some relevant way the offended party(ies). Work Requirement may accompany another sanction herein described.

13.7 Restitution is that action taken by a judicial entity requiring a student to make compensation for loss, damage, or injury the student may have caused. Restitution may accompany another sanction herein described.

13.8 Warning by a judicial entity, normally in writing, is intended to make the student aware of the possible consequences of his/her actions. This sanction may be considered with prejudice by a judicial entity in future action only when the Warning is presented to the student in writing. This sanction shall be for any time period specified and shall remain a part of the student's record until graduation or termination of his/her association with the University, at which time the notations shall be removed.

13.9 Admonition or Oral Warning is given by a judicial entity to advise a student of faulty conduct. Admonition shall not be viewed with prejudice by any judicial entity.

14. IMPEACHMENT AND REMOVAL OF JUSTICES

14-1 Impeachment proceedings against a student justice of any judiciary must be instituted through the Student Senate. Grounds for impeachment shall include: **(1)** gross negligence or dishonesty in the carrying out of the justice's judicial trust; **(2)** severe infraction of University rules of conduct resulting in the application of a sanction of Jeopardy or above by a judicial entity; or **(3)** actions by the justice during a judicial proceeding that serve to disrupt, make a mockery of, or otherwise cast disparagement on the role of the judiciary and its members.

14-2 Impeachment proceedings against a faculty justice of any judiciary must be instituted through the Faculty Senate. Grounds for impeachment shall include: (1) gross negligence or dishonesty in the carrying out of the justice's judicial trust; or (2) actions by the justice during a judicial proceeding that serve to disrupt, make a mockery of, or otherwise cast disparagement on the role of the judiciary or its members.

14-3 Impeachment and removal procedures for Faculty and Student Justices are as follows:

14.3-1 A motion of impeachment must be presented by a senator requesting the Faculty or Student Senate, as appropriate, to appoint a hearing committee of senators to investigate allegations under the grounds for impeachment above.

14.3-2 Upon approval of said motion, the committee shall be charged to report to the respective Senate the results of its investigation of the allegations and its recommendation, if any, for action.

14.3-3 A two-thirds (2/3) vote of the total membership of the Faculty or Student Senate, as appropriate, shall be required for removal. Upon enactment of a removal vote, the justice in question shall cease all functions associated with the judiciary and shall be dropped from the membership of the judiciary.

14.4 Impeachment and removal proceedings against an administrator-justice of any judiciary must be instituted through the Vice Chancellor for Student Services. Grounds for impeachment shall be the same as those for a faculty justice cited above.

14.5 Impeachment and removal procedure against an administrator is as follows:

The Vice Chancellor shall appoint an ad hoc investigatory committee of not less than three (3) student affairs administrators. The committee shall be charged to report to the Vice Chancellor the results of its investigation of the allegations and its recommendation, if any, for action. The Vice Chancellor shall determine whether the administrator shall be removed. Upon a decision for removal, the justice in question shall cease all functions associated with the judiciary and shall be dropped from the membership of the judiciary.

15. REPLACEMENT OF JUSTICES

Vacancies on any Judicial Board shall be filled as required by the same method used to appoint justices.

16. REVISION AND AMENDMENT

In the interests of preservation of justice, due process, and the efficient management of the University's judicial function, it is specifically recognized that the various provisions of this document must be subject to revision or amendment for just cause. As the chief University administrator charged with the oversight of student affairs on this campus, the Vice Chancellor for Student Services may, by a mechanism of his or her choice, recommend to the justices of the University judicial system that specific change(s) in this document be considered. The justices of the University judicial system may also recommend that specific change(s) in this document be considered. In either case, the document may be revised or amended by a positive vote of

two-thirds (2/3) of all the justices in the judicial system. No revision or amendment shall be deemed in force or operative for any purpose until approved by the Board of Trustees.