

**Midwestern State University  
Administrative Council  
July 8, 2013  
Meeting No. 13-05  
E-Meeting**

The Administrative Council met Monday, July 8, 2013, via e-mail.

**MSU Student Handbook, Code of Student Conduct**

Dr. Lamb submitted **attachment A** to replace Section VI, Code of Student Conduct.  
Consensus of the Council members recommended placing the policy on the August Board of Regents agenda.



Jesse W. Rogers, President



Cindy Ashlock, Secretary

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**Midwestern State University students are responsible for knowing the information, policies and procedures outlined in this document. The university reserves the right to make changes to this code as necessary and once those changes are posted online, they are in effect. Students are encouraged to check online for the most current versions of all policies and procedures.**

## **Midwestern State University Student Code of Conduct**

The *Midwestern State University Student Code of Conduct* is based upon the Model Code of the National Center for Higher Education Risk Management (NCHERM) authored by Brett A. Sokolow, Esq. Rights of use have been granted by NCHERM to Midwestern State University. No other use is permitted without the express permission of NCHERM.

### **Section 1: Introduction**

#### **Philosophy**

The Midwestern State University community is committed to fostering a campus environment that is conducive to academic inquiry, a productive campus life and thoughtful study and discourse. The student conduct program within the Office of Student Conduct is committed to an educational and developmental process that balances the needs of individual students with the needs of the Midwestern State University community.

A community exists on the basis of shared values and principles. At Midwestern State University, student members of the community are expected to uphold and abide by certain standards of conduct that form the basis of the *Student Code of Conduct*. These standards are embodied within a set of core values that include integrity, social justice, respect, community, and responsibility. When members of the community fail to exemplify these values, campus conduct proceedings are used to assert and uphold the *Student Code of Conduct*. Midwestern State University takes great pride in that it treats all students with the dignity and respect they deserve. The aspect of community is paramount and is reflected throughout the entire university community.

Ultimately, each member of the Midwestern State University community is expected to assume responsibility for his/her conduct and to assume reasonable responsibility for the behavior of others. On occasion, this will involve kind and courteous admonition done when one member observes another in inappropriate conduct. At other times, it will involve cooperation when the authorities are investigating instances of alleged misconduct.

The student conduct process at Midwestern State University is not intended to punish students; rather, it exists to protect the interests of the community and to challenge those whose behavior is not in accordance with our policies. Sanctions are intended to challenge students' moral and ethical decision-making and to help bring their behavior into accord with our community expectations.

Students should be aware that the student conduct process is quite different from criminal and civil court proceedings. Procedures and rights in student conduct procedures are conducted with fairness to all, but do not include the same protections of due process afforded by the courts. Fair process, within

these procedures, assures written notice and a hearing before an objective decision-maker. No student will be found in violation of university policy without information showing that it is more likely than not that a policy violation occurred and any sanctions will be proportionate to the severity of the violation and to the cumulative conduct history of the student.

## **Section 2: Jurisdiction over Student Conduct**

Students at Midwestern State University are annually given a copy of the *Student Code of Conduct* in the form of a link on the Midwestern State University website; the student code of conduct is contained in the Student Handbook, hard copies are available from the Office of Student Conduct, at the Clark Student Center Information Desk or in the residence halls. Students are charged with the responsibility of having read the provisions of the *Student Code of Conduct*. The *Student Code of Conduct* and the student conduct process apply to the conduct of individual students and university-affiliated student organizations. Because the *Student Code of Conduct* is based on shared values, it sets a range of expectations for Midwestern State University students no matter where or when their conduct may take place; therefore, the *Student Code of Conduct* applies to behaviors that take place on the campus, at university-sponsored events and may also apply off-campus when the administration determines in its discretion that the off-campus conduct affects a substantial university interest.

The *Student Code of Conduct* may be applied to conduct that takes place from the time a person is admitted as a student and continues until the student withdraws or graduates, including periods during semester breaks and between semesters. Further, the *Student Code of Conduct* applies to guests of community members whose host(s) may be held accountable for the misconduct of their guests.

Visitors to and guests of Midwestern State University are also protected by the *Student Code of Conduct* and may initiate grievances for violations of the *Student Code of Conduct* committed against them by members of the Midwestern State University community.

