



Code of Student Conduct

As a member of the Drake family, a certain standard of behavior is expected. You have a responsibility to contribute to the Drake community and help preserve a safe, welcoming, and positive environment.

All students are expected to read and understand the Student Handbook, which lays out these behavior expectations. Should you act in a way that is not in accordance with this Code, the Dean of Students Office will facilitate the appropriate disciplinary actions.

While we hope your time at Drake is largely positive, we are here to provide support should you encounter challenges or obstacles. Please contact the Dean of Students if you need assistance with student life issues.

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Drake University Nondiscrimination Statement: *The principles of equal access and equal opportunity require that all interactions within the University be free from invidious discrimination. Drake University therefore prohibits discrimination based upon race, color, national origin, creed, religion, age, disability, sex, pregnancy, gender identity or expression, sexual orientation, genetic information, veteran status or any characteristic protected by law in its educational programs and activities, admissions, or employment. Inquiries regarding non-discrimination policies may be directed to the Title IX Coordinator, 316 Old Main, 2507 University Ave., Des Moines, IA 50311, (515) 271-2982, titleix@drake.edu or Human Resources, Human Resources, 3206 University, Des Moines, IA 50311, (515) 271-3133, drakehr@drake.edu.*

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POLICY INFORMATION:

[Sexual Harassment Policy](#)

[Discriminatory Harassment \(Non-Sex-Based\)](#)

RESOURCE INFORMATION:

[Code of Student Conduct Appendices](#)

[Student Life Complaint Procedures](#)

[Anonymous Complaints through Ethics Point](#)

[Resources and Reporting for Sexual & Interpersonal Misconduct](#)

[Drake Public Safety](#)

[University Counseling Center](#)

[Student Health Services](#)

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CODE OF STUDENT CONDUCT

I. Academic Misconduct.

A. Academic Dishonesty: Cheating and Plagiarism. A student who cheats or plagiarizes commits an offense against the entire University community. Cheating is defined as an act or attempted act of giving or obtaining aid and/or information by illicit means in meeting any academic requirements, including examinations. Plagiarism is defined as misrepresenting other's ideas, phrases or discourse as one's own.

Each college and school has guidelines that define academic integrity violations, provide information about penalties, and provide procedures by which a student may appeal penalties that have been imposed.

B. Appeals: Appeals of penalties imposed by faculty for academic integrity violations are to be filed in the faculty member's school or college. The policies and procedures for each unit are available on the following web pages:

[College of Arts and Sciences and Fine Arts](#)
[College of Business and Public Administration](#)
[School of Education](#)
[School of Journalism](#)
[Law School](#)
[College of Pharmacy and Health Sciences](#)

II. Non-Academic Misconduct.

Non-academic misconduct is any conduct that adversely affects or threatens to adversely affect the safety of students, faculty, staff members or University property, violation of University non-academic rules, regulations, or policies, or any governmental law, regulation, or ordinance. Non-academic misconduct also includes behavior that is disruptive or substantially impedes the lawful activities of other students, faculty or staff members.

A. Goals and Purposes of the Code.

The Code of Student Conduct is intended to assist Drake University in fulfilling its purpose as an academic institution dedicated to the transmission of knowledge, the pursuit of truth, the intellectual and moral development of students and the well-being of society. All members of the academic community share in the responsibility to establish and maintain conditions conducive to the fundamental academic freedoms to teach and to learn, and the correlative freedoms of inquiry and expression. These conditions include

civility in all conduct, respect for all persons and integrity in every endeavor. The Code of Student Conduct shall be construed and enforced to secure these freedoms.

Non-academic misconduct by students or student organizations constitutes a violation of this Code. The University's disciplinary jurisdiction can extend to conduct on and off campus.

Through voluntary entrance into Drake University, the student indicates a willingness to accept University rules, regulations and policies. The student also acknowledges the right of the University to initiate disciplinary procedures when an allegation or a complaint of non-academic misconduct is made and to impose disciplinary sanctions when it has been determined that non-academic misconduct has occurred.

B. Inherent Authority of the University.

The standards and procedures set forth in this document are those the University normally follows in disciplinary matters. The University reserves the right to take whatever disciplinary action is appropriate (up to and including expulsion from the University) to protect the safety and well-being of students, faculty, staff and University property. In addition, the University reserves the right to make updates or amendments to this Code as necessary or required.

C. Authority of University Departments, Living Units, and Student Organizations.

Unless otherwise directed by the Dean of Students, the Code of Student Conduct does not limit the authority and discretion vested in the various University departments, colleges and schools to investigate and sanction students and student organizations within their jurisdictions in accordance with their rules, regulations and policies.

D. Relationship Between Code of Student Conduct and the Code of an Individual School or College.

This Code of Student Conduct and an honor code or code of conduct of a school or college within the University may cover the same action(s). If a complaint alleges conduct that would constitute a violation of both this Code and an honor code or code of conduct of any college or school within the University, the complaint may be processed under the procedures set forth in this Code, the code of the individual school or college, or both unless otherwise directed by the Dean of Students. If a complaint alleges conduct that is covered by this Code, but that is not covered by the code of any college or school within the University, then the complaint will be processed under procedures set forth in this Code of Student Conduct.

E. Relationship Between Code of Student Conduct and the University’s Sexual Harassment Policy

In some situations, this Code of Student Conduct and the University’s Sexual Harassment Policy may cover the same allegations of misconduct. Such allegations will be processed using the following procedures:

1. If, at any point during the resolution process, it becomes apparent that a report or complaint of Sexual Misconduct alleges conduct that meets the scope/jurisdictional requirements of Section II.1 of the University’s Sexual Harassment Policy, the University will be required to respond to that report or formal complaint of misconduct in accordance with the University’s Formal Title IX Resolution Process as outlined in Section II.2 of the Sexual Harassment Policy.

2. If, at any point during the resolution process, it becomes apparent that the allegations contained within a report or formal complaint, even if true, would not meet the scope/jurisdictional requirements for Formal Title IX Resolution Processes as set forth in Section II.1 of the University’s Sexual Harassment Policy, the University must dismiss the complaint for purposes of processing under the University’s Title IX Formal Resolution Process, but may, as the circumstances warrant, elect to proceed with the investigation, adjudication or other resolution of the complaint under the processes and policies outlined within this Student Code of Conduct. The University will not proceed under any other this or another policy/procedure if doing so would interfere with any right or privilege provided to a party under Title IX.

F. Interpretation of Rules, Regulations and Policies.

University disciplinary rules, regulations and policies are set forth in writing to give students general notice of prohibited conduct. The rules, regulations and policies are not designed to define non-academic misconduct in exhaustive terms and should be read broadly.

G. Parental Notification.

In the discretion of the Dean of Students, the student’s parent(s) or guardian(s) may be notified of disciplinary proceedings.

H. University Disciplinary Proceedings and Associated Civil/Criminal Proceedings.

University disciplinary proceedings may commence whether or not the student is involved in proceedings before a civil or criminal court. If a student is convicted or receives a deferred judgment in an associated criminal proceeding for a crime that constitutes a violation hereunder, and if that conviction or deferred judgment occurs before a final decision is rendered under this Code, the Dean of Students or Chief Student Affairs Officer may impose sanctions up to and including expulsion from the University without further proceedings under this Code of Student Conduct.

I. Withdrawal of Student.

If a student withdraws from the University, the withdrawal does not affect the ability of the University to initiate or continue disciplinary proceedings against the student for actions or events which occurred prior to the withdrawal. Credits earned and programs completed prior to withdrawal will be reflected on the student's transcript.

J. Definitions.

When used in this Code:

1. The term "appeals panel" means an impartial three-member group of University employees to hear and decide appeals of non-academic misconduct decisions when permitted. The appeals panel shall be selected by the Provost from a pool of trained employees or, where circumstances warrant, members of the public.
2. The terms "Code of Student Conduct" or "Code" refer to this document containing the rules, regulations and policies that govern student discipline. The term "Complainant" means a student, student organization, faculty member or staff member who claims to have been affected by a student's conduct.
3. The term "consent" in the context of sexual activity, means informed, freely and actively given unambiguous words or actions that demonstrate a willingness to participate in mutually agreed-upon sexual activity.
4. The term "Dean" or "Dean of Students" means the Dean of Students or designee.
5. The term "interim administrative leave" means a respondent student is placed on limited, or inactive status.
6. The term "preponderance of the evidence" refers to the standard of

proof by which it will be decided if a student has engaged in non-academic misconduct under this Code. A preponderance of the evidence exists when it is more likely than not or the greater weight of the evidence suggests a violation occurred. This is to be distinguished from the higher standard that is applicable in criminal proceedings which requires “proof beyond a reasonable doubt.”

7. The term “Respondent” means a student or student organization reported to have engaged in non-academic misconduct.
8. The term “student” means admitted students as well as students who may not be on campus but are nonetheless considered an enrolled student at the University at the time the alleged non-academic misconduct occurs or at the time of review.
9. The term “student organization” means a group with one or more students recognized by the University.
10. The term “substantial evidence” refers to one of the grounds for appeal from a decision on non-academic misconduct. Substantial evidence exists when there is proof that a reasonable mind would accept as adequate to reach a given conclusion even though the appeals panel might reach a contrary inference from that proof.

K. Non-Academic Misconduct Subject to Sanction.

The following conduct, although not an exhaustive list, is subject to sanction as non-academic misconduct.

1. **Acceptable Computer Use:** Use of University technology resources is a privilege and not a right. Therefore, use of such resources is contingent upon compliance with University policies and standards and all governing federal, state, local laws, and regulations.

The following may be considered violations of this policy:

- a. Using a computer or technological resource to interrupt, access or tamper with private or secure information.
- b. Violations or misuse of software, copyrighted material or other intellectual property.
- c. Granting access to or using another person’s account information.
- d. Use of a computer or other technology to commit academic misconduct.
- e. Employing a computer or Drake network to harass other users.

2. Accessory to Commission of Non-Academic Misconduct: A student shall not aid or abet or otherwise act as an accomplice to the commission of non-academic misconduct.
3. Administering Harmful Substances: Administering to another or causing another to take, without the other person's consent or by threat or deception, alcohol or any poisonous, stupefying, stimulating, depressing, tranquilizing, narcotic, hypnotic, hallucinating, or anesthetic substance in sufficient quantity to have such effect.
4. Alcohol and Controlled Substance Use:
 - a. Consumption or possession of alcoholic beverage by persons under the legal age, except to the extent that a person under legal age may handle alcoholic beverages during the regular course of the person's employment. Drake University prohibits selling, dispensing, or giving alcoholic beverages to an intoxicated person or one simulating intoxication.
 - b. Consumption of alcohol in public places except to the extent the place has the requisite license or permit (e.g., certain areas of the Olmstead Center) and permission from the appropriate offices to dispense alcoholic beverages. Drake University also prohibits being intoxicated, or pretending to be intoxicated, in public places.
 - c. Possession, manufacture, or delivery of drugs or drug paraphernalia.
5. Arson: Causing a fire or explosion or placing any burning or combustible material or any incendiary or explosive device or material in or near any property with the intent to damage or destroy property or with the knowledge that property will probably be destroyed; or causing a fire or explosion that damages or destroys property while manufacturing or attempting to manufacture a controlled substance.
6. Assault: A person commits assault when, without justification, the person does any of the following:
 - a. Any intentional and unauthorized act that is intended to cause pain or injury to another or that is intended to result in physical contact that is insulting or offensive, coupled with the apparent ability to do the act;
 - b. Any intentional and unauthorized act that is intended to place the victim in fear of immediate physical contact that would have been painful, injurious, insulting, or offensive, coupled with the apparent ability to do the act; or
 - c. Any intentional and unauthorized pointing of a firearm or display of a dangerous weapon in a threatening manner.

7. **Attempt to Commit Non-Academic Misconduct:** An attempt to commit a prohibited or unlawful act is non-academic misconduct, even if unsuccessful.
8. **Bias-motivated Incidents:** A person commits a Bias-Motivated Incident if that person commits a violation of the Code of Student Conduct against an individual or group of individuals because of the individual's or group of individuals' actual or perceived race, color, religion, national origin, sexual orientation, disability, age, gender, or gender identity or expression.
9. **Campus Posting Policy:** Individuals and campus organizations have and assume full responsibility and liability for the signs they post. All campus postings must be approved by the appropriate building, grounds manager or governing body and adhere to all guidelines set forth for that space.
10. **Contempt:** Failure to comply with the reasonable directive of any University official or employee acting within the proper scope of their authority to issue such directive to a student.
11. **Dating Violence:** Violence, or the threat of violence, committed by a person who is or has been in a social relationship of a romantic, sexual, or intimate nature with the Complainant. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For purposes of this definition dating violence includes, but is not limited to, sexual or physical abuse or threat of such abuse and does not include acts covered under the definition of domestic violence.

Discussion or Examples: Examples of dating violence include, but are not limited to, the following based on the totality of the circumstances: physical violence or assault; non-consensual sexual activity (which could constitute both sexual assault and dating violence); or threats of such violence. "Intimate" means a significant romantic involvement that need not include sexual involvement. An intimate relationship does not include casual social relationships or associations in a business or professional capacity.

A person commits an assault when, without justification, the person does any of the following:

- Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act; or
- Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

12. Discriminatory Harassment (Non-Sex-Based): Harassment based on any of the following: race, color, national origin, creed, religion, age, disability, gender identity or expression, sexual orientation, genetic information or veteran status.

Discriminatory harassment is conduct based on one of these characteristics when such conduct has the purpose or effect of unreasonably interfering with an individual's work or educational performance or of creating an intimidating, hostile, or offensive environment for work or learning. [See Policy on Discriminatory Harassment \(Non-Sex-Based\)](#).

13. Disorderly Conduct: Any action committed without justification or excuse that unreasonably disrupts or obstructs the normal use of University property or that disrupts University-sponsored activities. Disorderly conduct also includes actions that unreasonably disrupt classes or other instruction, such as failure to comply with an instructor's legitimate directions, engaging in loud noise or disruptive actions, or other behavior that impairs the learning experience of other students or interferes with the efforts of the instructor.

14. Domestic Violence: A felony or misdemeanor crime of violence committed by a: a) Current or former spouse or intimate partner of the victim; b) Person with whom the victim shares a child in common; c) Person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner; d) Person similarly situated to a spouse of the victim under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred and e) Any other person against an adult or youth victim who is protected from that person's act under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred.

Discussion or Examples: Examples of domestic violence include, but are not limited to, the following based on the totality of the circumstances: physical violence or assault; non-consensual sexual activity (which could constitute both sexual assault and domestic violence); or threats of such violence.

A person commits an assault when, without justification, the person does any of the following:

- Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act; or
 - Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
15. Gambling: Raffles and games of chance are not legal in the State of Iowa except when the proper permit is issued by the state.
16. Harassment: Doing any of the following acts with intent to intimidate, annoy, or alarm another person:
- a. Communicating with another in person, by telephone, in writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm;
 - b. Using social networking or other internet sites for the purpose of exhibiting, distributing, posting, or communicating matter in any form (text, image, audio, or video) that defames, intimidates, harasses, or is otherwise intended to harm, insult, or humiliate another, or that disrupts or prevents a safe and positive educational or working environment; or
 - c. Purposefully and without legitimate purpose, putting oneself in proximity to another person with the intent to threaten, intimidate, or alarm that other person.
17. Hazing: Hazing is any intentional, knowing, or reckless action, request, or creation of circumstances that is done in connection with initiation or admission into, or continued membership in, any group affiliated with the University, including but not limited to, any student, campus, fraternal, academic, honorary, athletic, or military organization which:
- a. Endangers the health or safety of any individual; or
 - b. Causes or presents a substantial risk of physical injury, serious mental distress, or personal humiliation to any individual; or
 - c. Involves the destruction or removal of public or private property.

It is not a defense to the violation of this section that the subject of the hazing provided explicit or implied consent. Participation or acquiescence in the hazing behaviors by others may also be violations of this section.

18. Identity theft: Fraudulently using or misrepresenting the identity or identifying information of another person, group, or the University.
19. Keys Violations: Unauthorized possession of University keys, keycards and/or reproduction of University keys or keycards by anyone other than authorized University personnel.
20. Misuse of Fire Alarms and Equipment: Pulling fire alarms falsely or tampering with firefighting equipment (e.g., fire alarms, extinguishers, exit signs, fire hoses, smoke detectors, emergency lights).
21. Misuse, forgery, or misrepresentation of an Identification Card (student ID, Driver's License, State ID, etc.) or Other University Documents:
 - a. Drake cards must be carried at all times and presented at the request of a University official.
 - b. The card is not transferable and may not be used by any person other than the one to whom it was issued.
 - c. Forging or altering a student identification card.
22. Other acts in violation of local ordinances, state or federal law.
23. Perjury: Knowingly making one or more false statements in connection with a disciplinary proceeding or investigation.
24. Possessing or Providing False and Misleading Information or Falsification of University Records:
 - a. Withholding related information or furnishing false or misleading information (oral or written) to University officials, University and non-University law enforcement officers, faculty or staff.
 - b. Possession, use or attempted use of any form of fraudulent identification.
 - c. Forgery, alteration or misuse of any University document, material, file, record or instrument of identification.
 - d. Deliberately and purposefully providing false or misleading verbal or written information about another person.

- e. Falsification, distortion, or misrepresentation of information during the Student Conduct Review Process, including knowingly initiating a false complaint.

25. **Property Damage:** Any intentional or reckless damage to real or personal property of another, including property of the University.

26. **Provision of Alcohol and/or Other Drugs for Purposes of Unwelcome or Nonconsensual Sexual Activity:** Providing alcohol and/or other drugs to an individual for the purpose of committing or facilitating sexual misconduct, such as unwelcome sexual touching, Sexual Assault, or other sexual activity without consent of the victim. An individual does not have to engage in sexual activity with another person to be found responsible for the prohibited provision of alcohol and/or other drugs.

Discussion or Examples: Such behavior may include provision of a drink or food which contains alcohol and/or drugs without the knowledge of the individual to whom it is being provided or other actions taken with the intention of impairing the senses, judgment, and/or physical and mental ability of another person in order to engage in sexual activity.

27. **Retaliation:** Materially adverse action taken against a person because of the person's report of misconduct, participation in the investigation of a report of misconduct, or objecting to or resisting such misconduct. [See Non-Retaliation against Persons Reporting Misconduct policy.](#)

28. **Sexual Assault:** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent including:

- a. Rape: the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person without consent of the victim;
- b. Fondling: the touching of private body parts of another person for the purpose of sexual gratification without consent of the victim including instances where the victim is incapable of giving consent because of their age or their temporary or permanent mental incapacity;
- c. Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; or
- d. Statutory Rape: sexual intercourse with a person who is under the

statutory age of consent.

29. Sexual Exploitation: Sexual exploitation involves one person violating the sexual privacy of another or taking non-consensual sexual advantage of another person even though the behavior might not constitute one of the other sexual misconduct offenses.

Discussion or Examples: Examples can include, but are not limited to, the following behaviors:

- Distribution or publication of sexual or intimate information about another person without consent
- Electronic recording, photographing, or transmitting sexual or intimate utterances, sounds, or images without knowledge and consent of all parties
- Engaging in indecent exposure, including exposing one's genitals or inducing another to expose their genitals in non-consensual circumstances
- Sexual intimidation - Sexual intimidation is an implied or actual threat to commit a sex act against another person, or behavior used to coerce participation in a sex act
- Intentional ejaculation on another person without consent
- Voyeurism, including observing another's nudity, state of undress, or sexual activity without consent
- Intentionally misrepresenting the presence or use of a condom, prophylactic or other birth control to induce a person to consent to sexual activity, or intentionally removing a condom, prophylactic, or other birth control during or before sexual contact without a partner's consent
- Intentionally exposing another person to a sexually transmitted disease/infection without the person's knowledge
- Prostituting or trafficking another person for commercial sexual activity, including purchasing or attempting to purchase services involving commercial sexual activity from a trafficking-victim or another person engaged in human trafficking.

30. Sexual Harassment: Sexual Harassment is defined as unwelcome behavior of a sexual nature or that is directed at someone because of their sex when:
- a. Submission to or rejection of such conduct is made explicitly or implicitly a term or condition of an individual's education, employment or status in a course, program or activity;

- b. Submission to or rejection of such conduct is used as a basis for an employment or educational decision affecting an individual or their participation in a course, program or activity; or
- c. Such conduct is sufficiently severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with or limiting an individual's work or education so as to create an intimidating, hostile, or offensive environment for work or learning or participating in a University program or activity.

Discussion or Examples:

“Unwelcome” means the person did not solicit or invite the behavior and regarded it as undesirable or offensive, even if at first the behavior was tolerated.

A “hostile environment” is defined as an environment that, through harassing conduct based on a person's sex, becomes sufficiently severe, pervasive, or persistent so as to unreasonably interfere with a person's work or learning or limit the ability of a person to participate in or benefit from a university program or activity. Consideration of sexual harassment must take in the totality of the circumstances to determine whether a “hostile environment” exists, including the context, nature, scope, frequency, duration and location of incidents, as well as the identity, number, and relationships of the persons involved. In some cases, a single incident may be so severe as to create a hostile environment. In other instances, the behavior at issue may not be sufficiently severe, pervasive, or persistent as to constitute a hostile work or learning environment. In such cases, the University can generally take action to stop the offending behavior in an effort to promote a respectful environment and avoid the possibility that a hostile environment will develop.

The University determines whether the person at whom the conduct was directed found it harassing and whether a “reasonable person” would find the conduct harassing, using both a subjective and objective assessment of whether the conduct was unwelcome and would constitute a hostile environment.

Drake University does not tolerate sexual harassment of its employees or students by others regardless of their University status and also protects students and employees against third-party harassment within the employment and educational setting. Sexual harassment is especially serious when it threatens relations by unfairly exploiting the power differential between the parties in an educational or professional

relationship such as between instructor/advisor/coach and student or supervisor and subordinate, as explained in the [Consensual Relationships Policy](#).

Sexual harassment occurs in a variety of circumstances. Sexual harassment can involve relationships of unequal power and contain elements of coercion as when compliance with requests for sexual favors becomes a condition of employment, work, education, study, or benefits. Sexual harassment may also involve unwelcome relationships or behavior among equals, as when repeated sexual advances or demeaning/offensive verbal or physical behavior have a harmful effect on a person's ability to study, work, or participate at the University.

Examples of sexual harassment include, but are not limited to, the following behaviors when unwelcome:

- Physical behavior, such as intentional touching or deliberate interference with or restriction of movement
- Communication (verbal, written, symbolic expression, online) such as:
 - explicit or implicit propositions to engage in sexual activity;
 - gratuitous comments, jokes, questions, anecdotes, or remarks of a sexual nature, including communications about clothing, appearance, or bodies of a person;
 - gratuitous remarks about sexual activities or speculation about sexual experiences;
 - gratuitous remarks about how a person should dress, act, or behave based on sex or gender stereotypes;
 - sexual or romantic attention or subtle or overt pressure for sexual favors;
 - exposure to sexually suggestive visual displays such as photographs, drawings, posters, videos or other materials;
 - deliberate humiliation or intimidation based on sex or gender.

31. Sexual Misconduct: For purposes of this Code of Student Conduct, the term Sexual Misconduct includes Sexual Assault, Sexual Exploitation Sexual Harassment, Domestic Violence, Dating Violence, and Stalking.
32. Smoking on Campus: Iowa law prohibits smoking anywhere on the Drake University campus, including in University-owned or leased vehicles and any vehicles parked in University parking lots.

33. Stalking: A person engages in a course of conduct toward another person under circumstances that would reasonably cause a person to fear bodily injury to themselves or others or to experience substantial emotional distress. For purposes of this definition:

- “Course of conduct” means two or more acts, including but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.
- “Substantial emotional distress” means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.
- “Reasonable person” means a reasonable person under similar circumstances and with similar identities to the victim.

Discussion or Examples: A course of conduct may exist even if the Complainant makes only a single report to the University, if the behaviors reported included two or more instances. Stalking behaviors can be characterized as persistent and frequent unwanted in-person contact, surveillance, and unwanted telephone and other electronic contact. Some stalking behaviors, in isolation, may not appear problematic unless part of a course of conduct examined in the totality of the circumstances. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, GPS, spyware, or other similar devices or forms of contact or surveillance are used. It is not required that any form of prior relationship exist in order for behavior to constitute stalking.

Examples of stalking include, but are not limited to:

- Non-consensual or unwelcome communication including in-person communication, telephone calls, voice messages, text messages, email messages, social networking site postings, instant messages, postings of pictures or information on Web sites, written letters, gifts, or any other communications that are undesired and/or place another person in fear or cause substantial emotional distress;

- Following, pursuing, waiting, or showing up uninvited at a workplace, place of residence, classroom, or other locations frequented by a person;
 - Surveillance and other types of observation, whether by physical proximity or electronic means;
 - Trespassing;
 - Vandalism;
 - Non-consensual touching;
 - Direct physical and/or verbal threats against a person or their friends/ loved ones;
 - Gathering of information about a person from family, friends, co-workers, and/or classmates.
34. Theft: The wrongful taking of the property of another or refusing to return the property of another when requested to do so. Theft includes possession of stolen property, knowing such property to have been stolen or having reasonable cause to believe that such property has been stolen.
35. Trespass: Entry onto property in the control of another—including the University—without the other’s permission or refusal to leave the property when requested to do so.
36. Unauthorized Access: Accessing the roof of any University building or entering other prohibited areas without authorization.
37. Weapons and Dangerous Substances: Use or possession of firearms, tasers, stun guns, ammunition, explosives, incendiary devices, bb guns, imitation guns that look like real guns or any dangerous weapon, substance, or material on campus is prohibited except as expressly authorized by the University.

III. Procedures for Initiating a Complaint, Investigation and Enforcement

A. Initiating a Complaint or Investigation.

Any student, student organization, faculty member or staff member may initiate a complaint against a student or student organization suspected of non-academic misconduct by contacting the Dean of Students office or Title IX Coordinator in the case of alleged Sexual Misconduct. Alternatively, the Dean of Students office or, in the case of Sexual Misconduct, the Title IX Office may initiate a complaint on their own initiative, in which case the Dean or Title IX Coordinator may be considered the Complainant. In all such cases, students subject to sanction shall be provided written notice of the alleged misconduct and given an opportunity during the investigation process to be heard in response to the allegation(s).

B. Interim Administrative Leave.

The Chief Student Affairs Officer, Dean or, in the case of Sexual Misconduct, the Title IX Coordinator, may place a Respondent on interim administrative leave when the Chief Student Affairs Officer, Dean and/or Title IX Coordinator reasonably believes the circumstance warrant such. The Chief Student Affairs Officer, Dean and/or Title IX Coordinator will explain the nature of the allegations to the Respondent and provide the Respondent with an opportunity to respond to the allegations within three calendar days when possible.

