

Vanderbilt University (<http://www.vanderbilt.edu>)

Vanderbilt University Student Handbook (http://www.vanderbilt.edu/student_handbook)

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Student Conduct

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Although the University values personal freedom, celebration, and recreation, the policies and regulations that apply to student conduct at Vanderbilt are also informed by principles that value the health, safety, and well-being of students and other members of the University community, as well as their academic and personal success. The University's goal in establishing conduct policies and holding students accountable for complying with them is to help students understand how their choices can affect not only their immediate neighbors, but also the University community as a whole.

When students fail to meet University standards, they ultimately risk separation from the University community. Vanderbilt's system of graduated sanctions is designed to effect students' voluntary compliance with the policies and regulations established to protect themselves, other students, and the community. Vanderbilt hopes that warnings, reprimands, and probationary periods will be sufficient to help students make better choices so that separation from the community never becomes necessary.

Violation of University Policy

Students and student organizations are expected to comply with all University rules of conduct. Standards of conduct are derived from tradition and evolve with contemporary practice. Grounds for discipline cannot always be the subject of precise statement; however, when commonly held standards of conduct are broken, disciplinary action must be taken if the University community is to be sustained.

Students are subject to disciplinary action when, individually or as members of a group, they violate University policy, rules, or regulations, including but not limited to the following:

- Obstruction or disruption of teaching, administration, University procedures and activities, or other authorized activities on University premises;

- Physical abuse of any person, including assault and other unwanted physical contact;
- Sexual misconduct (See below.);
- Conduct that may endanger the health or safety of members of the University community;
- Unauthorized entry or use of University facilities or unauthorized possession or use of University property or property of others;
- Damage to University property or property of others, including, but not limited to, vandalism (See below.);
- Disorderly conduct, lewd or lascivious conduct or expression;
- Threats of violence against another person or harassment (See also, University policy on harassment based on bias, set forth below), stalking, or intimidation that unreasonably impairs the security or privacy of another person (See below.);
- Hazing (See below.);
- Forgery, alteration, or misuse of University documents, records, or identification, furnishing false information to the University, or possession of any false identification or identification belonging to another person;
- The unlawful possession, use, or distribution of alcohol, controlled substances, or unlawful drug paraphernalia (including possession of prescription medication belonging to another person and sharing of prescription medication; see also “Alcohol and Controlled Substances” in Chapter 6 for a more detailed statement of drug policies.);
- The operation of a motor vehicle while under the influence of alcohol or other drugs;
- Intoxication (See also “Alcohol and Controlled Substances” in Chapter 6 for a more detailed statement of alcohol policies.);
- Failure to comply with authorized directives of, or, furnishing false information to, University officials or representatives of student judicial bodies acting in performance of their duties;
- Violations of policies governing conduct at athletic events and in libraries and other University facilities (See below.);
- Violations of University computer or telephone system policies (See below.);
- Possession of fireworks, firearms, other weapons, or explosives (See below.).

Violations of regulations of residences, libraries, resource centers, and other areas of University life may also result in disciplinary action. For further regulations pertaining to conduct within the residence halls and houses, see Chapter 4, “*Residential Life*”.

The officers of organizations or individual hosts are responsible for the conduct of their members and guests. This responsibility includes compliance with federal, state, and local law and University policies. Those who fail in this responsibility will be subject to disciplinary action and/or referral for prosecution by government authorities.

The Dean of Students or the Dean’s designee may reprimand, institute restrictions on, or withdraw registration from organizations that violate University policy and regulations, and may also impose restrictions or require conditions be met by organizations that are found to be in violation of policy.

Students are expected to observe the standards of the University for activities that occur off campus. In cases of misconduct that occur off campus in which the University determines that it has an interest, a group may be disciplined and/or lose its registration, or, an individual may be disciplined.

An appropriate hearing officer or judicial body will decide whether the University has sufficient interest in an off-campus matter to exercise its jurisdiction, and the decision may be reviewed by the Appellate Review Board. Factors in the decision may be whether Vanderbilt University property or property of members of the University community is involved; whether the parties in a dispute are members of the University

community; whether the misconduct occurred at an event sponsored by a Vanderbilt group or by a University department; and whether such misconduct may affect the welfare of the University community.

Students or groups charged with violations of conduct have full right to the guarantees of fairness as described below in “The Student Conduct System.”

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Sexual Misconduct

Vanderbilt University desires to establish and maintain a safe and healthy environment for all members of the university community, guests, and visitors. The University, by providing resources for prevention, education, support, and a fair disciplinary process, seeks to eliminate all forms of sexual misconduct. Sexual misconduct of any kind represents socially irresponsible behavior; students found responsible for violating this policy face potentially serious consequences. (Note that Sexual Harassment is a separate offense, treated in the section entitled “Threat, Harassment, Stalking, or Intimidation: Directives to Desist,” below.

Sexual misconduct offenses include the following:

- Non-Consensual Sexual Intercourse
- Non-Consensual Sexual Contact
- Actions that fall within the broader range of “sexual misconduct” as described in “Other forms of sexual misconduct” below

Definitions of sexual misconduct offenses:

- **Non-Consensual Sexual Intercourse** is any sexual intercourse—however slight—with any object, by any person upon another without effective consent.
- **Non-Consensual Sexual Contact** is any sexual touching—however slight—with any object, by any person upon another, without effective consent.
- **Other forms of sexual misconduct** include, but are not limited to, the following:
 1. Giving another person GHB, Rohypnol, Scopolamine, Burundanga, Ketamine, or other sedative or date rape drug
 2. Peeping
 3. Prostitution
 4. Intentional transmission of HIV (human immunodeficiency virus) or another STD (sexually transmitted disease)
 5. Attempts to commit sexual misconduct
 6. Aiding in the commission of sexual misconduct as an accomplice

Clarifications:

Sexual intercourse includes vaginal and/or anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

Sexual touching includes any contact of a sexual nature (as determined using a “reasonable-person” standard) with the breasts, buttocks, groin, genitals, mouth, or body part of another. Sexual touching also includes an individual making someone else touch him or her with, or on, any of these body parts.

Force includes physical force (such as pushing, hitting, pinning down), threats (direct or indirect expressions of harm to self or others), intimidation (implied or indirect threats), and/or coercion.

Blacking out is an amnesia-like state often brought on by heavy drinking or intoxication during which a person is able to engage in simple or even complex behavior. Afterwards the person has no recollection of all or part of the events. Therefore, there is a meaningful distinction between **passing-out**—falling asleep or becoming unconscious in an alcohol-induced stupor—and blacking out, which leaves one conscious and operative.

Incapacitation is the inability to make a rational, reasonable decision. Evidence of incapacity can be detected from one or an accumulation of context clues, which can include but are not limited to the following:

- One person may have knowledge regarding how much alcohol another person has consumed or whether some other drug has been ingested.
- slurred speech
- bloodshot eyes
- the smell of alcohol on the breath
- shaky equilibrium
- vomiting
- outrageous or unusual behavior
- unconsciousness
- elevated blood alcohol level
- blacking out.

It is the burden of the person wishing to engage in sexual activity with another to specifically determine the capacity of that potential sexual partner to provide “Effective Consent,” as explained, below.

Intoxication is not the equivalent of incapacitation. Therefore, the use of alcohol/drugs by the accused is not an excuse for violation of the sexual misconduct policy.

Effective Consent is informed, freely and actively given, and consists of mutually understandable words or actions indicating a willingness to engage in mutually agreed-upon sexual activity.

- Mutually understandable consent must be obtained by both parties throughout the sexual interaction.
- Consent to sexual activity may be revoked at any time, as long as the revocation is communicated clearly, at which point sexual activity must cease immediately.
- A person who is the object of sexual aggression is not required to physically or otherwise resist a sexual aggressor. Rather than saying no, this policy is predicated on communicating “yes” by word or action (as interpreted by a reasonable person);
- Previous sexual relationships and/or a current relationship with the accused student (or anyone else) are irrelevant and, therefore, may not be taken to imply consent. In addition, consent cannot be implied by attire, inferred from the buying of dinner, the spending of money on a date, or being invited to a person’s residence.
- Because of the need for clear communication, the person who wishes to engage in sexual activity with another bears the burden of specifically asking permission if consent is in question or ambiguous.
- Consent expires. Consent lasts for a reasonable time, depending on the circumstances. For example, consent on Thursday night does not mean one automatically has consent on Friday night, or at any other time.
- One who is incapacitated as a result of alcohol or other drug consumption (voluntary and/or involuntary), or who is unconscious, unaware, asleep or otherwise physically helpless, is incapable of

giving consent. Because consent must be informed, **an individual may not engage in sexual activity with another who one knows, or should reasonably know (based on the reasonable person standard), to be incapacitated.**

- *Incapacitated persons, whether male or female, are considered incapable of giving effective consent because they lack the ability to appreciate the fact that the situation is sexual, and/or cannot rationally and reasonably appreciate the nature and extent (who, what, when, where, why **and** how) of that situation.*
- Because consent may never be provided by an incapacitated person, one must assume consent has been withdrawn should an individual become incapacitated at any point during a sexual act or encounter.
- Consent obtained through the use of fraud or force (actual or implied) whether that force be physical force, threats, intimidation, or coercion, is **not** consent.
- Consent may never be given by the following:
 1. a minor (someone under the age of 18 in the state of Tennessee) to an adult;
 2. individuals with cognitive disability rendering them incapable of giving consent;
 3. incapacitated persons. (See “Incapacitation” above.)

Proof of intent is not required to find a violation of the Non-Consensual Sexual Intercourse policy; all that is required is engaging in intercourse without effective consent. Intent may be an appropriate consideration in some Non-Consensual Sexual Contact complaints (such as when one person brushes up against another person in a sexual manner in a crowded room), and in other actions that fall within the broader range of sexual misconduct.

Information and resources regarding issues of sexual misconduct can be found at <http://www.vanderbilt.edu/ProjectSafe> (<http://www.vanderbilt.edu/ProjectSafe>).

For procedures that apply to sexual misconduct cases, see “Guidelines for Cases of Sexual Misconduct,” below.

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Threat, Harassment, Stalking, or Intimidation: Directives to Desist

Vanderbilt University expects students to refrain from conduct that threatens or, through intimidation, unreasonably impairs the security or privacy of another member of the University community. Such conduct is a violation of University policy and may result in disciplinary action.

A student who feels that she or he is the subject of such conduct may request from the Chair of the Conduct Councils or the Chair’s designee, an order to the offending student to desist from the conduct in question. When a request is filed, the Chair or the Chair’s designee will determine whether the alleged conduct warrants the issuance of an order prohibiting the continuation of the conduct. The student whose conduct is the subject of the request will be notified of the request and any disciplinary charges.

If the Chair determines that the conduct complained of may constitute harassment, stalking, intimidation, or threat that unreasonably impairs the security or privacy of another member of the University community, the Chair shall issue an order prohibiting the offending student from engaging in that conduct. The Chair may

also impose other appropriate restrictions. Any student against whom such an order is issued may appeal the issuance of the order in the same manner that any other action by the Chair may be appealed. Any disciplinary charges brought at the time the order is requested will be resolved in the same manner as any other violation of policy.

Violation of an order by the student who is subject to the order will result in the filing of a disciplinary charge against that student. This charge will be adjudicated according to the usual disciplinary procedures. The hearing will be conducted by the hearing authority that issued the order. If the disciplinary procedures result in a finding that the charged student is guilty of violating the order, a disciplinary sanction will be imposed. This may include suspension or expulsion.

The determination of whether an order should be issued, and any order that may be issued, shall not be considered a disciplinary proceeding or discipline for purposes of the student's record unless separate charges are brought and adjudicated. A subsequent proceeding to adjudicate a charge that the student has violated the terms of an order shall constitute a disciplinary proceeding in the ordinary sense of that term and shall become a part of the student's record to the same extent that any other disciplinary action would become part of the record.

