

Drake

UNIVERSITY



Code of Student Conduct

As a member of the Drake family, 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 Vice President & 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 Vice President & Dean of Students if you need assistance with student life issues.

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, Old Main 316, 2507 University Ave., Des Moines, IA 50311, (515) 271-4956, titleix@drake.edu or Human Resources, Human Resources, Old Main 319, 2507 University Ave., Des Moines, IA 50311, (515) 271-3133, drakehr@drake.edu.



IMPORTANT CONTACT INFORMATION:

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STUDENTS' COMMUNITY STANDARDS RIGHTS

- Students have the right to be treated with dignity and respect by all persons involved in the community standards process.
- Students have the right to a meeting or hearing that is conducted fairly.
- Students have the right to up to two support persons present at meetings or hearings regarding allegations of misconduct.
- Students have the right to written notice of the alleged violation(s).
- Students have the right to share as much information as desired; however, a decision will be made based on the information available or shared.
- Students have the right to identify witnesses, share written or oral statements, and any other information pertaining to the incident with their conduct officer.
- Students have the right to an appeal, so long as it meets the criteria.
- Students have the right to see the contents of their community standards file following University record requests through the Registrar's Office.

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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 others' ideas, phrases, or discourse as one's own.

Each college and school has guidelines that define academic integrity violations, provide information about penalties, and stipulate 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](#)

[Zimpleman 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 or deferment and/or revocation of admission) 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 Vice President & 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 and 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 Vice President & 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:

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.(A)(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.(A)(1) of the Sexual Harassment Policy.

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.(A)(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 Vice President & 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 Vice President & Dean of Students or designee may impose sanctions up to and including expulsion from the University without further proceedings under this Code of Student Conduct. The Vice President & Dean of Students or designee has the authority to defer or rescind admission to the University based on proceedings before a civil or criminal court.

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

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 the Provost's Council.

The term "cannabis" means the parts, product, and natural or synthetic derivatives of the plant *cannabis sativa*, *indica*, *ruderalis*, and hybrid strains, regardless of the tetrahydrocannabinol level, and is a federally controlled substance. Pursuant to federal law, the use of cannabis, including medical use, is prohibited on University Premises and at University Sponsored Activities. Cannabis, for the purpose of this policy, does not include FDA approved substances or industrial hemp as permitted by federal law.

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. The term "respondent" means a student or student organization reported to have engaged in non-academic misconduct.

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.

The term “Dean” means the Vice President & Dean of Students or designee.

The term “designee” means the Associate Dean of Students, Assistant Dean of Students, Director of Community Standards, and/or third-party.

The term “interim administrative leave” means a student is placed on limited, or inactive status.

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.”

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.

The term “student organization” means a registered student organization or temporary registered student organization recognized by the University.

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.

The term “support person” means a person who accompanies a respondent or complainant for the purpose of providing support, advice, or guidance. The support person does not have an active role in the proceedings.

K. Non-Academic Misconduct Subject to Sanction

Substance Use Misconduct

- Administering harmful substances: Causing another to ingest alcohol, cannabis, or other controlled substance without their awareness.
- Excessive consumption: Being under the influence of alcohol, cannabis, or other controlled substance to the degree that the person may be a health or safety risk to

themselves, others, or property.

- Impaired driving: Operating a vehicle while under the influence of alcohol, cannabis, or other controlled substance.

- Manufacturing or distribution: Furnishing, cultivating, manufacturing, distributing or selling alcohol, cannabis, or other controlled substances, including prescription medication, except as expressly permitted by both State and Federal law. Includes allowing others to distribute, or manufacture, at activities they organized, financed, or endorsed, or within any property or transportation they own, operate, or rent.

- Possession or consumption:
 - Alcohol: Possession or consumption of alcohol by those under the legal drinking age, or by those of the legal drinking age in unauthorized areas.
 - Cannabis: Possession or consumption of cannabis, except as expressly permitted by both State and Federal law.
 - Controlled substance: Possession or consumption of a controlled substance, including prescription medication, except as expressly permitted by both State and Federal law.
 - Tobacco: Smoking and tobacco use, including vaping, is prohibited on university premises and in university vehicles.
 - Unreasonable risk: Failure of a student organization to take reasonable steps to ensure that no person unlawfully is furnished with, possesses, or consumes alcohol, cannabis, or other controlled substances at a group-sponsored, organized, financed, or endorsed activity or event, or within property or transportation it owns, operates, or rents.

General Misconduct

- 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:
 - Using a computer or technological resource to interrupt, access or tamper with private or secure information.
 - Violations or misuse of software, copyrighted material or other intellectual property.
 - Granting access to or using another person's account information.
 - Use of a computer or other technology to commit academic misconduct.

- Employing a computer or Drake network to harass other users.
- 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.
- 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.
- Assault: A person commits assault when, without justification, the person does any of the following:
 - 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;
 - 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
 - Any intentional and unauthorized pointing of a firearm or display of a dangerous weapon in a threatening manner.
- Attempt to commit non-academic misconduct: An attempt to commit a prohibited or unlawful act is non-academic misconduct, even if unsuccessful.
- 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, sex, sexual orientation, disability, age, gender, or gender identity or expression.
- Campus posting & speech: Individuals and campus organizations have and assume full responsibility and liability for the signs they post in accordance with Drake's Non-Discrimination Statement, Statement of Principles, and the Code. 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 per the University's Posting Policy.
- 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.

- 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 that has the effect of unreasonably interfering with an individual because of their membership in a protected class or of creating an intimidating, hostile, or offensive environment.

- Disorderly conduct: Any action committed without justification or excuse that unreasonably disrupts, obstructs, or interferes with:
 - the process of instruction, research, service, administration, administering the Code of Student Conduct, or any other University operation, including University-sponsored activities;
 - the rights of others to sleep, study, and/or freely participate in university programs or services, including amplified sound without a permit and/or University approval;
 - an environment conducive to learning; or
 - freedom of movement on University premises, either pedestrian or vehicular.

- Falsification and/or fraud:
 - Knowingly providing/presenting, creating, or possessing falsified or forged material, records, or documents or any intentional misrepresentation of fact to obtain or attempt to induce another to surrender a right, benefit, or property; or
 - 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; or
 - Falsely presenting oneself as a university or public official; or
 - Intentionally initiating any false report or providing false or misleading information during a resolution process; or
 - Fraudulently using or misrepresenting the identity or identifying information of another person, group, or the University.

- Gambling: Raffles and games of chance are not legal in the State of Iowa except when the proper permit is issued by the state.

- Harassment: Engaging in behavior that is sufficiently severe, pervasive, or persistent and objectively offensive to a degree that it interferes with a reasonable person's ability to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University.

- **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:
 - Endangers the health or safety of any individual; or
 - Causes or presents a substantial risk of physical injury, serious mental distress, or personal humiliation to any individual; or
 - 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.*

- **Keys violations:** Unauthorized possession of University keys, keycards and/or reproduction of University keys or keycards by anyone other than authorized University personnel.

- **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).

- **Other acts in violation of local ordinances, state or federal law.**

- **Perjury:** Knowingly making one or more false statements in connection with a disciplinary proceeding or investigation.

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

- **Recording without Consent:** Unless listed as an exception under University policy, Recording any activity occurring at the University, in university programming, or on property owned, managed, or controlled by the University, as well as meetings and discussions between and among students, faculty, and staff, without the consent of all participants is prohibited. This prohibition includes arranging for others to make such recordings.

- **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.

- **Smoking:** 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.

- **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.
- **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.
- **Unauthorized access:** Accessing any part of any University building or entering other prohibited areas without authorization.
- **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.

Sexual Misconduct

- Dating violence: 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.

- Domestic violence: A felony or misdemeanor crime of violence committed by a:
 - Current or former spouse or intimate partner of the complainant; or
 - Person with whom the complainant shares a child in common; or
 - Person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner; or
 - Person similarly situated to a spouse of the complainant under the laws of the State of Iowa or the jurisdiction in which the incident reported occurred; or
 - Any other person against an adult or youth complainant 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.

- Sexual assault: Any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent including:
 - Fondling: the touching of the private body parts of another person for the purpose of sexual gratification without consent of the complainant including instances where the complainant is incapable of giving consent because of their age or because of their temporary or permanent mental incapacity.
 - Incest: sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - 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 complainant.
 - Statutory rape: sexual intercourse with a person who is under the statutory age of consent (16 years of age in the State of Iowa).

- Sexual harassment: For purposes of implementing the federal regulations governing the University's response to misconduct under Title IX, sexual harassment is defined as:
 - Unwelcome behavior of a sexual nature or that is directed at someone based on their sex when:
 - Submission to, or rejection of, such conduct is made explicitly or implicitly a term or condition of an aid, benefit, or service of the individual's education, employment or status in a course, program or activity; and/or
 - Such conduct is sufficiently severe, pervasive, and objectively offensive (intimidating, hostile, and/or abusive) that it effectively denies an individual's access to work or education program or activity.

- Stalking: Engaging in a course of conduct directed toward a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer 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.
 - Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
 - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

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 Vice President & Dean of Students or designee, or, in the case of Sexual Misconduct, the Title IX Coordinator, may place a respondent on interim administrative leave when the Vice President & Dean of Students and/or Title IX Coordinator or designee reasonably believes the circumstances warrant limited or inactive status. The Vice President & Dean of Students and/or Title IX Coordinator or designee 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 Vice President & Dean of Students and/or Title IX Coordinator or designee 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 Vice President & Dean of Students and/or Title IX Coordinator or designee, 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 Vice President & Dean of Students and/or Title IX Coordinator or designee 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. Rights and Responsibilities

Rights of the Respondent

- Written notice of alleged charges of violation(s) made against them and the basis of such allegations
- In instances in which the disciplinary outcome of the matter could result in separation from the institution, such as suspension and/or expulsion, the above-mentioned notice will include information regarding the possibility of said outcome
- To be accompanied by a no more than two support persons
- The right to privacy surrounding their disciplinary case, as protected under the Family Educational Rights and Privacy Act (FERPA)
- To request reasonable accommodations due to disability within the student conduct process and/or appeals process
- Reasonable access to inspect and review their own case file, which includes all information that would be used during the student conduct process, to the extent permitted by confidentiality laws
- To be presumed not responsible for a violation of prohibited conduct until found responsible by a preponderance of the evidence
- To speak or not speak on their own behalf
- The opportunity to respond to information used as part of the decision-making process

Responsibilities of the Respondent

- To educate oneself on expectations for being a university community member, including steps to resolve alleged misconduct, by reading the policies and processes outlined in the Code of Student Conduct
- To be honest and forthright in all information provided during the student conduct process. Presenting false and misleading information during this process is a violation of the Code of Student Conduct
- To attend all scheduled meetings or hearings unless alternate arrangements are made in advance. Failure to attend or participate in the student conduct process will result in the case being determined in a respondent's absence
- To prepare and present their entire case as well as secure the presence of any witnesses who will speak on their behalf
- To be respectful in all interactions with the Office of Community Standards staff, the Vice President & Dean of Students, and Appeals Panel members

If a complainant is involved in cases of discriminatory harassment, bias-motivated incidents, or sexual misconduct, the complainant shall also have the right to no more than two support persons.

D. Investigation

The Dean of Students Office or designee will investigate 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.

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 Vice President & 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 Vice President & Dean of Students or designee and each of the parties.

If, based on the investigation, the Vice President & Dean of Students or designee does not form a reasonable belief that the allegations can be proven by a preponderance of the

evidence, after considering reasonable defenses, the Vice President & Dean of Students or designee shall notify the parties simultaneously in writing the complaint is being closed. However, if the Vice President & Dean of Students or designee 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 Vice President & Dean of Students or designee 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 Vice President & Dean of Students or designee 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.

The presumption is that the investigation has identified and interviewed all relevant witnesses and supplied the information necessary for the Vice President & Dean of Students or designee to render the decision and determine sanctions. Accordingly, witnesses will be requested by the Vice President & Dean of Students or designee only when a genuine need is identified. The Vice President & Dean of Students or designee has final discretion regarding the calling of witnesses. If any witnesses are called to testify, the respondent and the Vice President & Dean of Students or designee may pose questions to any witness.

No new information will be considered by the Vice President & Dean of Students or designee 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 Vice President & Dean of Students or designee is allowed and there is another party involved in the complaint, the other party will have the opportunity to review and respond. The Vice President & Dean of Students or designee may also choose to return the complaint to the investigator for further investigation.

The respondent may answer questions from and make a statement to the Vice President & Dean of Students or designee directly. This statement should summarize their position concerning the matter and highlight the information that they feel is most relevant to the allegation(s).

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.

The Vice President & Dean of Students or designee will arrange for a recording of the hearing, which shall be the one and only official record of the hearing.

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 Vice President & Dean of Students or designee 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 Vice President & Dean of Students or designee.

Within five (5) calendar days of concluding the pre-determination hearing, the respondent and, if applicable, the complainant, may submit to the Vice President & Dean of Students or designee written rebuttal from the hearing.

F. Notice of Decision

The Vice President & Dean of Students or designee 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.

If the Vice President & Dean of Students or designee does not form a reasonable belief that the allegations can be proven by a preponderance of the evidence, after considering reasonable defenses, the Vice President & Dean of Students or designee 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.

If the Vice President & Dean of Students or designee forms a reasonable belief that the allegations are proven by a preponderance of the evidence, after considering reasonable defenses, the Vice President & Dean of Students or designee shall impose a sanction that is consistent with the facts established through the investigation.