There is no time limit on reporting violations of the *Student Code of Conduct* as long as the offending student is still enrolled at Midwestern State University; however, the longer someone waits to report an offense, the harder it becomes for Midwestern State University officials to obtain information and witness statements and to make a determination regarding alleged violations. Though anonymous complaints are permitted, doing so may limit the university's ability to investigate and respond to a complaint. Those who are aware of misconduct are encouraged to report it as quickly as possible to the Office of Student Conduct and/or to Campus Police.

Midwestern State University email is the university's primary means of communication with students. **Students are responsible for all communication delivered to their Midwestern State University email address.**

## **Section 3: Violations of the Law**

Alleged violations of federal, state and local laws are incorporated as offenses under the *Student Code of Conduct*. When a student is accused, arrested, charged, or indicted for an off-campus crime, the university may elect to take action for violation of the *Student Code of Conduct*.

When an offense occurs over which the university has jurisdiction, the university conduct process will usually go forward notwithstanding any criminal complaint that may arise from the same incident. The university may pursue investigation and resolution of campus conduct complaints, regardless of whether the student participates, and the university may impose sanctions that need to be satisfied for a student to be considered in good standing.

When it has reasonable cause to separate a student from the community, the university may suspend a student for a reasonable time pending the scheduling of a campus hearing for violation of the *Student Code of Conduct*. The university reserves the right to exercise its authority of interim suspension upon notification that a student is facing criminal investigation and/or complaint. The university will permit a student who receives an interim suspension to request a meeting with the Vice President of Student Affairs and Enrollment Management to show cause as to why an interim suspension is not merited. Regardless of the outcome of this meeting, the university may still proceed with the scheduling of a campus hearing.

When criminal charges are pending, the university may be delayed or prevented from conducting its own investigation and moving forward with a campus hearing. When this happens, the university will delay its hearing until such time as it can conduct an internal investigation or obtain sufficient information from law enforcement upon which to proceed. In cases governed by Title IX, this delay will be no longer than two weeks from notice of the incident.

#### **Section 4: Special Provisions**

##### **A. Attempted Violations**

In most instances, Midwestern State University will treat attempts to commit any of the violations listed in the *Student Code of Conduct* as if those attempts had been completed.

##### **B. Misconduct Online**

Students are cautioned that behavior conducted online, such as harassment or bullying via email, can subject them to university conduct action. Students must also be aware that blogs, web page entries on sites such as Google+, Facebook, LinkedIn, YouTube and Twitter and other similar online postings are in the public sphere and are not private. These postings can subject a student to allegations of conduct violations if evidence of policy violations is posted online. The university does not regularly search for this information but may take action if and when such information is brought to the attention of university officials.

##### **C. University as Complainant**

Midwestern State University reserves the right to initiate a complaint, to serve as complainant and to initiate conduct proceedings without a formal complaint by the victim of the alleged misconduct.

##### **D. False Reports**

Midwestern State University will not tolerate intentional false reporting of incidents. It is a violation of the *Student Code of Conduct* to make an intentionally false report of any policy violation and it may also violate state criminal statutes and civil defamation laws.

#### **E. Group Violations**

A student group or organization and its officers and membership may be held collectively and individually responsible when violations of this code by the organization or its members take place at organization-sponsored events, have received the consent or encouragement of the organization or of the organization's leaders or officers, or was known or reasonably should have been known to the membership or its officers. Hearings for student groups or organizations follow the same general student conduct procedures.

In any such action, individual determinations as to responsibility will be made and sanctions may be assigned collectively and individually and will be proportionate to the involvement of each individual.

#### **F. Amnesty for Victims**

The Midwestern State University community encourages the reporting of conduct code violations and crimes by victims. Sometimes, victims are hesitant to report to university officials because they fear that they themselves may be accused of policy violations, such as underage drinking, at the time of the incident. It is in the best interest of this community that as many victims as possible choose to report to university officials. To encourage reporting, Midwestern State University pursues a policy of offering victims of conduct code violations amnesty from minor policy violations related to the incident.

#### **G. Bystander Intervention**

The welfare of students in our community is of paramount importance. At times, students on and off-campus may need assistance. Midwestern State University encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble. For example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to Campus Police. Midwestern State University pursues a policy of amnesty for minor violations when students offer help to others in need.