Harassment of any individual based on sex, race, color, religion, national or ethnic origin, age, or disability is unacceptable and grounds for disciplinary action, and may constitute a violation of federal law. Equally unacceptable within the University is the harassment of any individual on the basis of sexual orientation, gender identity and gender expression, or harassment because one perceived another to fall within any of the previously mentioned categories. Furthermore, publicly posting lewd photos or video of another person without that person's consent is prohibited.

The Office of Civil Rights of the U.S. Department of Education defines sexual harassment under Title IX of the Education Amendments of 1972 as consisting of "verbal or physical conduct of a sexual nature, imposed on the basis of sex, by an employee or agent of a recipient that denies, limits, provides different, or conditions the provision of aid, benefits, services, or treatment protected under Title IX." Any person who has a complaint regarding sexual or other harassment should call the Equal Opportunity, Affirmative Action, and Disabilities Services Department (EAD) as soon as possible.

The EAD is available for informal consultation. Upon receipt of a written complaint, an investigation will be conducted. After evaluating the specifics of the complaint, the EAD will issue a finding to the appropriate University official and seek to resolve the matter, usually within ninety (90) work days of receipt of the written complaint.

In cases in which a student chooses not to file a formal complaint, the University may still take appropriate action being mindful of the complainant's desire for confidentiality. The University is committed to protecting those filing complaints from retaliation.

Other campus offices such as the Office of Housing and Residential Education, the Margaret Cuninggim Women's Center, the Office of Student Conduct and Academic Integrity, Religious Life, and the Psychological and Counseling Center are available to provide counseling and support to students who believe they have been subjected to sexual harassment.

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Fireworks, Firearms, Other Weapons, and Explosives

The use or possession of fireworks, firearms, or other weapons, explosives, or any type of ammunition on University premises is prohibited. (Student use or possession of these materials is prohibited off campus, as well, when such use or possession is illegal or may endanger the health or safety of members of the University community, or the community at large.)

Sports weapons must be kept in the custody of the Vanderbilt Police Department, which is open twenty-four hours a day. It is a felony in the state of Tennessee to carry a weapon on a campus for the purpose of going armed. Air rifles and “BB” guns are considered to be firearms, the use and possession of which are prohibited on campus.

The use or possession of stun guns, flying Tasers, cattle prods, liquid stun guns, or other electrical devices designed to disrupt the human neurological system for the purpose of incapacitation is prohibited.

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Damage to Property

Damage, vandalism, littering, or theft of University property or property of a University community member or campus visitor by a student or student groups may result in disciplinary action as well as the offender(s) being held financially responsible for the cost of repair or replacement.

For example, a student may leave a window open during cold weather causing burst pipes and the flooding of student rooms and common areas. Or, a student may cause a fire triggering the building’s sprinkler system causing both water and smoke damage to student rooms and common areas. In these cases, the students committing the act may be held responsible not only for disciplinary purposes, but also for the financial losses suffered by other students and the University resulting from these events. Students may be held financially responsible for damages or losses resulting from accidents or negligence. Students who suffer losses under such circumstances must take their claims to their own homeowners or renters insurance carriers. These companies may subrogate the claims to the carrier of the responsible student’s insurance.

(Note: Among the most common occurrences is water damage caused by the triggering of interior sprinklers as a result of horseplay, or hanging objects from sprinkler heads.)

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Hazing

State law requires each college and University in Tennessee to adopt a policy prohibiting hazing. Hazing is defined in the law as “any intentional or reckless act in Tennessee on or off the property of any [college or University] by one (1) student acting alone or with others which is directed against any other student, that endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger his or her mental or physical health or safety. `Hazing’ does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.”

While including the statutory limitations of hazing above (i.e., student acts directed at students on or off campus), the University expands its definition of hazing to include any act that may produce, or is intended to produce, mental or physical discomfort, embarrassment, harassment, or ridicule. Such acts include—but are

not limited to—inducement of excessive fatigue, or physical or psychological shocks; personal servitude; implementing or participation in treasure hunts, scavenger hunts, or road trips; publicly wearing apparel which is conspicuous and not normally in good taste; engaging in public stunts and buffoonery; drinking games, or, other organized activities, late work sessions, and other obligations which interfere with scholastic purposes of the organization; and any other activity inconsistent with the purposes of the organization's constitution, by-laws, standing rules and policies, or University policy. Students are subject to federal, state and local laws, and policies and regulations of the University.

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Conduct at Athletic Events

The University prohibits the throwing of objects from the stands and abusive language or gestures. Student spectators who throw objects at athletic events will be ejected from the contest and may be subject to further disciplinary action. Other spectators will be similarly treated by local authorities. The possession or consumption of alcoholic beverages is not permitted at athletic events.

Fan Access Policy

The Southeastern Conference Fan Access Policy states: "In all sports, access to the competition area shall be limited to participating student-athletes, coaches, officials, support personnel and properly-credentialed individuals, at all times. For the safety of participants and spectators alike, at no time before, during or after a contest shall spectators be permitted to enter the competition area." Students violating this policy are subject to University discipline. In addition, individuals who improperly enter the competition area may be expelled from the facility, arrested for trespassing, or lose future ticket privileges.

Signs & Banners

Students may paint their faces including the common names for our team (e.g., Dores, Vandy, VU). Students and/ or recognized student organizations may submit banners to be displayed at the game to the appropriate Student Athletics official, prior to the game. Banners with obscene or derogatory messages will not be displayed. Efforts will be made to display all banners submitted. Students are permitted to bring hand-held signs to athletic events provided that the signs meet the following guidelines:

- 1.** The signs must be no larger than one piece of standard-size poster board (22" x 28");
- 2.** Signs may not display abusive or obscene words or drawings; and
- 3.** Names of commercial products other than the official broadcast networks of the contest may not be mentioned on the sign.

Event staff has the discretionary authority to determine if a sign does not meet the guidelines. Signs that do not meet these guidelines may be confiscated at any time during the event. Students in possession of a sign that does not meet the guidelines may be ejected from the contest if they refuse to comply with the policy stated above.

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Conduct in the Libraries

The Jean and Alexander Heard Library seeks to create a welcoming, comfortable, and safe environment for its users. The library is a place for learning and reflection, and the library staff supports these endeavors by providing helpful, responsive, and knowledgeable service. Mutual courtesy and respect among users and staff are essential to the University's educational mission, and the role the library serves in fulfilling it. The goal is to create a setting where users feel free to pursue research and study without compromising their privacy or safety. Equally important is protecting the books, journals, computer equipment, and other resources that form the intellectual core of the library. Library users should have access to sources of information that are in the best possible condition.

To protect these resources and to create an environment that is conducive to study, the University expects library users to follow reasonable policies regarding personal behavior and care of collections. A full list of the policies governing use of the libraries may be found at

<http://www.library.vanderbilt.edu/access/conduct.shtml>
(<http://www.library.vanderbilt.edu/access/conduct.shtml>).

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Use of University Computers and Data Networks

Students, faculty, and staff are expected to comply with The Computer Privileges and Responsibilities policy (<http://www.vanderbilt.edu/aup.html> (<http://www.vanderbilt.edu/aup.html>)). Among other things, this policy prohibits violation of copyright laws, including illegal file sharing (also called "downloading"). In addition to disciplinary sanctions, computing privileges may be revoked in appropriate circumstances.

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Use of the University Telephone System

Students should identify themselves to the persons called on the telephone and may not use the telephone system to harass another by threats, obscenities, or repeated calls in which they fail to identify themselves. Examples of improper use of the telephone include the following: calling repeatedly and breathing or not speaking into the telephone receiver; describing sexual activity without identifying oneself; and anonymously subjecting the listener to obscene names. Harassment by telephone is a violation of state law and will subject the caller to criminal prosecution as well as discipline by the University. Students who experience such calls should report the matter to a residential staff member, and/or, to the University Police Department.

Unauthorized use of the University telephone system with the intent to avoid payment of long distance charges is unlawful and may result in disciplinary action. Misuse includes the unauthorized acceptance of long distance collect calls, third party calls charged against the University, and use of a long distance authorization (V-Net) number not issued to the student.

Resident students must provide their own, FCC approved, telephone instruments. Because they interfere with wireless access to data networks, 2.4 GHz cordless phones are prohibited.

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The Student Conduct System

Note: For general provisions of the University’s Honor System, see Chapter 2, “The Honor System.”

The bodies that comprise the judicial system are the Appellate Review Board, the Undergraduate and Graduate Student Conduct Councils, their common Chair, and the Chair’s designees, the Undergraduate Honor Council and the honor councils of the Graduate School and the professional schools. For matters specific to their areas, delegated to them by the Conduct Council Chair, disciplinary authority may also be exercised by the Interfraternity, Panhellenic, and National Pan-Hellenic judicial boards, the Residential Conduct System, and Vanderbilt Student Communications, Incorporated. The nature of specific areas of disciplinary authority is described in the constitutions or bylaws of each of these bodies, or below, in the case of campus residences.

The Dean of Students appoints the Chair of the Conduct Council and the Chair’s designees, and may assume the role of Chair on any and all cases that fall under the jurisdiction of the Conduct Council, or any of the bodies to which the Conduct Council chair has delegated disciplinary jurisdiction. In consultation with the Office of the General Counsel, the Dean of students may also assume jurisdiction for cases before the Honor Council.

The Dean of Students also appoints students to the Conduct Council, the Appellate Review Board (acting as the Chancellor’s designee), and—under special circumstances—to the Honor Council. Such circumstances include the Honor Council’s inability to convene a hearing panel of elected members (perhaps due to absences during the summer or extended breaks, perhaps due to disqualification of members to sit on a given panel due to excluding criteria as delineated in the constitution and by-laws of the Honor Council, etc.). Students appointed by the Dean of Students to the Honor Council serve only for the duration of the circumstances that effected their appointments.

Rights of students or student groups charged with misconduct are addressed through the following judicial procedures, which are designed to provide a fair hearing and a just decision. The basic elements of the process are as follows:

- Written and timely notice of charges against students, including possible consequences
- Opportunity for students to present all relevant evidence at a hearing, to challenge adverse testimony and evidence, to speak on their own behalf, to call witnesses, and to be accompanied by a student, faculty, or staff adviser of their own choosing who has not had formal legal training (except in cases involving students in the Law School)
- Decisions reached on the basis of the evidence presented, proof to the hearing panel or officer for a finding of guilt utilizing a “preponderance-of-the-evidence” standard, disciplinary regulations, and the character of the students.
- An unbiased appellate body to which students may appeal.

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Jurisdiction Over Non-Vanderbilt Students

All persons taking courses or participating in activities of the University as students, even if not registered primarily at Vanderbilt, fall under the jurisdiction of the student conduct system. This includes those taking part-time courses of study; participants in summer programs such as PAVE, Governor’s School, etc.;

participants in programs of the English Language Center; transients during the summer or other sessions; and students cross-registered from a neighboring institution. Procedures for hearing charges against these students are the same as for full-time Vanderbilt students. A notification of the findings of hearings will be sent to the appropriate officer of the institution in which the students are primarily registered.

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Conduct Council

The Conduct Council has original jurisdiction in all cases of nonacademic misconduct involving undergraduate, graduate and professional students. A faculty member and a student from each of the four undergraduate schools, the Graduate School and each of the six professional Schools (Divinity, Law, Medicine, Nursing, Owen, and Peabody) serve as the members of the Conduct Council. From these persons, the Conduct Council Chair or the Chair's designee appoints a faculty member and two students to serve on a hearing panel with the non-voting Chair (or the Chair's designee) for a given case. The Chair or the Chair's designee may hear a case in an administrative hearing, without benefit of a Council panel, at the student's option. The Chair may also assign to an administrative hearing any case where the anticipated sanction is a reprimand or lesser sanction.

In cases involving allegations of sexual misconduct, the Chair or the Chair's designee may determine that a case should be heard by a panel, and the hearing will follow the procedures provided in "Guidelines for Cases of Sexual Misconduct." In a matter not involving sexual misconduct, but nevertheless deemed serious, the Chair of the Conduct Council, in consultation with, and upon the concurrence of the dean of the accused student's school, may require that the case be heard by a panel.

Procedures for the study abroad programs of the university are stated in the section on "Study Abroad Programs for Undergraduates" in Chapter 1.

Each residence hall or house is an autonomous unit of Vanderbilt Student Government, and officers of the residence enforce the regulations the unit has adopted as well as the University policies and regulations that have been delegated to it by the Conduct Council Chair. Undergraduate students who interfere with efforts of the officers to achieve an atmosphere conducive to study, rest, and appropriate recreation may be referred to the Residential Conduct System, the Conduct Council, or the Chair's designee.

In matters pertaining to general residential regulations not within the scope of residential units and set forth in this handbook in the "Residence Hall Regulations" in Chapter 4, or not delegated to residential staff or officers, a student has the option of having a case determined by the Conduct Council Chair or Chair's designee or the Conduct Council, subject to the conditions delineated above.

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Student Conduct Council and Hearing Officer Procedures

The procedures provided herein are followed by each judicial body and apply to individuals and groups. An accused student or officer for a group will be informed in writing of a charge at least three days before the

hearing. Either may waive the three-day waiting period and request an earlier hearing. The charge notice will include the specific regulation or policy allegedly violated.

The accused may testify personally and present witnesses on his or her behalf. The accused may examine all evidence that may form the basis for disciplinary action. The accused may present one character witness as well.

Given the nature of University judicial proceedings (including, but not limited to, Conduct Council hearings and the proceedings of all University honor councils), the testimony of, and information derived from experts, such as reports of handwriting experts, are not admissible and will not be considered, except in rare circumstances. In those rare cases, determinations as to the admissibility of testimony of or evidence derived from an expert will be made in the sole discretion of the Chair of the Conduct Council. Under no circumstances, however, will the use of polygraph examinations be permitted.

The accused may choose a Vanderbilt faculty, staff, or student adviser who is not related to the accused, and who has not had formal legal training (except in cases concerning students in the Law School), to accompany him or her during the hearing. The adviser may not address the judicial body, but may consult with the accused student during the hearing. No person who has a substantial interest in the case, or in a related case as an accused student or adviser to an accused student, may serve as an adviser. Persons not convened (e.g., the hearing panel) or summoned (e.g., the accused, the accused's adviser, witnesses, etc.), by the Conduct Council Chair are prohibited from attending a hearing, and from being present at interviews during the course of an investigation.

Persons conducting the hearing and considering statements against the accused (for example, statements in the student's file), must advise the accused of the content of the statements and give the student an opportunity to rebut inferences that might be drawn. The accused may present testimony and make arguments not only with regard to the offense but also with regard to excuse, justification, and mitigating circumstances. The accused may also speak to the question of the appropriateness of any particular sanction.

The decision of the persons hearing the case will be based on evidence presented at the hearing. Evidence acquired through unauthorized searches will not be considered. A search of a student, a student's possessions, or a student's premises may be authorized by the Dean of Students or the dean's designee if there is reasonable cause to believe that a violation of University policy is occurring or has occurred.

If the accused is found guilty of misconduct, the decision will specify the acts of misconduct of which the accused is guilty and the sanction to be imposed. The decision will be delivered to the student promptly and, at the time of its delivery, the student will be reminded of the opportunity to appeal and of the time limits and procedures involved in an appeal.

Hearings and other meetings with conduct officers may be recorded by the University. Recordings not authorized by the Chair of the Conduct Council are prohibited. The Chair of the Conduct Councils is custodian of the records of the hearings. A written record of conclusions and sanctions assessed must always be filed in cases resulting in disciplinary action. These conclusions become a part of the record and may be examined by the accused student in the case.

Investigations and hearings are not publicized or open to the public. Hearing officers must hold in confidence, the matters related to hearings.

If a member of a judicial body has a conflict of interest, he or she is ineligible to consider a case or to hear an appeal. Individuals with a conflict of interest must declare themselves ineligible. In addition, the judicial body may, by a majority vote, declare any member ineligible for a conflict of interest.

Students may be accountable both to criminal or civil authorities as well as to the University for acts that constitute violations of law and of University policies and regulations. Those accused of violations of these policies and regulations are subject to the University disciplinary proceedings delineated in this *Handbook* while criminal or civil proceedings regarding the same conduct are pending. Accused students may not challenge University disciplinary proceedings on the grounds that criminal charges or civil actions regarding the same incident are pending, may be initiated, or have been terminated, dismissed, reduced, or not yet adjudicated. When appropriate, the University may refer matters to federal, state, and local authorities for prosecution.

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Guidelines for Cases of Sexual Misconduct

In complaints of sexual misconduct, the following procedures will apply:

- Both men and women will be represented on the panel
- If an appointed panel member's knowledge of either the accusing student or the accused student prevents an objective decision, he or she must recuse himself or herself from serving on the panel.
- Members of the panel will receive training on issues involved in sexual misconduct prior to the hearing.
- Both the accused student and the accusing student will:
 1. be allowed to be present throughout the hearing, but not during the deliberations.
 2. be allowed to choose one person who has not had formal legal training (except in complaints involving students in the Law School) to accompany them throughout the hearing.
 3. have the opportunity to ask relevant questions, as determined by the judgment of the Chair, (or have questions asked as directed by the Chair), of any witness testifying at the hearing.
- The sexual histories of the parties are not relevant to the proceedings of the hearing, although findings by the Conduct Council of prior sexual misconduct by the accused student may be relevant with regard to sanctioning of subsequent offenses.
- The members of the panel will determine whether it is more likely than not (preponderance of the evidence standard) that the accused student is responsible for each of the alleged violations.
- The Chair will determine the sanctions in those complaints in which the accused is found responsible (or to have violated the policy) by the panel.

Limited Disciplinary Immunity for Complainants and Witnesses

Any individuals with information about sexual misconduct complaints may hesitate to come forward out of fear that their own violations of University policy would be revealed in reporting sexual misconduct. Students should be encouraged to report incidents of sexual violence and assist victims in times of crisis. Vanderbilt University does not condone infractions of policy, but considers reporting incidents of sexual violence to be of paramount importance. Therefore, the University may extend limited immunity for substance abuse violations to potential witnesses in order to facilitate reporting and resolution of sexual misconduct complaints.

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Appeals and the Appellate Review Board

The Appellate Review Board (the “Board”) is a university-wide body consisting of faculty and students appointed by the Chancellor (or the Chancellor’s designee) to review appeals from decisions of administrative offices and hearing bodies that have the authority to impose sanctions upon students in academic and co-curricular disciplinary matters. The Appellate Review Board comprises two divisions: the Appellate Review Board for Academic Matters (for cases heard by Honor Councils), and the Appellate Review Board for Co-Curricular Matters (for cases heard by the Conduct Council and other offices and bodies that exercise disciplinary authority, with exceptions’ noted below).

Students, faculty members, administrative officers, or groups within the University may request the Appellate Review Board to consider a concern that the disciplinary system of the institution is not operating effectively or justly. Upon receipt of such a request for review, the appropriate Appellate Review Board Chair makes a preliminary investigation to clarify the matter, then brings the request to the attention of the appropriate Appellate Review Board, which may make recommendations for action to the appropriate authority.

The Appellate Review Board also has supervisory authority, in consultation with the University Office of General Counsel, the Dean of Students, the Office of Student Conduct and Academic Integrity, the Office of Housing and Residential Education, and other appropriate University officials, to review and propose updates of the procedures used by the persons and bodies whose determinations are subject to appeal to ensure that students are treated fairly.

Appellate Review Board for Academic Matters

The Appellate Review Board for academic matters reviews appeals from decisions of hearing bodies having the authority to impose sanctions in academic disciplinary matters.

Any Vanderbilt student, having been found guilty of a violation of the applicable honor code (the “Petitioner”), with resultant imposition of penalty by any of the following hearing bodies, may petition the Board for a review of the determination:

- The Undergraduate Honor Council;
- The honor council of any graduate or professional school

Appellate Review Board for Co-Curricular Matters

The Appellate Review Board for co-curricular matters reviews appeals from decisions of administrative offices and hearing bodies having the authority to impose sanctions in co-curricular disciplinary matters. (Exceptions are noted, below.) The Board may also review appeals challenging jurisdiction for charges based on incidents occurring off campus.

Any Vanderbilt student or organization, having been found guilty of a violation of University policy (the “Petitioner”), with resultant imposition of penalty by any of the following administrative offices and hearing bodies, may petition the Board for a review of the determination:

- The Undergraduate Student Conduct Council, its chair, or the chair’s designee;
- Such other bodies and administrative offices not here enumerated but which do, in fact, exercise disciplinary authority, with the exception that appeals of decisions by the Interfraternity Council, The Panhellenic Council, or the National Pan-Hellenic Council, are heard by the Dean of Students or the Dean’s designee

Composition of the Board

The Board is composed of members appointed by the Chancellor (or the Chancellor's designee), as follows: a Chair and a Vice-Chair (who acts in the absence, disability, refusal, or inability of the Chair to serve) for each division—The Appellate Review Board for Academic Matters, and the Appellate Review Board for Co-Curricular Matters—who are members of the tenured faculty; and thirty-eight general members appointed by the Chancellor (or the Chancellor's designee), who serve on both academic and co-curricular cases and who are faculty members at the rank of Assistant Professor or higher, selected from among the schools as follows: four from the College of Arts and Science, two from the Blair School of Music, two from Peabody College of Education and Human Development, two from the School of Engineering, and one each from the remaining six schools of the University. Two full-time students from each of the ten schools of the University also serve. Both faculty and students are appointed for two-year terms, which should be staggered to the extent practical, to ensure continuity.

Petition for Appeal

A petition for appeal, signed by the petitioning student or appropriate officer of a petitioning organization, must be submitted in writing, to the Appellate Review Board at either 310 Sarratt or at the following address:

Appellate Review Board

PMB 351508

2301 Vanderbilt Place

Nashville, TN 37235-1508

The appeal must be submitted no later than ten (10) calendar days following the date the student or the organization is notified of the determination of the administrative office or hearing body. Requests for extensions must be submitted prior to the expiration of the ten-day period. The petition must include the follow: a statement of the grounds for appeal, supporting explanation, and copies of, or reference to, all evidence the Petitioner asks the Board to consider, which supports the grounds for appeal. Letters of support and/or letters of recommendation may not be included in an appeal unless previously submitted to the original hearing authority at, or before, the original hearing.

The grounds for appeal are as follows:

- Procedural irregularities sufficient to affect the determination of the original hearing authority.
- Insufficient evidence to support the decision of the original hearing authority.
- Harshness of the penalty imposed by the original hearing authority sufficient to show an abuse of discretion by that authority.
- New evidence that was not reasonably available for presentation to the original hearing authority, the introduction of which may reasonably be expected to affect the determination of the original hearing authority.

Standards of Review

The standards for review used by the Board in considering the grounds for appeal are provided, below:

“Procedural irregularities sufficient to affect the determination of the original hearing authority.” Original hearing authorities are expected to conduct themselves in accordance with their policies and procedures. Substantive deviation from those policies and procedures which render their actions fundamentally unfair constitutes a sufficient basis for an appeal to the Appellate Review Board. Procedural irregularity which is considered by the Board to be harmless and which did not, in the judgment of the Board, adversely affect the

hearing, is not a basis for affecting the decision of the original hearing authority.

“Insufficient evidence to support the decision of the original hearing authority.” It is not the role of the Appellate Review Board to substitute its judgment for the judgment of the original hearing authority if there is a reasonable basis for that authority’s determination. Deference must be given to the judgment of the original hearing authority, which had the opportunity to hear the witnesses and to judge the veracity of those witnesses. The Board may not alter the determination of the original hearing authority unless it can be demonstrated that the determination of the original hearing authority is clearly erroneous and cannot be supported reasonably by the evidence.

“Harshness of the penalty imposed by the original hearing authority sufficient to show an abuse of discretion by that authority.” As in the case of evidence sufficient to support a determination of the original hearing authority, deference should be given by the Board to the penalties imposed by the that authority. At the same time, the Board should recognize that an original hearing authority can make errors in judgment sufficient to show an abuse of discretion. Abuse of discretion does not necessarily imply an intentional wrong or bad faith, but simply the failure to exercise reasonable judgment under the circumstances.

“New evidence that was not reasonably available for presentation to the original hearing authority, the introduction of which would reasonably be expected to affect the decision of the original hearing authority.” All evidence, including testimony of witnesses, is expected to be presented to the original hearing authority. Only on that basis can the original hearing authority render fair and reasonable decisions. A student or student organization that seeks to introduce new evidence has the burden of demonstrating that the evidence was not reasonably available at the time of the original hearing, and that the introduction of such new evidence can be reasonably expected to affect the decision of the original hearing authority. If the Appellate Review Board determines that the student or student organization has satisfied this burden, the Board remands the case to the original hearing authority with instructions to reconsider the case in light of the new evidence.

Consideration of Petition and Determination of Appeal

When the Chair of the appropriate Appellate Review Board (Academic or Co-Curricular) receives a petition, the Chair will instruct the original hearing authority to notify all persons who were sent formal notification of the determination of the original hearing authority that a petition for appeal has been filed and that the determination of the original hearing authority should not be implemented pending the result of the appeal.

Upon receipt of the petition, the Chair proceeds with all deliberate speed to review the petition (including all supporting evidence provided by the Petitioner) to determine whether it, *when considered in the light most favorable to the Petitioner*, sets forth a basis sufficient to provide the relief sought by the Petitioner. If the Chair determines that the petition *does not* set forth a basis sufficient to provide the relief, the Chair dismisses the petition (or such parts of the petition that the Chair has determined do not set forth a basis sufficient to provide relief). The Chair’s decision is final.

If the Chair determines that the petition (or parts of it) *does* set forth a basis sufficient to provide the relief, the Chair forwards a copy of the petition to the original hearing authority with instructions to respond to it (or such parts of the petition that the Chair has determined set forth a basis sufficient to provide relief). The original hearing authority provide its response to the Chair within ten (10) calendar days of receiving the Chair’s notification that the Board will hear the case. The original hearing authority also forwards to the Chair the entire record of the case, including, for example, test papers or other documentary evidence, summaries of witnesses testimony, and audio or video recordings of the proceedings. Upon receiving the response from the original hearing authority, the Chair sends the response to the Petitioner offering the Petitioner an

opportunity to respond. Responses must be submitted within five (5) calendar days. The Chair forwards a copy of this response to the chair of the original hearing authority for informational purposes.

From among the membership of the Board, the Chair selects three (3) faculty members and three (3) student members to serve on a panel (the “appeals panel”) to consider the petition. In the case of an appeal by an undergraduate student or undergraduate student organization, at least one student member of the hearing panel will be an undergraduate student. In the case of an appeal by a graduate or professional student or a graduate or professional student organization, at least one student member of the hearing panel will be a graduate or professional student from the school in which the Petitioner is enrolled (in the case of a student), or with which the group is affiliated (in the case of an organization).

The Chair makes available to members of the appeals panel a copy of the petition and all supporting documents submitted by the Petitioner. The panel reviews the petition and, by majority vote, determines whether the petition presents sufficient grounds for an appeal. If the panel determines that the petition *does not* set forth sufficient grounds for the appeal, the petition is dismissed. If the panel determines that the petition *does* set forth sufficient grounds for the appeal, the panel proceeds to a full consideration of the appeal. In making this preliminary determination, it is not necessary that the entire panel be convened at a meeting. The vote may be taken at a meeting or by any other means of communication, such as by telephone, mail, or facsimile transmission.

As stated above, if the appeals panel determines that sufficient grounds for appeal are presented in the petition, the appeals panel proceeds to consideration of the appeal. The panel’s consideration of the appeal must be based only on the record, i.e., the petition, the response from the original hearing authority, any other supplemental responses, and the evidence presented to the original hearing authority, such as test papers, audio or video recordings of the original hearing authority, summary of witness testimony, etc.

After reviewing the record, the appeals panel, by majority vote, decides whether to affirm, modify, or reverse the decision of the original hearing authority. In cases where there has been a procedural error on the part of the original hearing authority or the appeals panel deems that new evidence should be considered, the panel remands the case to the original hearing authority with instructions.

Only in extraordinary circumstances would the Appellate Review Board ever reconsider an entire case *de novo*. In the event of a rehearing, standards of procedure are, in substance, those for original hearings, but the Board may provide additional procedural rules, if necessary.

The Chair notifies in writing the petitioner and the original hearing authority (which, in turn, notifies all persons who were sent formal notification of the determination of the original hearing) of the Board’s decision and the reasons for the decision.

While a case is pending, policy changes that might affect a case cannot be considered in the appeal.

If the Board encounters a situation which raises an issue with a University policy or procedure, the Chair notifies the Dean of Students and Office of General Counsel to determine how best to proceed. At no time may the Chair or the Board substitute its own opinions or values for University policy.

No person, including the Petitioner, may appear before the appeals panel, except at the invitation of the Chair.

No member of the Board may participate on an appeals panel if the member has a real, or perceived, conflict of interest that might render the member’s unbiased objectivity questionable. Normally, each member of the Board determines for himself/herself whether or not a conflict of interest exists. However, a member may be

disqualified upon a motion by a member of the Board and by subsequent affirmative vote by a majority of the appeals panel. If a member of the appeals panel is disqualified, the Chair selects an alternate. If neither student from the Petitioner's school may serve on an appeals panel due to conflicts of interest, the Chair, of necessity, will appoint students from other schools

Once a final determination has been made, all records of the original hearing authority are returned to that authority.

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Disciplinary Sanctions

In all cases, judicial bodies have authority to establish various sanctions appropriate to violations or infractions. Routine sanctions may be established for certain infractions and may also be appealed to the appropriate body according to prescribed appeal procedures. Disciplinary actions may also be applied in combination. For example, a student may be suspended for one term and reenroll subject to restrictions (as in probation) for the next term. A student's previous disciplinary record may be considered when a disciplinary sanction is imposed. When disciplinary sanctions are indicated for a student organization, the group's disciplinary record for the current academic year, as well as the previous three academic years, may be considered in determining the appropriate sanction.

Given the educational nature of the University's disciplinary process, many factors can be—and are—considered when determining an appropriate disciplinary sanction. In addition to a student's or a student organization's previous disciplinary record, the circumstances surrounding the violation or infraction—such as the nature of the event, the impact on others, and a student's personal circumstances—may also be considered. Finally, a student's or a student organization's level of cooperation and honesty throughout the disciplinary process may inform the appropriate disciplinary response to a policy violation.

The following, although not exhaustive, is a list of frequently used sanctions:

- *Restriction.* Loss of privileges that are consistent with the offense and the rehabilitation of the student. This may include directives to refrain from entry to certain areas of campus or contact with particular individuals.
- *Restitution.* Repair or replacement of lost or damaged property or compensation for other costs arising from a violation.
- *Fines/fees.* Published monetary fines for certain violations. Fees to cover the expense of educational or work service programs may also be imposed.
- *Educational enhancements.* Enhancements typically accompany reprimands, periods of disciplinary probation, and suspensions and are intended to augment the educational nature and value of the disciplinary process. E.g., research or reflection papers, online tutorials, mediation, restorative justice, work service, drug testing, letters of apology etc., require that a student found guilty of a violation of University policy reflect on the consequences that infractions may have not only on individuals, but on the community as a whole.
- *Counseling, evaluation, and treatment programs.* In some cases of misconduct, such as those committed under the influence of alcohol or other drugs, participation in an evaluation and/or treatment program by an approved counseling service may be required as a part of a sanction. Such treatment may also be a condition of readmission to the University or a condition for remaining in the University.

- *Reprimand*. An admonition and an official warning, a reprimand is treated as educational counseling, rather than as a disciplinary sanction, for purposes of reporting to agencies outside the University.
- *Disciplinary probation*. Places a student in a probationary status that takes away the privilege of holding office and may also include social restrictions. Probations are entered upon the student's permanent disciplinary record. Probation may, but does not always, restrict a student's activities on campus. Violation of probation may lead to further restrictions or suspension.
- *Suspension*. Dismissal from the University for a specified or indefinite period of time. Suspension, pending a hearing, may be imposed when there is reason to believe the action is necessary to maintain University functions or to protect the safety of individuals. Conditions may be placed upon a student's return to campus.
- *Expulsion*. Permanent dismissal from the University.
- ***In cases of sexual misconduct the following policies will apply:***

While the recommended guidelines for sanctions are set forth below, the Chair of the Student Conduct Council may deviate from the range of recommended sanctions when there is a justification to do so, such as serious mitigating circumstances or egregiously offensive behavior.

1. Any student found responsible for **Non-Consensual Sexual Intercourse** will typically face a sanction of suspension or expulsion, depending on the severity of the incident and other relevant considerations, and taking into account any previous conduct infractions.
2. Any student found responsible for **Non-Consensual Sexual Contact** or **other forms of sexual misconduct** will face a sanction ranging from warning to expulsion, depending on the severity of the incident, and taking into account any previous conduct infractions.
3. Psychological counseling will be required for those found in violation of the Sexual Misconduct policy. In addition to this condition, in cases of suspension, the Chair may set other conditions for readmission to Vanderbilt at the Chair's discretion.

Aggravated Offenses—Bias-Related Offenses

Penalties for violations of student regulations may be increased by one level of severity when it is determined that the violation was motivated fully or in part by discrimination toward the victim because the victim falls within one or more of the following categories or is perceived to fall within one or more of the following categories; race, sex, religion, color, national or ethnic origin, age, disability, military status, sexual orientation, gender identity or gender expression.. Thus, the penalty of reprimand may become disciplinary probation; probation may become suspension; and suspension may become expulsion.

Notification

If a student admits to being, or is found to be, in violation of University policy, the results of the hearing, including any sanction, may be made known to appropriate persons, including, but not limited to, the complainant, the appropriate academic dean, the faculty adviser, appropriate staff members, and the guilty student's parents or guardian.

Upon completion of cases involving a disciplinary sanction, the appropriate University official will take action to implement the decision of the judicial body, and the dean of the school in which the student is enrolled will be notified if the finding will affect the student's academic status. However, action is normally not taken until the judicial process, including appeal, if any, is completed.

In reporting a disciplinary sanction effective for an indefinite period, the judicial body will ask the appropriate hearing officer to recommend when the sanction should be terminated.

Withdrawal Before a Hearing

If a student who has been reported for a suspected violation of the student code withdraws from the University before a hearing has been conducted, a notice will be sent to the accused stating that he or she is suspected of violating the student code, that an investigation has been or will be conducted, and that a hearing may be held.

The accused may respond in one of three ways: return to the campus for a hearing, waive the right to give testimony personally, thereby acknowledging that the hearing may proceed in his or her absence, or waive the right to appear and send a written, signed statement to be presented on his or her behalf at the hearing. Failure by the accused to respond will be considered a waiver of the right to appear.

During the time prior to the hearing, a notation will be placed on the transcript of the accused stating that a Conduct Council case is pending. A letter will also be sent to the University registrar and to the registrar of the school in which the accused was enrolled indicating that a disciplinary case is pending. If the accused attempts to re-enroll before the case is heard, the registrar will notify the Dean of Students (or designee). The case must be resolved before the accused may re-enroll.

Withdrawal and Readmission

Students may leave the University involuntarily for academic failure, failure to meet financial obligations to the University, or circumstances outside the University's jurisdiction. Withdrawal from the University under these circumstances does not constitute disciplinary sanction; therefore, re-enrollment after such withdrawal is handled through normal administrative processes. Students who voluntarily—or involuntarily—withdraw from the University for medical or mental/emotional health reasons must be cleared by the Director of the Student Health Center before being permitted to re-enroll.

Disciplinary Records

Upon graduation or withdrawal from the University, student records in the Office of Housing and Residential Education and the Office of Student Conduct and Academic Integrity are maintained for a period of seven years, after which time they are destroyed. Records of students who are suspended or expelled from the University may be maintained indefinitely.

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