If a violation is found, the full University record of the respondent may be considered by the Vice President & Dean of Students or designee in determining the sanction(s), if any, that should be imposed.

A notice of decision imposing the sanction of suspension or expulsion may be appealed as explained in Section H on Appeals. 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.

In cases of discriminatory harassment, bias-motivated incidents, or sexual misconduct, the complainant and respondent shall receive the notice of decision simultaneously, and either the complainant or respondent may appeal the notice of decision regardless of finding or sanction, as explained in Section H regarding Appeals.

G. University Sanctions

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

- **Expulsion: Permanent dismissal from the University**
Following the procedures provided for herein, the Vice President & Dean of Students or designee shall have the authority to impose the sanction of expulsion. 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). The expelled student loses financial assistance from the University on the date of the expulsion. Copies of documents relevant to the disciplinary proceedings against the student will be maintained in the student conduct database system.
- **Suspension: Separation from the University for a specified period of time**
Following the procedures provided for herein, the Vice President & Dean of Students or designee shall have the authority to impose the sanction of suspension. 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). The suspended student loses financial assistance from the University on the date of the suspension, for the duration of the suspension. Copies of documents relevant to the disciplinary proceedings against the student will be maintained in the student conduct database system. Before a suspended student may re-enroll, the student must arrange and complete a meeting with the Vice President & Dean of Students or designee. After the period of suspension, the decision of whether the student will be allowed to re-enroll is left to the discretion of the Vice President & Dean of Students or designee. A student who returns to the University after suspension may be placed on non-academic probation.

- Non-academic probation: Non-academic probation will be used when violations are serious as determined by the Vice President & Dean of Students or designee 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 emails to the appropriate academic dean and, where appropriate, the student's parents or guardian(s). The letter, or some other document 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 Vice President & Dean of Students or designee and imposition of additional sanctions, including expulsion.

Other sanctions:

- Educational project or assignment
- Removal from the residence hall or residence hall system
- Reprimands
- 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
- Restitution paid to injured party or parties
- Fines
- Referral to specialized help
- Trespass
- Forfeiture or withholding of academic degrees or honors

H. Appeals

A student found by the Vice President & Dean of Students or designee to have committed non-academic misconduct has the right to appeal in the following cases:

- A respondent who is found responsible and sanctioned by suspension or expulsion.
- In cases of discriminatory harassment, bias-motivated incidents, or sexual misconduct, either the complainant or respondent may appeal the notice of decision.

A student must provide written notice of appeal stating the grounds of the appeal to the Vice President & Dean of Students or designee or, in the case of sexual misconduct, the Title IX Coordinator within ten (10) calendar days from the date of the notice of decision.

The Vice President & Dean of Students or designee 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 from the Provost's Council.

In cases of discriminatory harassment, bias-motivated incidents, or sexual misconduct, the Vice President & Dean of Students or designee 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 Vice President & Dean of Students or designee. The response(s) shall be provided to the appealing party and any other responding party and to the appeals panel within three (3) calendar days after they are provided to the Vice President & Dean of Students or designee or Title IX Coordinator.

The grounds for appeal are:

- Procedural error that prevented a fair decision;
- Material misstatement or misapplication of the University rules, regulations, or policies alleged to be violated;
- Decision not supported by substantial evidence;
- Material evidence or facts, newly discovered, which could not with reasonable diligence have been discovered and introduced at the disciplinary meeting or hearing; or

- Sanction(s) imposed not commensurate with Code violation.

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.

If the appeals panel determines none of the grounds for appeal are satisfied, the appeal shall be dismissed and the notice of decision becomes final.

The appeals panel will offer to hold a meeting with the parties involved, which may include the respondent, the Vice President & Dean of Students or designee, 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.

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.

The decision on appeal is final.

The appeals panel shall provide the respondent and Vice President & Dean of Students or designee and, in the case of sexual misconduct, the Title IX Coordinator with notices of appeal decisions.

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 Vice President & Dean of Students' or designee'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 Vice President & Dean of Students Office or, in the case of sexual misconduct, by the Title IX Office for seven years. 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 Vice President & Dean of Students 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 Vice President & Dean of Students decides, in their reasonable discretion, whether 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 Vice President & Dean of Students.

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.

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, Vice President & 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.

POLICY INFORMATION:

[Sexual Harassment Policy](#)

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

[Information and Technology Policies](#)

RESOURCE INFORMATION:

[Code of Student Conduct Appendices](#)

[Student Affairs Complaint Procedures](#)

[Anonymous Complaints through Ethics Point](#)

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

[Drake Public Safety](#)

[University Counseling Center](#)

[Student Health Services](#)