#### **H. Parental Notification**

Midwestern State University reserves the right to notify the parents/guardians of dependent students regarding alcohol and other drug violations. The university may also notify parents/guardians of non-dependent students who are under the age of 21 of alcohol and/or other drug violations. Midwestern State University will attempt to contact the parents/guardians of a student to inform them of situations in which there is a health and/or safety risk. Midwestern State University also reserves the right to designate which university employees have a legitimate need to know about individual conduct complaints pursuant to the Family Educational Rights and Privacy Act (FERPA) and will share information accordingly.

#### **I. Notification of Outcomes**

The outcome of a campus hearing is part of the education record of the accused student/respondent and is protected from release under the Federal Education Rights and Privacy Act (FERPA), except under certain conditions. In accordance with FERPA, when a student is accused of a policy violation that would constitute a "crime of violence" or forcible or nonforcible sex offense, the university will inform the alleged victim/complainant in writing of the final results of a hearing regardless of whether the university concludes that a violation was committed. Such release of information may only include the alleged student's/respondent's name, the violation committed and the sanctions assigned

(if applicable). In cases of sex offenses, the rationale for the outcome will also be shared with all parties to the complaint.

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

- a) Arson
- b) Assault offenses
- c) Burglary
- d) Criminal Homicide—manslaughter by negligence
- e) Criminal Homicide—murder and non negligent manslaughter
- f) Destruction/damage/vandalism of property
- g) Kidnapping/abduction
- h) Robbery
- i) Forcible sex acts

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

#### **J. Defenses**

It is increasingly common for individuals accused of policy violations to defend their actions with explanations such as, but not limited to, prescription drug interactions, self defense and disability. The university’s policy on defenses is that providing an explanation for a policy defense is equivalent to the admission of engaging in a policy violation. While explanations will not excuse an individual’s commission of a policy violation, Midwestern State University will take the legitimacy of an individual’s explanation into consideration in the determination of appropriate sanctioning.

### **Section 5: Student Code of Conduct: The Rules**

#### **A. Definitions**

- a) The term “the university” refers to Midwestern State University.
- b) The term “student” includes all persons who have accepted admission to, enrolled at, are taking courses at, and/or have a continuing relationship with the university, including those who attend full- or part-time at the undergraduate, graduate, or non-matriculated level.
- c) The term “faculty member” refers to any person employed by the university to conduct instructional activities.
- d) The term “university official” includes any person employed by the university who is designated as an official or who holds administrative or professional supervisory responsibilities.

- e) The term “member of the university community” refers to any person employed by, volunteering for or attending the university as a student, faculty member, administrator, staff member, intern, or volunteer.
- f) The term “university property” includes all land, buildings, facilities, and other property in the possession of, owned or controlled, whether leased or rented, by the university.
- g) The term “organization” refers to any number of persons who have complied with the formal requirements for university registration, or who are members of university sponsored groups.
- h) The terms “Student Conduct Committee” or “SCC” refers to a body responsible for assisting in the interpretation and implementation of the *Student Code of Conduct*. Members are responsible for hearing complaints and ensuring that students receive the procedural fairness rights granted them.
- i) The term “Administrative Hearing Officer” refers to any persons authorized by the Director of Student Conduct or a delegated representative to determine whether a student has violated the *Student Code of Conduct* and to impose sanctions. The Student Conduct Committee constitutes an Administrative Hearing Officer.
- j) The term “Appeals Panel” refers to any person or persons authorized by the Director of Student Conduct to consider a review or appeal of the decisions of an Administrative Hearing Officer, the SCC, and the Director of Student Conduct.
- k) The term “policy” is defined as the written rules of the university found in, but not limited to: the *Student Code of Conduct*, the Student Handbook, University Catalog, and Housing and Residence Life Handbook
- l) The term “working day” refers to a regular university business day. This does not include Saturday, Sunday or holidays as set forth by the Board of Regents. In the fall and spring semesters this would be Monday through Friday and during the summer I and II terms Monday through Thursday.

## **B. Core Values and Behavioral Expectations**

The university considers the behavior described in the following sections as inappropriate for the Midwestern State University community and in opposition to the core values set forth in this document. These expectations and rules apply to all students, whether undergraduate, graduate, or non matriculated. The university encourages community members to report to university officials all incidents that involve the following actions. Any student found to have committed or to have attempted to commit the following misconduct is subject to the sanctions outlined in Section 8: Conduct Procedures.

- a) *Integrity*: Midwestern State students exemplify honesty, honor and a respect for the truth in all of their dealings. Behavior that violates this value includes, but is not limited to: