

SECTION 6: Conduct Procedures

A. Role of Conduct Procedure Participants

The Assistant Dean of Student Life or their designee will be the convener of each action outlined in this section. For Residence Life policies, the Director of Residence Life or their designee will serve as the convener. Definitions of roles within this section include:

- Responding Student: The person who is alleged to have violated the *Code of Conduct*.
- Complainant: The party bringing the complaint, who may be a student, employee, visitor, guest, or law enforcement.
- Witnesses: Persons who may offer information regarding the allegation or incident.
- Hearing Officer: University representative whose role is to facilitate discussion about the incident and to have an educational conversation with all parties before making a determination of responsibility in the matter. The hearing officer is also responsible for the assignment of sanctions and follow-up with students as needed.

B. Group Violations

A student group or organization, including athletics teams, and its officers and/or membership may be held collectively and individually responsible when violations of the *Code of Conduct* by the organization or its member(s):

- Take place at an organization-sponsored or co-sponsored event, whether sponsorship is formal or implied;
- Have received the consent or encouragement of the organization or of the organization's leaders or officers; or
- Were known or should have been known to the membership or its officers.

Hearings for student groups or organizations follow the same general student conduct procedures. In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual and the organization.

C. Good Samaritan Policy:

Nebraska's Good Samaritan Law (LB439) provides minors (under 21 years of age) limited legal immunity if they call for medical assistance, remain on the scene, and cooperate with law enforcement. The law does not provide protection for acts of sexual violation, threats, assaults, fake identification use, procuring for minors, harassment or hazing and other violations not named.

Student health and safety are the primary concerns of the College of Saint Mary community. College of Saint Mary's Good Samaritan Policy ensures students that seek assistance for an intoxicated individual and others will not be subject to university disciplinary action with respect to the CSM alcohol policy. (This policy does not preclude disciplinary action regarding other violations of university standards, such as: causing or threatening physical harm, sexual assault, vandalism of University property, harassment, hazing, or any other policy violations not named. Additionally, this CSM policy does not prevent action by city, county, or state authorities.) Safety and Security Officers or other CSM staff or RAs will record names of intoxicated students to enable any follow-up that may be deemed necessary to ensure students' well-being. Other information may also be recorded to allow any other appropriate follow-up.

In order for this policy to apply, the intoxicated student(s) must agree to timely completion of recommended alcohol education activities, assessment, and/or treatment depending on the level of concern for student health and safety. Severe or repeated incidents will prompt a higher degree of medical interest. Failure to complete recommended follow-up will result in a student being referred to the student conduct process. Likewise, groups or organizations involved in an incident must agree to take recommended steps to address medical concerns.

D. Notice of Alleged Violation

When a student has been accused of violating a University policy or the *Code of Conduct*, a hearing officer will be assigned to the incident. In the event of multiple students' alleged involvement, the same hearing officer will work with all parties. Usually within 10 business days, the hearing officer will contact the respondents via CSM e-mail to set up a time to meet with each of the students. At the time of this contact, the respondents will be notified of the Code of Conduct or University policy they are accused of having violated as well as the date, time, and location of the incident. Additional resources for learning more about the policies will be noted in the contact letter.

Most notices of alleged violation will contain information about a meeting that has been set up in advance between the responding student and the hearing officer. If the responding student needs to select a different meeting time, he/she must notify the hearing officer via CSM e-mail a minimum of 24 hours prior to the meeting to reschedule.

E. Formal Conduct Hearing

This meeting is intended to be an educational discussion that allows students the opportunity to learn more about expectations of the University community and how to foster good citizenship. This meeting will also serve to gather information regarding the alleged incident. At the start of the meeting, the hearing officer will offer an explanation of the student conduct process prior to beginning conversation about the alleged incident.

All meetings are closed and neither the University nor the student(s) are permitted to bring attorneys to student conduct meetings.

Witnesses may be permitted if it is believed that the witness personally observed, or has direct knowledge of, information relevant to the incident. Character witnesses are prohibited. The hearing officer reserves the right to determine whether witness commentary will be permitted. Students wishing to have a witness' statement considered must notify the hearing officer prior to the hearing, and the hearing officer will be responsible for setting up a meeting between the hearing officer and the witness. Witnesses may not be brought to a responding student's hearing.

If the responding student fails to appear for a scheduled hearing and does not attempt to reschedule the meeting, the hearing officer may make a determination regarding the student's responsibility based on the information available (including, but not limited to, incident reports, formal complaints, information presented by others involved, etc.) and may impose sanctions as a result of violations. If a student does not attend the hearing, the student forfeits their right to appeal the decision.

F. Alternative to Formal Hearing

In the case of first-time alleged conduct violations, the hearing officer may opt to send the responding student a letter that serves as a reminder of the University policy in lieu of a formal hearing. Within this letter, the alleged violation, date of alleged violation, time of alleged violation, location of alleged violation, and an explanation of the University policy will be presented. The responding student will be granted the opportunity to opt for a hearing, and must do so prior to the date listed in the letter, usually 5 business days. A student's choice to not respond to the letter will be interpreted as acceptance of the written warning, and the written warning will be documented as the sanction for a finding of "responsible."

G. Determination of Responsibility

Following the student conduct meeting, the hearing officer will take into consideration all information in the case including, but not limited to, students' previous conduct records, conversation and statements during hearings, written complaints, incident reports, witness statements, and other relevant information. No decisions regarding any of the responding students will be made until all parties conduct meetings have concluded. Within the conduct process, the university uses a preponderance of evidence model which means a determination is made based on a reasonable person's assessment of "*more likely than not*". After review of this information, the hearing officer will make a determination to:

1. Find the accused student was not responsible for a violation of the Code of Conduct or University policies.
2. Find the accused student was responsible, more likely than not, for violating the *Code of Conduct* or University policies.

Regardless of outcome, each responding student will be contacted via CSM e-mail to be notified of the decision, usually within five business days.

If responsible, the hearing officer will outline relevant sanctions that a responsible student must complete. An explanation of the sanction, including a timeline for completion, will be presented.

Notes and statements recorded as a part of the student conduct meeting are the property of the University. Student conduct records are maintained for a period of seven years.

H. Conduct Sanctions:

One or more of the following sanctions may be imposed upon any student for any single violation of the Code of Conduct:

Educational Sanctions

1. Apology: A written or oral apology to a person or group affected by the actions of the student.
2. University Service: For a student or organization to complete a specific supervised University service.
3. Educational Programs: Requirement to attend, present, write, and/or participate in a program related to the violation.
4. Online Course: For cases involving alcohol or marijuana, CSM partners with 3rd Millennium Classrooms to offer an online course that teaches more about these substances. The student will be responsible for the \$35 course fee, paid directly to the 3rd-party provider.
5. Referral: Hearing officer may refer a student to counseling or another appropriate community resource.

Administrative Sanctions

1. Warning: An official written notice that the student has violated CSM policies and that more severe conduct action will result should the student be involved in other violations while the student is enrolled at College of Saint Mary.
2. Restitution: Compensation for damage caused to the University or any person's property. This could also include situations such as failure to return a space to proper condition—labor costs and expenses. This is not a fine but, rather, a repayment for labor costs and/or the value of property damaged, consumed, destroyed or stolen.
3. Fines: Reasonable fines may be imposed.
4. Holds: A hearing officer may issue a hold to a student's account with the university if terms of a sanction are not completed by the stated deadline. These holds may result in a student's inability to register for classes, apply for on-campus housing, or receive transcripts.
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 Vice President for Academic & Student Affairs or Director of Residence Life.
7. Exclusion: Student may be excluded for a definite or indefinite period of time from all or a portion of University premises, property, buildings, or residence areas, which would be specifically outlined in the sanction.
8. Restriction of Visitation Privileges: May be imposed on a resident or non- resident student. The parameters of the restriction will be specified.
9. No Contact Directive: Prohibits contact in any form or capacity (written, face-to-face, electronic, etc.) with a stated person or persons.
10. 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 at the discretion of the Assistant Dean of Student Life.