After affording the Respondent an opportunity to respond, an interim administrative leave may be reversed, altered, or continued when, based on all the available information, the Chief Student Affairs Officer, Dean and/or Title IX Coordinator determines such leave is appropriate in order to protect the safety and/or well-being of one or more students, staff, faculty, or University property, or the Respondent's presence pending completion of the disciplinary process will be disruptive to the academic atmosphere of the University.

The interim administrative leave will remain in place, at the discretion of the Chief Student Affairs Officer, Dean and/or Title IX Coordinator, until: (1) the conclusion of disciplinary proceedings provided for hereunder; (2) the Respondent is convicted or receives a deferred judgment in an associated criminal proceeding, after which the University through the Chief Student Affairs Officer, Dean and/or Title IX Coordinator may impose sanctions up to and including expulsion from the University without further proceedings under this Code of Student Conduct; or (3) the University decides to return the student to active status.

C. Right to an Advisor.

A Respondent may be accompanied by up to two Advisors of their choice at any

time within the disciplinary process. The role of the Advisors is to provide counsel, advice, or support to the student. The Advisors do not advocate or take an active role in the hearing. If a Complainant is involved in cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct, the Complainant shall also have the right to Advisors.

D. Investigation.

1. The Dean of Students office or designee will conduct an investigation into any complaint brought forward. The investigation will typically be completed within approximately sixty (60) days following receipt of the complaint. Factors that could impair the timing of the investigation may include the complexity and severity of the conduct, the number and availability of witnesses, or the need to identify and acquire physical or other evidence.
2. In cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct, the investigator(s) will prepare a preliminary investigative report that summarizes the information gathered. The report may include summaries of interviews with Complainant, Respondent, witnesses and any other individuals with relevant information as well as an appendix of any documents or other relevant information received. The investigative report will not include findings or determination on the complaint itself.

The preliminary report will be provided to Complainant and the Respondent for their review and response. Consistent with applicable privacy laws and/or safety concerns, identifying information about some of the witnesses may be redacted at this point in the process. Complainant and Respondent will each have at least five (5) calendar days to offer in writing any additional comments, clarify information previously shared, challenge assertions, offer additional witnesses and/or identify any other relevant information. Upon written request, a reasonable and equal extension of time to respond may be granted if adequate cause is demonstrated within the five-day review period.

Once the parties have responded to the report or after the deadline has passed the investigator(s) will review and address any information necessary for a thorough investigation. This may include conducting additional investigation or interviews. The investigator(s) will then incorporate any necessary revisions or new information into a Final Investigative Report.

The investigator(s) will deliver the Final Investigative Report and any responses from the parties to the Dean of Students, the parties, or other appropriate staff. In the case of Sexual Misconduct, the investigator(s) will deliver the Final Investigative Report and any responses from the parties to the Title IX Coordinator for concurrent distribution to the Dean of Students and each of the parties.

3. If, based on the investigation, the Dean of Students does not form a reasonable belief that the allegations can be proven by a preponderance of the evidence, after considering reasonable defenses, the Dean of Students shall notify the parties simultaneously in writing the complaint is being closed. However, if the Dean of Students forms a reasonable belief based on the investigation that the allegations can be proven by a preponderance of the evidence, after considering reasonable defenses, the Dean may impose a sanction that is consistent with the facts established through the investigation.

E. Pre-Determination Hearing.

In cases of Discriminatory Harassment, Bias-Motivated Incidents, Sexual Misconduct, and/or any other case in which Suspension or Expulsion is deemed warranted, the Dean of Students will hold a Pre-Determination Hearing with the parties involved. The Pre-Determination Hearing is not a second investigation into the allegations of misconduct but rather a review of the information gathered in the investigation in order to reach resolution.

1. The presumption is that the investigation has identified and interviewed all relevant witnesses and supplied the information necessary for the Dean of Students to render the decision and determine sanctions. Accordingly, witnesses will be requested by the Dean of Students only when a genuine need is identified. The Dean has final discretion regarding the calling of witnesses. If any witnesses are called to testify, the Respondent and the Dean may pose questions to any witness.
2. No new information will be considered by the Dean of Students unless the party offering the information can show that it was not reasonably available during the investigation phase of the process and it is relevant to establishing whether or not the Respondent is responsible for the policy violation. If the introduction of new information to the Dean is allowed and there is another party involved in the complaint, the other party will have the opportunity to review and respond. The Dean may also choose to return the complaint to the investigator for

further investigation.

3. The Respondent may answer questions from and make a statement to the Dean of Students directly. This statement should summarize his/her position concerning the matter and highlight the information that he/she feels is most relevant to the allegation(s).
4. The Respondent is expected, but not required, to attend the Pre-Determination Hearing. The Respondent has the right to remain silent about any incident which is the subject of the allegations. However, if the Respondent does not participate in the Pre-Determination Hearing or chooses to remain silent, the process may proceed to whatever conclusion is supported by the available evidence. Under such circumstances, the decision and sanctions, if any, will not be based on the failure of the Respondent to attend the hearing or having chosen to remain silent. Furthermore, if a Respondent does not participate in the disciplinary process or chooses to remain silent, and if the Respondent is later found not guilty in a criminal proceeding or receives a defendant's verdict in a civil proceeding external to the University, that decision alone shall not serve as an adequate basis to support a reversal of the decision on appeal.
5. The Dean of Students will arrange for a recording of the hearing, which shall be the one and only official record of the hearing.
6. If a Complainant is involved in cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct, the Complainant shall also have the same rights and opportunities to participate in the Pre-Determination Hearing. The Complainant and the Respondent may participate in the Pre-Determination Hearing jointly in-person or may participate remotely. Both the Complainant and the Respondent will have the opportunity to meet personally with the Dean of Students during the Hearing unless other arrangements have been made. The Complainant and Respondent will not address or question each other directly but may pose questions to the Dean of Students.
7. Within five (5) calendar days of concluding the Pre-Determination Hearing, the Respondent and, if applicable, the Complainant, may submit to the Dean written rebuttal from the hearing.

F. Notice of Decision.

The Dean of Students will issue the Notice of Decision with the outcome to the

Respondent. The written decision will be issued no later than fifteen (15) calendar days after the conclusion of the investigation or Pre-Determination Hearing, if applicable.

1. If the Dean of Students does not form a reasonable belief that the allegations can be proven by a preponderance of the evidence, after considering reasonable defenses, the Dean of Students shall inform the Respondent (subject to reopening should additional information become available). Unless otherwise permitted elsewhere in the Code, there is no appeal from this decision.
2. If the Dean of Students forms a reasonable belief that the allegations are proven by a preponderance of the evidence, after considering reasonable defenses, the Dean shall impose a sanction that is consistent with the facts established through the investigation.
 - a. If a violation is found, the full University record of the Respondent may be considered by the Dean of Students in determining the sanction(s), if any, that should be imposed.
 - b. A Notice of Decision imposing the sanction of Suspension or Expulsion may be appealed as explained in Section H on Appeals.
 - c. Unless otherwise permitted elsewhere in the Code, a Notice of Decision imposing the sanction of Non-Academic Probation or other Sanctions may not be appealed.
3. In cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct:
 - a. The Complainant and Respondent shall receive the Notice of Decision simultaneously.
 - b. Either the Complainant or Respondent may appeal the Notice of Decision regardless of finding or sanction, as explained in Section H on Appeals.

G. University Sanctions.

The list of sanctions below is not exhaustive, but merely illustrative of those that can be imposed.

1. Expulsion: Following the procedures provided for herein, the Dean shall have the authority to impose the sanction of expulsion.
 - a. When a student is expelled, a letter of notification is sent to the student with copies to the Provost, the appropriate academic dean, the Registrar, the Business Office, and, where appropriate, the student's parents or guardian(s).
 - b. The expelled student loses financial assistance from the University on the date of the expulsion.

- c. Copies of documents relevant to the disciplinary proceedings against the student will be maintained in the Dean's office.
2. Suspension: Following the procedures provided for herein, the Dean shall have the authority to impose the sanction of suspension.
 - a. If a student is suspended, a letter of notification is sent to the student with copies to the Provost, the appropriate academic dean, the Registrar, the Business Office, and, where appropriate, the student's parents or guardian(s).
 - b. The suspended student loses financial assistance from the University on the date of the suspension, for the duration of the suspension.
 - c. Copies of documents relevant to the disciplinary proceedings against the student will be maintained in the Dean's office.
 - d. Before a suspended student may re-enroll, the student must arrange and complete a meeting with the Dean. After the period of suspension, the decision of whether the student will be allowed to re-enroll is left to the discretion of the Dean.
 - e. A student who returns to the University after suspension may be placed on non-academic probation.
3. Non-academic probation: Non-academic probation will be used when violations are serious as determined by the Dean but where the student will be given an opportunity to continue study at the University.

If a student is placed on non-academic probation, a letter of notification is sent to the student with copies to the appropriate academic dean and, where appropriate, the student's parents or guardian(s). The letter, or some other writing provided to the student, will describe the terms of the probation and any conditions. A violation of any non-academic probation condition may result in a review of the student's status by the Dean and imposition of additional sanctions, including expulsion.

4. Other sanctions:
 - a. Removal from the residence hall or residence hall system.
 - b. Revocation of privileges. Examples include, but are not limited to, limitation of participation in University activities, restriction of building access, ineligibility to live off campus, revocation of scholarships or loans and restrictions on residence hall visitation.
 - c. Restitution may be required to be paid to the injured party or parties.
 - d. Fines.
 - e. The student may be referred for specialized help to persons such as the student's academic advisor, psychiatric counselor, clergy member, physician, parents or the Counseling Center.

- f. An educational project assignment may be arranged so that the student will have an opportunity to observe specific behavior related to their own misconduct. For example, students may be asked to make reports on night court, juvenile court, Alcoholics Anonymous, service agencies or to participate in some campus activity with rehabilitative value.
- g. Work projects may be assigned.
- h. Reprimands may be given to indicate official disapproval of the student's behavior and to warn that further misconduct may result in additional disciplinary action. In such cases a note is included in the student's personal folder outlining the misconduct and the fact that a reprimand was given.
- i. One or more academic degrees or honors may be forfeited or withheld for a specified length of time.

H. Appeals.

1. A student found by the Dean of Students to have committed non-academic misconduct has the right to appeal in the following cases:
 - a. A Respondent who is found responsible and sanctioned by suspension or expulsion.
 - b. In cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct, either the Complainant or Respondent may appeal the Notice of Decision.
2. A student must provide written notice of appeal stating the grounds of the appeal to the Dean or, in the case of Sexual Misconduct, the Title IX Coordinator within ten (10) calendar days from the date of the Notice of Decision.
3. The Dean will provide written notice to the Provost within three (3) calendar days after a notice of appeal is provided to the Dean so an Appeals Panel may be selected. The Provost will select the three-member panel and also appoint a Panel Chair.
4. In cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct, the Dean or, in the case of Sexual Misconduct, the Title IX Coordinator shall also provide written notice of such appeal to each and every other party who has appeal rights on the appealed issue(s) within three (3) calendar days after the Dean or Title IX Coordinator is provided a notice of appeal. The parties shall then each have five (5) calendar days in which to provide a written response to the appeal with the Dean. The response(s) shall be provided to the appealing party and any other responding party and to the Appeal Panel within three (3) calendar days after they are provided to the Dean

or Title IX Coordinator.

5. The grounds for appeal are:
 - a. Procedural error that prevented a fair decision;
 - b. Material misstatement or misapplication of the University rules, regulations or policies alleged to be violated;
 - c. Decision not supported by substantial evidence;
 - d. Material evidence or facts, newly discovered, which could not with reasonable diligence have been discovered and introduced at the disciplinary hearing; or
 - e. Sanction(s) imposed not commensurate with Code violation.
6. Barring discovery of material new facts, an appeal is limited to a review of the record from the investigation and/or Pre-Determination Hearing, the notice(s) of appeal and the response(s). While the outcome of an associated criminal or civil proceeding may be considered a material new fact, that outcome alone shall not be dispositive of the case on appeal.
7. If the Appeals Panel determines none of the grounds for appeal specified in subparagraphs H.(5) above is satisfied, the appeal shall be dismissed and the Notice of Decision becomes final.
8. The Appeal Panel will offer to hold a meeting with the parties involved, which may include the Respondent, the Dean of Students, the Title IX Coordinator and if applicable a Complainant in cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct. The parties are not required to attend.
9. If the appeal is not dismissed, the Appeals Panel may affirm or reverse the previous decision on one or more of the above stated grounds and may modify the sanctions previously recommended. A simple majority of the appeals panel is required to make its decisions.
10. The decision on appeal is final.
11. The Appeal Panel shall provide the Respondent and Dean of Students and, in the case of Sexual Misconduct, the Title IX Coordinator with Notices of Appeal Decisions.
12. In cases of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct, the Complainant shall also simultaneously receive the Notice of Appeal Decision.

I. Resolution by Agreement.

At any point in these proceedings, the parties may attempt to resolve complaints of non-academic misconduct by agreement. Agreement may be reached through direct dialogue or through mediation which may include meeting with the parties in conflict, as well as relatives, academic advisors, University administrators or others. If an agreement can be reached on sanction(s)/conditions, then the matter is concluded and there shall be no further proceedings hereunder, subject to the Dean's right to reopen the entire matter if the Respondent fails to abide by any agreed conditions.

A Resolution by Agreement is a voluntary resolution agreed to by the Respondent, University, and, where applicable, the Complainant. If any party does not agree with the proposed resolution, the formal complaint resolution process will proceed.

J. Record and Release of Information.

A record, consisting of the investigation, formal written decision(s), recordings and any other record of the disciplinary hearing proceedings will be maintained in the Dean's office or, in the case of Sexual Misconduct, by the Title IX Office. The record will be available to the Respondent and any other appealing and responding party during the appeal period and one copy can be obtained by each of them at no expense. The University rules, regulations and policies governing release of education records govern the dissemination of disciplinary records.

K. Exoneration.

If, after sanctions are imposed, compelling evidence becomes available establishing a Respondent's lack of responsibility, a Respondent may present such evidence to the Dean and request that no reference to the charges or any sanctions related to those charges appear in the Respondent's disciplinary record and any reference previously placed thereon be removed. The Dean decides in their reasonable discretion whether or not to grant the student's request. A "not guilty" verdict in a criminal proceeding or a "defendant's verdict" in a civil proceeding will not necessarily be deemed sufficient to support such a request.

L. Amnesty from University Discipline.

Drake University's primary concern is the health and safety of its students. There are occasions where individual health or safety may take precedence over certain Code of Student Conduct violations involving the use of alcohol or other drugs at the discretion of the Dean of Students.

1. Medical Amnesty: The University is aware that students are sometimes reluctant to seek medical attention in alcohol- and drug-related emergencies out of fear that they may face sanctions related to possessing or consuming alcohol and drugs. Because these emergencies are potentially life-threatening, the University wants to reduce barriers that prevent students from seeking assistance. Accordingly, students who seek emergency medical attention for themselves or someone else related to the consumption of alcohol or drugs will be referred for substance abuse evaluation and/or treatment, instead of receiving the University-imposed sanctions referenced above, for the alcohol- or drug-related policy violation. Medical Amnesty only applies when a student initiates the call for emergency medical attention. It does not apply when the individual suffering from the alcohol or drug emergency is discovered by a University official (e.g., security, RA, etc.). The University strongly encourages students to seek emergency treatment when alcohol poisoning or a drug overdose is suspected.

2. Health and Safety Amnesty: Students are strongly encouraged to report incidents of, or share information about, Discriminatory Harassment, Bias-Motivated Incidents, or Sexual Misconduct as soon as possible. This is true even if a student may have concern about their own alcohol or drug use.

Accordingly, the University will not pursue student disciplinary action for improper personal use of alcohol or other drugs against a person who reports or makes a complaint in good faith concerning an incident of Discriminatory Harassment, Bias-Motivated Incidents, or Sexual or Misconduct, or who participates as a witness or Respondent in an investigation of such reports. In these cases, the University may, on its own, determine that amnesty applies to a situation based on the facts that are presented by the parties or witnesses. Parties or witnesses may inquire with the Title IX Coordinator, Dean of Students, or Associate Dean of Students regarding amnesty.

M. Amendments.

Changes to this Code of Student Conduct may be approved at any time by the Drake University Board of Trustees and will take effect after notification of the changes to the student body.

Approved by the Board of Trustees, June 15, 2019