11. Social Probation: The student is deemed “not in good standing” with the University for a specified period of time. Specific limitations or exceptions may be granted by the Vice President for Academic & Student Affairs or their designee. Terms of this sanction may include, but not be limited to:
 1. Ineligibility to hold any office in any student organization recognized by University or hold any elected or appointed leadership position at the University; or
 2. Ineligibility to represent the University to anyone outside the University community in any way including: participating in the student abroad program, attending conferences, or representing the University at an official function, event, or intercollegiate competition as a player, manager, or student coach, etc.
12. University Suspension: Separation from the University for a specified minimum period of time, after which the student is eligible to return. Eligibility may be contingent upon satisfaction of specific conditions noted at the time of suspension. If residential, the student is required to vacate the campus within 24 hours of notification of the sanction, though this deadline may be extended at the discretion of the Vice President for Academic & Student Affairs. During the suspension period, the student is banned from University property, functions, events, and activities without prior written approval from the Assistant Dean of Student Life.
13. University Expulsion: Permanent separation from the University. The student is banned from University property and the student’s presence at any University-sponsored activity or event is prohibited. This action may be enforced with a trespass action on necessary. This sanction will be noted as a Conduct Expulsion on the student’s official academic transcript.

Residency Sanctions

1. CSM Housing Reassignment: Reassignment to another CSM housing assignment. Residence Life personnel will decide on the reassignment details such as location, timeline for move, etc.
2. Residence Hall Probation: Official notice that, should further violations of Residence Life or University policies occur during a specified probationary period, the student may immediately be removed from CSM residence halls. Regular probationary meetings may be imposed at the discretion of the hearing officer.
3. Removal from CSM Residence Halls: Removal from CSM 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 after notification of the action, though this deadline may be extended at the discretion of the Director of 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 Residence Life or their designee. This sanction may include restrictions on visitation to specified buildings or all University housing during the suspension. A residential student may be removed from university housing for no less than the remainder of the semester or for an indefinite period of time. No refunded for semester room/board will be granted.
4. CSM Housing Expulsion: The student’s privilege to live in, or visit, any CSM Residence Life structure is revoked indefinitely. This sanction may be enforced with a trespass action if deemed necessary at the discretion of the Director of Residence Life.

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

1. One or more of the sanctions listed above; or
2. Deactivation, de-recognition, loss of all privileges (including status as a University-registered group/organization), for a specified period of time. Specific instructions for reinstatement will be provided at time of sanction.

I. Parental Notification

The University reserves the right to notify the parents/guardians of dependent students regarding any conduct situation, particularly alcohol and other drug violations. The University may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and other drug violations. Parental notification may also be utilized discretionarily by University officials when permitted by FERPA or consent of the student.

J. Notification of Outcomes

The outcome of a student conduct hearing is part of the education record of the responding student and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions.

As allowed by FERPA, when a student is accused of a policy violation that would constitute a “crime of violence” or forcible or nonforcible sex offense, the University will inform the party bringing the complaint 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 student’s name, the violation committed, and the sanctions assigned (if applicable). In cases of sexual misconduct and other offenses covered by Title IX, the rationale for the outcome will also be shared with all parties to the complaint in addition to the finding and sanction(s).

FERPA defines “crimes of violence” to include:

1. Aggravated Assault
2. Arson
3. Burglary
4. Manslaughter - Negligent
5. Murder/Non-Negligent Manslaughter
6. Motor Vehicle Theft
7. Robbery
8. Sex offense (Rape)
9. Sex Offense (Fondling)
10. Sex Offense (Incest)
11. Sex Offense (Statutory Rape)
12. Dating Violence
13. Domestic Violence
14. Stalking
15. Hate Crimes
16. Liquor Law Violations
17. Drug Law Violations
18. Illegal Weapons Possessions

K. Failure to Complete Conduct Sanctions

All students, as members of the University community, are expected to comply with conduct sanctions within the timeframe specified by the 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 and/or a hold being placed on the student’s account.